

Working Paper

*submitted by the delegations of Germany and the Netherlands*

**Decision of the Council of the International Seabed Authority related to procedural issues under Section 1, Paragraph 15 (c) of the Annex to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea**

**The Council of the International Seabed Authority**

**OPTION I**

- *Noting that under Section 1, Paragraph 15 (c), of the Annex to the Agreement according to which the Council shall, even if it has not completed the elaboration of the rules, regulations and procedures relating to exploitation, consider and provisionally approve a plan of work based on the provisions of the Convention and any rules, regulations and procedures that the Council may have adopted provisionally, or on the basis of the norms contained in the Convention and the terms and principles contained in this Annex as well as the principle of non-discrimination among contractors;*
- *Considering that it is desirable to provide clarity on the interpretation and application of the abovementioned provision;*
- *Considering that in the event of an application for approval of a plan of work for exploitation is submitted in the absence of rules, regulations and procedures relating to exploitation the procedure set out in Article 153 paragraph 3 of the Convention is not applicable.*

Decides

1. that in the event of an application for approval of a plan of work for exploitation is submitted in the absence of rules, regulations and procedures relating to exploitation the rules set out in section 3, paragraphs 2, 5, and 6, of the Annex to the Agreement will apply to the consideration and provisional approval by the Council;
2. that the Secretary-General upon receipt of such a plan of work shall transmit it promptly to the President of the Council;
3. that the President of the Council will transmit the plan of work to the Legal and Technical Commission who shall give a comprehensive report on the proposed plan of work to the Council, including but not limited the environmental implications and the financial viability of the proposed project for exploitation.

## OPTION II

- *Noting that under Article 165 para. 2 (b) the Legal and Technical Commission shall base its recommendations on formal written plans of work in the Area solely on the grounds stated in Annex III and shall report fully thereon to the Council;*
- *Noting that according to Article 6 para. 3 proposed plans of work shall comply with and be governed by the relevant provisions of this Convention and the rules, regulations and procedures of the Authority, including those on operational requirements, financial contributions and the undertakings concerning the transfer of technology;*
- *Noting that in the situation governed by Section 1, Paragraph 15 (c), of the Annex to the Agreement there are no rules, regulations and procedures of the Authority relating to exploitation on which the Commission could base a recommendation and report fully to the Council;*

### Finds

that in the event of an application for provisional approval of a plan of work for exploitation under Section 1, Paragraph 15 (c) of the Annex to the Agreement, the Legal and Technical Commission is not in a position to make a recommendation to the Council;

### And decides

that in the event of an application for provisional approval of a plan of work for exploitation under Section 1, Paragraph 15 (c) of the Annex to the Agreement, the Legal and Technical Commission shall give a comprehensive report on the proposed plan of work to the Council, including but not limited the environmental implications and the financial viability of the proposed project for exploitation.

### OPTION III

- *Noting that under Section 1, Paragraph 15 (c), of the Annex to the Agreement according to which the Council shall, even if it has not completed the elaboration of the rules, regulations and procedures relating to exploitation, consider and provisionally approve a plan of work based on the provisions of the Convention and any rules, regulations and procedures that the Council may have adopted provisionally, or on the basis of the norms contained in the Convention and the terms and principles contained in this Annex as well as the principle of non-discrimination among contractors;*
- *Considering that it is desirable to provide clarity on the interpretation and application of the abovementioned provision;*

#### Decides

1. to instruct the Legal and Technical Commission that, in the event a plan of work is submitted before the elaboration and adoption of rules, regulations and procedures relating to exploitation, in the exercise of its mandate under Article 165.2(b) of the Convention, it would not be appropriate to provide a recommendation to approve such plan of work.
2. that the Legal and Technical Commission shall give a comprehensive report on the proposed plan of work to the Council, including but not limited the environmental implications and the financial viability of the proposed project for exploitation.