

STATEMENT OF NORWAY
AGENDA ITEM 11: TWO YEAR RULE

4 November 2022

- Thank you for giving me the floor.
- We appreciate the opportunity to opine on this issue.
- At the outset, I should say that our thinking on this issue is still evolving and that we are very interested in the views of other delegations and also non-state stakeholders.
- Let me try to briefly lay down a few principles which we think must guide our consideration of this issue as we advance our discussions.
- First, the way forward must be based on the Convention, including the 1994 Implementation Agreement. These are the legal instruments that we are all bound by. We cannot depart from our legal obligations based on political considerations.
- Second, and more specific to the issue at hand, we have a legal obligation to finalize the regulations now that the two year rule has been triggered. The 1994 Agreement clearly stipulates that if a request is made by a State whose national intends to apply for approval of a plan of work for exploitation the Council shall complete the adoption of such Rules and Regulations within two years of the request.
- Norway is committed to this obligation to finalize the regulations and believes that the Council must redouble its efforts to complete the elaboration of the draft exploitation regulations and adopt these within the prescribed time.
- If we are unsuccessful in our endeavors to complete the Mining Code, Section 1 (15) letter c of the 1994 Agreement prescribes that if a work plan is submitted, we have an obligation to “consider and provisionally approve” such a plan of work.

- We agree with the delegations who have opined that “consider and approve” does not exclude the option of disapproving a plan of work if the Council is not sufficiently convinced that the Convention and rules and regulations, either adopted or provisionally adopted, have been complied with. This includes an evaluation of whether an application comports with article 145 of the Convention, and the precautionary principle.
- That said, it is our reading of the relevant rules that the Council is obliged to *consider* – on a case-by-case basis, if the situation arises, any such work plan and assess whether it conforms with the relevant rules and regulations or not.
- On the issue of process, our starting point is UNCLOS article 153 which states that Activities in the Area shall be carried out in accordance with a formal written plan of work drawn up in accordance with Annex III and approved by the Council “after review by the Legal and Technical Commission”. This is also in line with the Rules of Procedure of the Council which also state that the Council shall act on the recommendation of the LTC when dealing with plans of work.
- We see no convincing reason to depart from this arrangement in the context of the 1994 Agreement and the two-year rule. To us, a contextual interpretation of these provisions as well as the object and purpose of the Convention, the 1994 Agreement and the said rules clearly stipulate that the Council’s assessment of a work plan must be based on a recommendation from the LTC as the Council’s expert advisory body.
- Finally, we should like to stress that even though it is of course important to seek a common understanding of Section 1 (15), there is no application pending, and the deadline has not been passed. Therefore, this discussion should not be allowed to overshadow our primary objective and obligation under the Convention: to complete the elaboration and adoption of the exploitation regulations.
- Let me stress that we think, as others have stated, that it is feasible for us to finish the regulations within the next summer session. It will require hard work, dedication, and flexibility from all of us. It should nevertheless be our primary objective. Achieving this would not only ensure that we avoid the situation of having to consider a work plan without the

regulations in place. It will also show that multilateralism works and that we as states are capable of advancing difficult issues on the basis of our Conventional obligations and the rule of law.

- Norway is ready to do this work together with the rest of the Council, other state parties, and observers, to ensure exploitation regulations with robust environmental standards, in line with the precautionary principle, as well as clear mechanisms for inspection, enforcement and compliance.

I thank you.