SEABED COUNCIL RESUMES DEBATE ON DRAFT NEW MINING CODE
FOR POLYMETALLIC SULPHIDES AND COBALT-RICH CRUSTS

The Council of the International Seabed Authority this afternoon resumed debate on the
draft mining code for polymetallic cobalt-rich ferromanganese crusts with focus on the wording
of several of its provisions which appeared ambiguous to some delegations. The text has 43 draft
regulations.

The discussions started with consideration of regulation 16, which outlines the four types
of contractual arrangements under which an applicant may opt to undertake exploration activities.
The applicant may either contribute a reserved area to carry out activities, offer an equity interest,
enter a joint venture arrangement, or enter into a production-sharing contract. Japan proposed the
inclusion of another category, based on a distinction to be made between the reserved areas and
the others. He suggested the addition of a new paragraph to make this distinction clear.

It was agreed that Japan’s proposal would be examined more closely as soon as a written
version was made available to the Council members. Members also called for an explanatory note
to be prepared by the Legal and Technical Commission to ensure a better understanding of the
terms used in regulation 16.

France wanted clarification on whether the relinquishment system was only applicable
when an applicant opted for a reserved area or if it would apply to all the options. The Russian
Federation agreed that this needed to be made clear, pointing out that the options presented
different scenarios in terms of revenue for the applicants as well as the Enterprise, the projected
mining arm of the Authority. The Secretary-General confirmed that the same rules would apply to
both the Enterprise and the contractors working in the international seabed Area.
The provisions of regulation 16 seemed complex to some delegations since a complete understanding of the proposed options required a thorough understanding of regulations 17 and 19 which described those options in detail.

The provisions of paragraph 8, regulation 23 on consideration of applications of prospectors by the Legal and Technical Commission, drew most comments. China referred to certain provisions on dispute settlement contained in the earlier code for polymetallic nodules, and warned that similar regulations might be needed for the new rules as conflicts could arise if more than one application was made for the same prospecting site.

The Russian Federation supported China’s position. Its representative felt that priority should be given to applicants who did not already have a plan of work, given the limited number of potential exploration areas and the need to prevent the emergence of a monopolistic situation.

The Secretary-General noted that amendments to paragraph 8 provisions had changed its original meaning, and should be revised. A number of queries could be clarified by a document prepared by the Secretariat in 2001 (ISBA/7/C/2), which presented some considerations relating to the regulations for polymetallic sulphides and crusts.

Commenting on regulation 27 relating to the size of areas and the matter of relinquishment, the Russian Federation reminded members of the need to adhere to Article 17, paragraph 2 (a) of Annex 3 of the United Nations Convention on the Law of the Sea (UNCLOS). He noted that in the draft under consideration, the number of blocks to be relinquished had been increased to 75%. The area reserved for the contractor for exploration could be up to twice the size of the exploitation area. Therefore, out of an area of 100 blocks, the 25 blocks remaining after relinquishment would not be sufficient to make exploitation economically viable. He felt that 40 blocks would be the minimum required for viability.

In the discussion on the duration of contracts covered by regulation 28, Brazil expressed the view that the contract period of 15 years was too long for these types of resources. Spain suggested the elimination of the provision on option on the option to extend contracts. On the other hand, some delegations said the period should be maintained or prolonged. The Russian Federation observed that while a 15-year period for exploration might be sufficient for mining on land, the case was not the same for seabed ferromanganese crusts since the technology for mining and processing them had not yet been tested. Restricting the duration of the contract period would not give contractors enough time to advance in their work.

In other matters, the Council elected Nigeria as its fourth vice-president. The other vice-presidents, elected earlier, are Canada, Jamaica and the Russian Federation.

The Council is scheduled to resume discussion on the draft regulations on Friday, 19 August at 3 p.m.