COUNCIL NEARS RESOLUTION ON OUTSTANDING ISSUES; AGREES ON LANGUAGE FOR REGULATIONS 24 AND 28; SEEKS COMPROMISE ON OVERLAPPING CLAIMS

The Council of the International Seabed Authority made more progress, in Kingston this afternoon, on the outstanding issues blocking completion of the second reading of the draft regulations on polymetallic sulphides.

Delegates adopted regulation 28, with six paragraphs, some of which contained new language drafted by China. A revised regulation 24, paragraph 1, originally proposed by Russia and redrafted by the Secretariat, was also adopted following amendments by Ghana and Germany. The remaining issues involves overlapping claims, specifically paragraph 3 and a proposed paragraph 10 of draft regulation 23, and the proposed paragraph 5 of regulation 12 - Total area covered by the application.

**Regulation 28**

China said it suggested revision to regulation 28 contained in the draft (ISBA/15/C/WP.1 AND corr.1) in order to specify the size of area to be allotted to the contractor for exploration, and to extend the period and percentage of area for relinquishment.

The first three paragraphs of regulation 28 were amended as follows:

1. **The contractor shall relinquish the area allocated to it in accordance with paragraphs 2 of this regulation. Areas to be relinquished need not be contiguous and shall be defined by the contractor in the form of sub-blocks comprising one of more cells of a grid as provided by the Authority.**
2. The total area allocated to the contractor under the contract shall not exceed 10,000 square kilometers. The contractor shall relinquish parts of the area allocated to it, in accordance with the following schedule:

(a) By the end of the eighth year from the date of the contract, the contractor shall have relinquished at least 50 per cent of the original area allocated to it;

(b) By the end of the tenth year from the date of the contract, the contractor shall have relinquished at least 75 per cent of the original area allocated to it.

3. The contractor may at any time relinquish parts of the area allocated to it in advance of the schedule set out in paragraph 2 provided that a contractor shall not be required to relinquish any additional part of such area when the remaining area allocated to it after relinquishment does not exceed 2,500 square kilometers.

Consideration of applications

There was significant debate on text added to regulation 24, paragraph 1 proposed by the Russian Federation. The regulation stipulates how the Legal and Technical Commission should handle application for approval of a plan of work for exploration. Delegations considered the nature of the information to be circulated, the period before which the Commission should receive the information, and whether the text should be aligned with the other regulations concerned with processing of applications.

Redrafted by the Secretariat, with amendments by Ghana and Germany, the paragraph was approved by the Council as follows:

The Commission shall only consider applications in respect of which notification and information has been circulated by the Secretary-General in accordance with regulation 22 (c) at least 30 days prior to the commencement of the meeting of the Commission at which they are to be considered.

Overlapping Claims

The role of the Commission and the Council in the decision-making process involving overlapping claims was a focus of debate on paragraph 3 of regulation 23. This article, with nine paragraphs, was the result of discussions among the informal open-ended working group facilitated by New Zealand earlier this week. China proposed revised language for 3, and added a paragraph 10 which outlined criteria by which the Council and the Commission may be guided in making decisions on overlapping claims.
Paragraph 3 reads as follows:

The Legal and Technical Commission and the Council shall take action in accordance with regulations 24 and 25 over such applications only after any overlapping claims between applicants have been resolved in accordance with the procedures set out in this regulation or the overlapping claims have not been resolved 180 days after the Secretary-General’s notification to all applicants.

China argued that both bodies should have the legal mechanism to settle disputes based on the principle of fairness and equity. South Africa observed that the two bodies lacked any special mechanism to make legally binding decisions on disputed claims. Ghana insisted that an overlapping claim should not be regarded as a dispute requiring special action by the two bodies.

The Chinese delegation said it could be flexible in its position so long as there was language to guarantee a process and the principle of fairness and equity. The delegation said it was also willing to compromise on its proposed paragraph 10 by deleting the list of criteria. Declaring that he had no problem retaining the fairness and equity principles in the draft, the representative of Ghana welcomed the window of opportunity opened by China to allow progress on the remaining issues before the Council.

Vice President Leonora Rueda (Mexico), who chaired the meeting of the Council, urged delegations to work informally overnight and return for a short meeting, at 10:00 am tomorrow with a view to completing work on the draft sulphides regulations.

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