SEABED COUNCIL CONTINUES DISCUSSION OF REGULATIONS ON SULPHIDES; COMPLETES SLATE OF VICE-PRESIDENTS FOR 2007

The Council of the International Seabed Authority this afternoon resumed deliberations on the draft regulations on prospecting and exploration for polymetallic sulphides in the international deep sea area, as the 13th session continued in Kingston.

The Council also elected Germany, nominated by the Western European and Other States, to serve as a vice-president. The slate of vice-presidents for 2007 is now complete with India, Poland and Senegal having been elected earlier.

China thanked the delegations which assisted it in redrafting its proposed amendment to the definition for polymetallic sulphides in regulation 1, paragraph 3 (d). Council President Raymond Wolfe (Jamaica) had recommended an informal meeting of experts of delegations concerned with the amendment to try and iron out a new proposal that could be presented tomorrow. At the request of Uganda the proposed amendment was presented in writing.

Regulation 5 contains three paragraphs that deal with protection and preservation of the marine environment during prospecting. Paragraph 3 was the focus of the debate on the draft regulation. The paragraph reads:

“A prospector shall immediately notify the Secretary-General in writing, using the most effective means, of any incident arising from prospecting which poses a threat of serious harm to the marine environment. Upon receipt of such notification the Secretary-General shall act in a manner consistent with regulation 35.”

Argentina and Brazil disagreed with the United States observer over a suggestion that the second sentence in the paragraph was inappropriate because of its reference to regulation 35. Argentina, Australia, China, Fiji, The Netherlands and Senegal debated the wording “…prospecting which poses a threat of serious harm.” The delegations wanted to clarify whether the provision gave the Secretary-General the power to act on a threat, or to act after serious harm has been done to the marine environment.
The Secretariat explained that the Legal and Technical Commission was careful in its wording of the paragraph so as to prevent the Secretary-General from taking more action that was required at the prospecting stage. The “profound and very important” change made by the Commission to the paragraph, the Secretariat said, was made after careful analysis of the threshold at which action should be taken in accord with Principle 15 of the Rio Declaration.

Australia proposed an amendment to Regulation 5, paragraph 3 as follows:

“A prospector shall immediately notify the Secretary-General in writing, using the most effective means, of any incident arising from prospecting which has caused, is causing, or poses a threat of serious harm to the marine environment. Upon receipt of such notification the Secretary-General shall act in a manner consistent with regulation 35.”

The amendment was approved after it was translated in Spanish and circulated. Regulation 5 was subsequently approved.

Regulation 6, covering the annual report to be submitted by prospectors, contains two paragraphs. Paragraph 1 sets out three forms of information a prospector must submit to the Authority within 90 days of the end of each calendar year.

The United States observer took issue with the word “compliance” in paragraph 1, (c) which reads:

“(c) information on compliance with the relevant future guidelines in this regard.”

Jamaica proposed an amendment, to replace “compliance” with “adherence,” which was accepted, and the regulation was adopted, without objection.

Returning to debate on China’s amendment to Regulation 1, paragraph 3 (d), Brazil supported the proposed wording agreed on by experts who met earlier today in an informal meeting. The amendment was redrafted by Poland to read as follows:

Polymetallic sulphides “means hydrothermally concentration of sulphide and associated minerals which contain inter alia copper, lead, zinc, gold and silver, being one of the resources in the Area.”

Some delegations argued that the phrase “in the Area” should be deleted because it could imply that the definition refers only to polymetallic sulphides found in the Area. Poland, agreeing with New Zealand that the phrase could be deleted, said the proposal was a compromise between delegates who are expert geologists.

Kenya pointed out that some delegations had not been aware of the time and place of the informal meeting. The president suggested that the informal meeting could be reconvened to accommodate those delegations to ensure that all members were satisfied with the text.
Regulation 7 covers confidentiality of data and information from prospecting contained in the annual report. The regulation has two paragraphs. Paragraph 1 stipulates that the Secretary-General shall ensure the confidentiality of all data and information contained in the reports submitted by prospectors but notes that data and information “relating exclusively to environmental monitoring programmes shall not be considered confidential.”

Germany questioned what criteria would be used to differentiate between confidential and non-confidential data and suggested wording to cover instances when private interest in confidentiality might outweigh the public interest served by disclosure. By way of example, he made reference to data-gathering models developed by prospectors.

Argentina, supported by Brazil, proposed a different amendment to the paragraph, broadening the definition of non-confidential information to encompass all information relating to the protection and preservation of the marine environment.

The Secretariat suggested that the paragraph could revert to the text found in the regulations on polymetallic nodules: “The Secretary-General shall ensure the confidentiality of all data and information contained in the reports submitted under regulation 6.” The reference to regulations 38 and 39, he said, were not necessary, since those regulations dealt very specifically with the issues of proprietary data and procedures to ensure confidentiality. Germany agreed that the reference could be deleted. Senegal warned against restricting the capacity of the Secretary-General to have access to critical information which might be needed to resolve an emergency situation.

Paragraph 2 of regulation 7 allows the Secretary-General to release data relating to a prospecting area, once he determined that the prospector no longer existed or could not be located. Kenya sought clarification on how that fact might be determined. Fiji proposed that a time frame of five years after notification be given. Other delegations agreed with the idea of a timeframe in principle but requested more time to review the text.

The Council will resume discussion on the draft tomorrow morning. The Council will also hear a statement by the Secretary-General on the periodic review of the implementation of plans of work for exploration by contractors.

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