SEABED ASSEMBLY CONCLUDES TWELFTH SESSION
ELECTS 17 MEMBERS OF COUNCIL AND FINANCE COMMITTEE

The Assembly of the International Seabed Authority concluded its twelfth session in Kingston this afternoon after earlier filling 17 vacancies in its executive Council and electing by consensus a slate of 15 members to the Finance Committee.

The thirteenth session of the Authority will take place in Kingston, Jamaica from 9 to 20 July 2007.

The Council members, who were elected by a draft decision of the Assembly (document ISBA/12/A/L.2), will serve a four-year term beginning 1 January 2007, subject to understandings reached in the regional and interest groups. The Finance Committee members elected after extensive debate, will serve for five years beginning also from 1 January 2007.

In other actions, the Assembly decided to defer to its next session consideration and approval of the draft regulations on prospecting and exploration for polymetallic sulphides and cobalt-rich ferromanganese crusts in the seabed Area because the regulations were not adopted by the Council. Separate regulations are to be prepared for the two minerals with priority being given to the sulphides.

The Assembly also concluded its debate on the report of the Authority’s Secretary-General Satya N. Nandan which reviewed the inter-governmental body’s activities for the past year and future work programme.

The election of the Finance Committee members followed a two-day protracted debate over provisions of section 9 of the Annex to the 1994 Agreement relating to the implementation of part XI of the United Nations Convention on the Law of the Sea. There were conflicting views on the interpretation of paragraphs 3 and 4 of section 9 which cover the Finance Committee.
In a statement the Assembly President, Sainivalati S. Navoti (Fiji), said he recognized that there were differences in the interpretation of the combined effect of the two paragraphs. The Assembly then elected all 15 nominees, by consensus following a proposal by Brazil, the exact wording of which would be presented on resumption of the Assembly in the afternoon.

The Finance Committee considers the Authority’s two-year budgets and other financial matters. Its membership must include persons from the five largest budgetary contributors.

**Council elections**

The Council membership is drawn from five groups of States members of the Authority, four of which have special interests in aspects of seabed mining and the fifth is a group chosen to ensure equitable geographical balance in the Council as a whole. Today’s election, based on lists drawn up by the respective groups, was uncontested.

The 17 members elected to the Council are:

- Italy and Russian Federation (Group A); France and Germany (Group B); Canada and Indonesia (Group C); Egypt; Fiji and Jamaica (Group D) and Cameroon, Cote d’Ivoire, Honduras, Mexico, Nigeria, Qatar, Republic of Korea and Viet Nam (Group E).

The breakdown of Council membership is as follows:

- **Group A** (4 States from among the largest consumers or net importers of minerals to be derived from seabed mining):

- **Group B** (4 States from those with the largest investment in seabed mining):

- **Group C** (4 States that are major land-based net exporters of the minerals also found on the deep sea-bed):

- **Group D** (6 developing States representing special interests, including those with large populations, the landlocked or geographically disadvantaged, islands, major mineral importers or potential producers, and the least developed):

- **Group E** (18 States for geographical balance as well as balance between developed and developing States):

During elections for the first members of the Council on 18 March 1996, it was agreed to allocate 10 seats to the African Group, 9 seats to the Asian Group, 8 seats to the Western European and Others Group, 7 seats to the Latin American and Caribbean Group and 3 seats to the Eastern European Group. Since the total number of seats allocated according to that formula is 37, it was understood that for the period 2005-2008 each regional other than the Eastern European Group will relinquish a seat in rotation as follows:
In 2005, Trinidad and Tobago relinquished its seat in Group E on behalf of the Group of Latin American and Caribbean States, which occupied six seats that year;

In 2006, Canada will relinquish its seat on behalf of the Group of Western European States and Other States, which is occupying seven seats;

In 2007, Senegal will relinquish its seat on behalf of the African Group, which will occupy nine sets in that year;

In 2008, the Asian Group will occupy eight seats. It will nominate the member that will relinquish a seat in 2008.

The arrangements for Groups A and B are without prejudice to future elections for the two groups and any interim arrangements for the substitutions in those groups, according to the Assembly decision. It said Canada would relinquish its seat in Group C to Australia from 1 January 2009 for two years. Honduras would relinquish its seat in Group E from the same date also for two years.

Finance Committee elections

President of the Assembly opened the topic of the Finance Committee elections, noting that the matter had generated extensive discussions within regional groups yesterday. However, before the Assembly discussions could begin, Brazil asked for a recess for consultations within its regional group.

Upon resumption of the meeting, Argentina took the floor as the coordinator of the Latin American and Caribbean Group (GRULAC), to record its position with regard to two candidates on the roster who were seeking re-election for a third term. While GRULAC appreciated “the valuable contributions of these two very excellent candidates” (Domenico da Empoli of Italy and Jean-Pierre Levy of France) to the work of the Authority, the Group felt that to elect them to the Finance Committee for a third term would constitute a breach of the United Nations Convention on the Law of the Sea (UNCLOS) and the 1994 Agreement relating to the Implementation of Part XI, as well as the rules of procedure of the Finance Committee itself.

According to Section 9, paragraph 4 of the Annex to the Agreement states that Finance Committee members shall hold office for a term of five years and shall be eligible for re-election “for a further term.” Argentina said the provision clearly stipulated that members could only serve two terms and this wording echoed that of Article 163, paragraph 6 of the Convention.

Sudan supported Argentina’s interpretation of the Convention and warned against setting a serious precedent which would lead to a negative image of the Authority. He suggested that the Assembly could proceed to elect the other 13 candidates to the Finance Committee since there was no rule which prohibited that course of action, after which France and Italy could be asked to submit new candidates who could be endorsed at the next session of the Authority. The representative of Nigeria concurred with Argentina and Sudan. The rules clearly stated that members were to serve two terms only, he said, and those rules should be respected. Uganda voiced its support for the election of 13 members.

With regard to the suggestion of electing 13 members, Indonesia referred to Section 9, paragraph 4 of the Annex which states: “Until the Authority has sufficient funds other than assessed contributions to meet its administrative expenses, the membership of the Committee shall include representatives of the five largest financial contributors to the administrative budget of the Authority. The absence of two
members of this group of large contributors, might call the activities of the Finance Committee and indeed the activities of the Assembly, into question. The United States agreed with this view.

France also invoked this principle and said that a Committee comprising 13 members would not be legally valid. The delegate added that an objective reading of the provisions had prompted no objections during the consultations organized by the Secretary-General, as requested by the Assembly last session, during the meeting of the States parties in New York last June.

Brazil put forward a proposal aimed at reaching a consensus to elect all 15 members of the Committee. That delegation proposed that the election decision should contain wording to the effect that the election of the two nominees in question should be a one-time only decision, on an exceptional basis, without prejudice for decisions in the future. This would prevent the setting of a precedent for future elections.

Cuba said it would support this approach although it felt that all Finance Committee members must adhere to the prescribed rules, a view echoed by Honduras, and warned against introduction of special circumstances for two candidates who did not conform to the requirements. In the interest of reaching a consensus, Mexico also agreed to support Brazil’s proposal, once a statement could be included to avoid the recurrence of this situation in the future. However, Argentina saw this as allowing an irregularity to take place with the proviso it would not be allowed to happen again. Uganda warned that any wording used to accommodate a particular situation stood the risk of being quoted and used as a precedent in the future.

Trinidad and Tobago agreed to Brazil’s approach, but reminded the Assembly that even larger contributors to the Authority should pay due homage to the rules governing the Authority. He warned against “sacrificing the rule of law on the altar of expediency or pragmatism.”

The fifteen new members elected to the Finance Committee are: (an asterisk denotes a re-elected member): Denis Fontes De Souza Pinto (Brazil), Jian Liu (China)*, Pavel Kavina (Czech Republic), Jean-Pierre Levy, (France)*, Alexander Stedtfeld (Germany), Neeru Chadha (India), Hasjim Djalal (Indonesia)*, Domenico da Empoli (Italy)*, Trecia Elliott (Jamaica), Shinichi Yamanaka (Japan), Olav Myklebust (Norway), Oleg Alekseevich Safronov (Russian Federation) Juliet Semambo Kalema (Uganda)*, Kyaw Moe Tun (Myanmar)*, Christopher Adrian Whomersley (United Kingdom). They will serve from 1 January 2007 to 31 December 2011.

A draft of the Brazilian proposal, which had earlier led to the election of the 15 nominees to the Finance Committee, was read out to the Assembly by the president on its resumption. The wording of the proposal was worked out in conjunction with the Secretariat during the lunch break.

Nigeria, Sudan and Uganda insisted that the names of the two nominees seeking reelection for third term be included in the proposal. Trinidad and Tobago suggested the inclusion of the words “for a third term,” to emphasize that the reelection of the nominees from France and Italy was exceptional. The proposal, which was accepted by the Assembly, read as follows:

“The Assembly recognized that there were differences in the interpretation of the combined effect of paragraphs 3 and 4 of Section 9 of the annex to the 1994 Agreement. Following an extensive exchange of views the Assembly proceeded to election of the members of the Finance Committee. The Assembly decided to elect all 15 nominees, on an exceptional basis, with the understanding that the election of two
nominees (France and Italy) for a third term is a one-time only decision, that will not constitute a precedent for future elections and that for future elections States Parties shall indicate their candidates at least two months before the beginning of the session”.

Other matters

The delegation from Nigeria said the Assembly should set up a small working committee to examine issues related to the tenure of the Secretary-General, the composition of the Secretariat staff, levels of remuneration, and meetings and consultations held outside of Jamaica, the headquarters of the International Seabed Authority. Nigeria called for regional rotation and a set term of office for the Secretary-General as was the case in many international organizations. The delegation said the staff of the Secretariat should also reflect the geographical makeup of the organization.

Responding to the comments from Nigeria, Secretary-General Satya N. Nandan (Fiji) said the Secretary-General was elected by the Assembly from among the candidates proposed by the Council for a four year period. He said staff was recruited based on the expertise required by the Authority and that the current staff of the Secretariat represented all the regional groups, except Eastern Europe. Mr. Nandan noted that remuneration for staff was based on Untied Nations’ standards, and that the Authority’s financial regulations were also based on those of the United Nations. On the question of meetings that took place in New York, the Secretary-General said they were held for convenience because of the availability of members. However, all decisions related to those consultations were taken during the sessions in Kingston.

The Assembly concluded with the report of the president on the 12th session of the Authority.

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