

International Seabed Authority

Press Release



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SEABED COUNCIL APPROVES FINANCE COMMITTEE REPORT, INCLUDING APPOINTMENT OF INDEPENDENT AUDITOR FOR AUTHORITY; RESUMES CONSIDERATION OF NEW DRAFT CODE

The Council of the International Seabed Authority this afternoon approved the report of the Finance Committee and resumed its consideration of the new mining code for polymetallic sulphides and cobalt-rich ferromanganese crusts in the international seabed Area.

The Finance Committee, in its report (document ISBA/11/A/8-ISBA/11/C/9), to be considered also by the Authority's Assembly tomorrow, Tuesday 23 August, recommends the appointment of Deloitte & Touche, as independent auditor for the Authority for 2005 and 2006. The company held the post for the 2003-2004 financial year. A member of the Deloitte and Touche global network, the company was one of four Jamaican-based accounting firms to bid for the audit services for 2005.

The Committee's other recommendations include: proposals on contributions to the Authority's administrative budget and Capital Working Fund for three new members – Denmark, Latvia and Burkina Faso. The figures are set out in a table contained in the Committee's report. Members of the Authority were urged to pay their assessed contributions to the budget on time and in full and to contribute to the Voluntary Trust Fund.

Voluntary Trust fund

On the voluntary trust fund, established to defray the costs of attendance at meetings of the Legal and Technical Commission as well as those of the Finance Committee by delegates from developing countries, the Committee reaffirmed that requests for assistance should be made by a member's Government, and that economy-class travel would remain the standard for assistance with fares.

The Committee decided to recommend that, to supplement the voluntary contributions, the Secretary-General be authorized to advance, to the extent necessary, up to \$60,000 for its operation in 2006 from the interest from the fund for fees paid by the pioneer investors.

It noted with appreciation Nigeria's pledge of \$5,000 to the voluntary fund and requested that the secretariat continue to seek further donations from the Authority's members and other sources.

According to the Financial Committee's report, the Secretary-General proposed, as an exceptional measure, that the existing balance available in the fund be transferred to a special endowment fund account, the income from which could be utilized for appropriate purposes, including supplementing the voluntary trust fund.

The Secretary-General was to be requested by the Assembly and the Council to make a detailed proposal with terms of reference on the establishment and use of the proposed endowment fund in accordance with the relevant financial regulation for the Committee's consideration.

The Secretary-General informed the Committee that he would consult with the contractors regarding the status and use of the fund consisting of the fees from pioneer investors before making his proposal. He would also provide a certification, as appropriate, on the fulfillment of the original purpose of the fund.

Speaking on the Finance Committee report, Japan noted that the contribution of the three new members would cause modification to the budget for 2006. In response, the Chairman of the Finance Committee, Hasjim Djalal (Indonesia) said the matter would be addressed when the budget was submitted for approval.

Debate on new regulations

The Council resumed its discussions on the draft regulations with regulation 32, relating to the responsibility of the contractor for any damage arising out of wrongful acts in the conduct of its operations, in particular damage to the marine environment. France raised the point that a contractor could be responsible for damage to the marine environment without committing a wrongful act and said that the regulation did not reflect that. Chile and Egypt questioned the translation of "wrongful acts" in the Spanish and Arabic texts.

The United States recommended that wording used in regulation 32 should conform with Article 22, Annex III of the United Nations Convention on the Law of the Sea (UNCLOS). The Secretary-General proposed that work could be done before the next session to reconcile the text in the various languages, using wording consistent with Article 22 of the Convention.

Environmental impacts

Introducing regulation 33, the President of the Council said more emphasis had been placed on environmental protection in the new set of regulations compared to the mining code on nodules (ISBA/6/A/18) because the new minerals were more localized and therefore their exploration was more likely to cause damage.

The Netherlands, supported by Canada, Portugal, Spain and the United States, called for replacement of the words "**best practicable means at its disposal**" in paragraph 3 with the words: "best technology available to it" as contained in the regulations on prospecting and exploration for polymetallic nodules in the Area.

Argentina and Chile objected to the substitution of the phrase “practicable means” in paragraph 3 with “technology.” The delegate from Argentina argued that the Council should not limit “means” to just technological.

In paragraph 4 of the draft regulation, debate centered on changes in the concepts related to areas set aside for use as impact reference zones and preservation reference zones. The mining code requires contractors applying for exploration rights to include “proposals for areas to be set aside and used exclusively as impact reference zones and preservation reference zones”.

The Netherlands, China and Argentina pointed out that in the draft regulations for the new minerals, contractors were expected to cooperate with the Authority to “include proposals for areas to be set aside and used exclusively as impact reference zones and preservation reference zones” in programmes for monitoring and evaluating the impacts of deep seabed mining on the marine environment. Argentina and The Netherlands said the roles in the creation of these zones were not clearly defined.

Answering a question from Indonesia on the extent of the environmental impact of sulphides and crusts exploration, Russia said a different environment existed around each of the new minerals with a great deal of information available on the two kinds of sulphides. Crusts are found on seamounts with strong currents and a different kind of fauna from sulphides, the Russian delegate said. In the light of the differences in the nature of the minerals, Russia said the idea of establishing reference zones as described in paragraph 4 of regulation 33 was well founded, although the language could require further work.

In response to calls from delegations for clarification by the Legal and Technical Commission on issues related to the draft regulations, the President of the Council said a list of questions and concerns would be compiled at the end of the deliberations and sent to the LTC for more explanatory notes.

Secretary-General Nandan said the Secretariat would take note of the questions and proposals, consult with the LTC on the technical issues, seek information elsewhere on the other issues and redraft some of the regulations. The Secretariat would also examine the draft text to discover discrepancies with respect to the mining code and allow the LTC to deal with the concerns inter-sessionally.

Baseline monitoring

Regulation 34, concerning Environmental Baseline and Mentoring, contains three paragraphs. On paragraph 1, China and India agreed that the regulation was not clear in respect of the delivery of baseline data gathered by the contractor. India felt the parameters for baseline data collection and delivery should be established before exploration.

The United States noted that the wording in paragraph 2 of the draft was not identical to the mining code and questioned reference to a mandate by the LTC to request data. Argentina and Brazil agreed that paragraph 3 gave rise to doubts about the role of the LTC, and Russia and the Republic of Korea suggested deleting that paragraph entirely.

Responding to the concerns of delegates, Secretary-General Nandan said, as authorized by the Council, all communications between the contractors and the Authority are through his office. The inclusion of paragraph 3 was well intended as the LTC wanted to give

practical effect to article 165 of the Convention which outlines the role of the LTC. The Secretariat would seek further clarification on the usefulness of the paragraph.

Reporting of incidents

Regulation 35 deals with the reporting of incidents resulting from a contractor's activities that might be detrimental to the marine environment. The text refers specifically to an incident that "poses a threat of serious harm to the marine environment". The Netherlands delegation objected to this new wording, preferring instead the adoption of the original text contained in regulation 32 of the code on polymetallic nodules (ISBA/6/A/18). The text refers to an incident that "has caused or is likely to cause, serious harm to the marine environment".

The Netherlands representative said that the present text seemed to cover incidents that pose threats, but not actual harm. She also proposed changing "the Secretary-General shall cause a general notification of the incident to be issued" back to the original wording of "shall issue a general notification." A number of delegations, including Brazil, India, Indonesia and Korea supported the position of The Netherlands.

Joining the debate to address the issue of the rights of coastal States as set out in regulation 36, the representative of Australia said that the text, as it stood, appeared to suggest that such States could not act to protect themselves except through the Authority, when, in fact, they have rights under other international legislation. She suggested an addition at the end of paragraph 1, which would then read: "Nothing in these Regulations shall affect the rights of coastal States in accordance with article 142 and other relevant provisions of the Convention, and otherwise under international law."

Brazil said that the new paragraph 4 of the regulation should be consistent with the text on nodules: thus, contractors' activities should be conducted so as not to "threaten to cause damage" to the marine environment under the jurisdiction of other States. Cuba supported Brazil's position on this point.

On Regulation 37 relating to archeological or historical objects, Portugal proposed that the provision should be broadened to protect both objects and sites found in the exploration area.

The Council will meet at 10 a.m. tomorrow to hear the report of the Legal and Technical Commission and to continue its consideration of the draft regulations on polymetallic sulphides and crusts.

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