International Seabed Authority

Press Release

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SEABED COUNCIL CONTINUES DELIBERATION ON DRAFT SULPHIDES REGULATIONS

The Council of the Seabed Authority, continuing its review of the revised draft regulations on polymetallic sulphides, this afternoon took up proposals put forward by Australia and Russian Federation respectively on areas to be covered for exploration by contractors. It also received a proposal by the CANZ group (Canada, Australia and New Zealand) on the regulation covering protection and preservation of the marine environment.

In other action, the Council took note of the Secretary-General’s report on the submission of credentials by thirty-seven members of the Council to the Authority. In accordance with the rotation principle, it is the turn of a member of the Asian group to relinquish its seat this year. Therefore, Fiji announced that it would give up its right to vote in the Council.

China opened the debate by reiterating its request that the Council be informed of the details of an informal meeting of scientists which had led to the amendments to Regulation 12 (Total area covered by the application) for exploration of polymetallic sulphides. The representative of Mexico agreed that a short briefing would promote a better understanding of the rationale behind the proposed texts.

The representative of the Russian Federation explained that the purpose of the meeting was to find a more precise definition for the phrase “within the same geographical area” which a number of delegations had described as “vague.” The discussions at the meeting therefore focused on how to define parameters for this “geographical area.” Three suggestions were put forward: using a 5° square; converting the 5° square to kilometres (550 km by 550 km); using either a square or rectangular shape but specifying either a certain ratio of width to length or a maximum length in terms of kilometres.

A number of factors were taken into account, the representative said. Firstly, in order to guard against the establishment of a monopolistic situation, the area could not be too extensive. On the other hand, it had to be large enough to contain potential resources of economic significance. The third important factor was that of preservation of the environment.
The Australian representative pointed out that the two proposals were very similar in essence and suggested that the Council could work on bringing together the two ideas into one proposal.

Viet Nam requested clarification on the reasons for discontinuing the requirement for the blocks to be contiguous. It also objected to allowing contractors access to 300,000 square kilometres from which to select their blocks, instead of the 150 square kilometres they were allowed under the regime for polymetallic nodules. Indonesia and Trinidad and Tobago also called for more explanations about the basis for the new figures.

Referring to paragraphs 14 and 15 of the review of outstanding issues concerning the draft (ISBA/14/C/4), the Secretary-General explained that in the original draft of the polymetallic sulphide regulations it was proposed that exploration areas should consist of a maximum of 100 contiguous blocks. The requirement was based on the concern that the selection of non-contiguous blocks would lead to "cherry-picking" by contractors in a way that would exclude other potential contractors. He said that based on the advice of technical experts, it was found that it would be necessary to divide the exploration areas into clusters of non-contiguous blocks which would ensure that clusters could be spread over a large enough area to contain the resources. On this basis, contractors would now be allowed to arrange exploration blocks into clusters of at least five and not more than twenty blocks each.

The first proposal for defining the area was a 5° square. Since a 5° square at the Equator measures 550 by 550 kilometres, this was the figure used to define the areas, hence the arrival at an area of approximately 300,000 square kilometres.

The Secretary-General further reminded the Council that the 300,000 square kilometres did not refer to the area of allocation to which a contractor would have exclusive rights, but rather an area within which it could select 10,000 square kilometres in a variety of block configurations. The observer from the United States suggested that the term "confinement area" might clarify this concept, and New Zealand proposed referring to blocks as having to be "confined to" rather than "located within" the designated area.

Using the analogy of a chessboard, Mexico warned that a contractor might opt to exploit all the "black squares" which were all contiguous, effectively preventing any other potential contractor from accessing the "white squares." The Secretary-General explained that it was precisely to avoid such a situation that the Legal and Technical Commission had devised the system of arranging blocks in clusters.

While delegations such as the Republic of Korea and India contended that decisions on the size of the exploration area should be delayed because of the lack of scientific and economic information about polymetallic sulphides, New Zealand warned the Council against setting such high standards for knowledge that might distract from the goals set out in the 1982 United Nations Convention on the Law of the Sea (UNCLOS). The Netherlands agreed that the work of the Authority should not come to a standstill because of lack of scientific knowledge. Uganda
urged the Council to resist the temptation to “hide behind science and workshops” and to harness the political will to move forward.

The discussion on regulation 12 ended with the decision that the Secretariat would work on new wording for paragraph 3 to reflect the suggestions by delegations, and this regulation would be taken up at a later meeting of the Council.

The Council next considered paragraph 2 of Regulation 28 (Duration of contract). The paragraph deals with applications for extensions of a plan of work for exploration by a contractor. The Council, on the recommendation of the Legal and Technical Commission (LTC), would approve extensions for periods of not more than five years each. The extensions would be granted if the contractor, having made good faith efforts to comply with the requirement of the plan of work, was unable to comply for uncontrollable reasons.

Debate focused on what some delegations felt was the open-ended nature of the extensions. Mexico recalled discussions at the thirteenth session on the indefinite nature of the extensions. India called for a finite number of extensions, to which the Secretary-General replied that for a 15-year contract, two 5-year extensions would add up to 25 years which is the life of a mining site. Russia felt the wording of the paragraph was adequate, but Senegal called for more careful examination. Nigeria, with support from Jamaica, said the current wording provided enough safeguards, and that the Council, on the recommendation of the LTC would consider requests for extension. The President of the Council, Liesbeth Lijnzaad (The Netherlands) agreed to suggestions from Argentina and Mexico to ask the Secretariat for wording to indicate that the extensions would not be automatic.

Regulation 33 is contained in Part V of the draft regulations on prospecting and exploration for polymetallic sulphides in the Area. The section covers protection and preservation of the marine environment. Australia re-presented a proposal it made at the previous session last July, but this time on behalf of CANZ group. The joint Canada, Australia and New Zealand proposal added paragraphs 2bis and 2ter, as follows:

2bis The Authority shall assess, on the basis of the best available scientific and technical information, including information provided pursuant to regulation 20, whether proposed exploration activities in the Area would have a serious adverse impact on vulnerable marine ecosystems, in particular hydrothermal vents, and ensure that, if it is assessed that these activities would have serious adverse impact on vulnerable marine ecosystems, they are managed to prevent such impacts, or not authorized to proceed.

2ter The Legal and Technical Commission shall make recommendations to the Council on the implementation of paragraphs 2 and 2bis above.

Australia said the proposed paragraphs were intended to render operational an environmental assessment by the LTC. Trinidad & Tobago hoped the Council would support the CANZ proposal because the language mirrored that of the United Nations General Assembly resolution (61/105, para 83(a) and lent support to the UN Commission on Bio-diversity. A
number of delegations, including Argentina, Jamaica, Kenya, Mexico, Namibia, and the Netherlands, supported the proposal as a good way forward.

Jamaica wanted to know who would conduct the environmental impact assessment (EIA), and India questioned the sequence of events of the assessment. Australia noted that the regulations required that the applicant provide the assessment and the LTC conducts the review and make recommendations to Council. Argentina described the CANZ proposal as an improvement over the regulations on polymetallic nodules which were approved by the Authority in 2000.

New Zealand agreed with delegations, including Kenya, Spain and Viet Nam, on the need for minor drafting fixes to the proposal. China called for clear guidelines on elements that constituted harm to the marine environment, and suggested a seminar to deal specifically with the issue.

Two seminar presentations are planned for members when the Council resumes tomorrow morning. The first, on the “status and prospect of the international market for cobalt, manganese, and nickel”, will be presented by Professor Phillip Crowson from the Centre for Energy, Petroleum, and Mineral law and Policy at the University of Dundee, Scotland. The other seminar will address “polymetallic nodule mining technology: current status and challenges ahead.” It will be presented by Caitlyn L. Antrim as a report on the outcomes of the Authority’s workshop jointly organized with the Ministry of Earth Sciences of the Government of India in February, 2008.

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