

FINAL STATEMENT OF BELGIUM IN ISA COUNCIL 31/03

Mr. President,

We are at the end of two intense weeks of negotiations on the elaboration of the rules, regulations and procedures. The facilitators did an excellent job, as always, and some progress has been made, although the working methods still could be improved as this delegation has expressed on many occasions. Everyone has seen the added value of the use of a screen when talking about text, but this is still not taking place in every working group. I do sound like a cracked record regarding this, but who knows it will have an effect one day.

In any case, it is crystal clear by now that there is still a long way to go and that two weeks of meetings in July will be widely insufficient to finalize the RRP's on deep sea exploitation, let alone to finalize all other necessary elements of the legal framework that needs to be in place, including the benefit sharing arrangement. Therefore, the scenario that the RRP's will not be finalized by the end of the deadline is hereby not only a worrying hypothesis, but has become a reality.

This means that on the 9th of July, we will have indeed woken up in a new legal reality whereby a plan of work can be introduced without RRP's in place, with all the legal uncertainties that it entails given the various possible legal interpretations of Section 1 paragraph 15 of the Part XI Agreement.

Belgium is happy that it was able to co-facilitate, together with Singapore, an intersessional dialogue on this matter and that the briefing note prepared by the two co-facilitators, in which areas of convergence as well as remaining divergences were identified, was unanimously accepted as a basis for further discussions.

Belgium regrets however that the legal loophole was not closed before the 9th of July as this doesn't guarantee the upholding of the precautionary principle and the adequate protection of the environment in all possible scenarios. Giving up on closing this loophole before the end of the deadline was a very hard compromise to make for Belgium, and the sleepwalking into a legally uncertain situation beyond the 9th of July has hereby become a reality.

Without adopted RRP's by the Council, it seems only logical that the Council will provide the necessary guidelines and directives to one of its organs, the Legal and Technical Commission. The possibility of giving such guidelines and directives by the Council to the LTC is literally foreseen in Article 163 Paragraph 9 of UNCLOS. Let us not be misunderstood: the role of the LTC in this process will be crucial but the ultimate decision making body is, in such matters, the Council, just as much as the Council will finally have to agree on the RRP's to be put in place. So without RRP's approved by the Council, guidelines and directives by the Council seem to be a minimum.

Belgium has given in a lot in the last few days to reach a consensus but is encouraged by the sense of compromise and convergence which was clearly noticeable in the last few days across the board. It bodes well for the further discussions and I believe it is really possible to end with a more robust decision in July that will indeed close the legal loophole. But an effort from all of us to reach that stage will be absolutely necessary.

I myself as one of the co-facilitators am humbled for the trust given to me and my truly excellent co-facilitator and friend Tan Soo Tet to continue the intersessional dialogue. We are also happy to see that we managed to narrow down the outstanding issues to be discussed in the coming months.

In the Council decision that has now been adopted, the Council has made clear in the preamble that, and I quote, 'the commercial exploitation of mineral resources in the Area should not be carried out in absence of such RRP's'. This is therefore the objective that we all want to achieve. The discussion can therefore be concentrated on the question how to reach such an objective.

Let us not sleepwalk any further.

I thank you for your attention, Mr. President.
