SEABED COUNCIL RESUMES DEBATE ON COBALT-CRUST REGULATIONS

The Council of the International Seabed Authority this afternoon resumed its consideration of draft regulations for cobalt-rich ferromanganese crusts with a debate on a proposal put forward by China relating to provisions (regulations 12 and 27) which deal with the total area covered by applications and the schedule of relinquishment.

Brazil and the Republic of Korea, while agreeing in principle with the suggestions from the Chinese delegation, expressed concern and reservations about the discussion of questions of a technical nature in the Council.

The representative of India echoed those concerns, and suggested that small groups could be convened to examine the technical details. Germany suggested that the members of the Legal and Technical Commission still in Kingston after the Commission’s session could meet informally to review the proposal.

However, Chile, supported by Argentina, the Netherlands and Nigeria expressed the view that the proposal should be sent to the Commission for a proper review and presented to the Council at next year’s session. Questions were raised as to the usefulness of small group discussions without the endorsement of the entire Commission. The Netherlands suggested that the Council could continue to examine the other provisions in the draft regulations and this suggestion was supported by Brazil and South Africa.

The Russian Federation, supported by Pakistan, expressed the view that the Chinese proposal was valid. There were substantial risk factors linked to seabed mining, they said, and levels of losses were estimated to be as high as 40 to 50 per cent. If those high-risk factors were not taken into account and small areas were allotted to contractors, acceptable productivity might not be guaranteed over 20 years of mining activity. The representative of the Russian Federation supported the suggested revisions to regulation 12 and 27 but pointed out that both regulations had to be tied in with regulation 21 which dealt with application fees. He saw no reason for the matter to be referred to the Legal and Technical Commission. He pointed out that regulations for any mineral should be adopted within a three-year period from the date of a request from any member of the Authority (Article 162 paragraph 2 (o) of the Convention).

In its response to the concerns expressed by other delegations regarding its proposed revisions, China observed that its proposal had been submitted at last year’s session along with an explanatory note, therefore members had had a year to consider it and seek clarification. The representative said the technical issues were not as complex as they seemed and could be resolved. He said that two Chinese
experts would make a presentation on the technical aspects of the proposal so that Council members could pose questions.

Some speakers, including Germany, Japan, the Netherlands and the United Kingdom, thanked China for the offer, saying that such a presentation would be useful and informative. The presentation is scheduled to take place in the afternoon of Friday, 15 July.

The Council agreed with the suggestion from the Netherlands, supported by South Africa and Brazil to start a review of the entire draft regulations.

Preamble

Ghana recommended adding the date “10 December 1982” in the preamble. France argued that changes to the Preamble of this set of regulations would render it inconsistent with the sulphides regulations already adopted by the Council. In response, the Legal Counsel suggested that such stylistic edit would not create any substantive difference to the document.

Regulation 1 (Use of terms)

Japan, supported by China, argued that the date as it appeared in paragraph 2 of Regulation 1 included the full citation of the instrument and could not be removed as suggested by Ghana.

The United States Observer, supported by Brazil and China, proposed a new definition for cobalt crusts in paragraph 3 (a) to read:

3. For the purposes of these Regulations:

   (a) “cobalt crusts” means cobalt-rich iron/manganese (ferromanganese) hydroxide/oxide deposits formed from direct precipitation of minerals from seawater onto hard substrates containing minor but significant concentrations of cobalt, titanium, nickel, platinum, molybdenum, tellurium, cerium, other metallic and rare earth elements;

South Africa recommended deleting paragraph 4 as it said the “savings clause” was already covered in paragraph 5. The concern expressed by South Africa was that paragraph 4 highlighted specific activities pursuant to Article 87 of the Convention which would not be affected if removed. In response to South Africa, the Legal Counsel said paragraph 4 was examined by the Legal and Technical Commission which deemed it important to the substance of the regulations.

Regulation 2 (Prospecting)

India proposed that the reference to the Secretary-General in paragraph 2 should be changed to “the Authority”. South Africa, Trinidad and Tobago, Brazil and the Netherlands felt that confusion could arise from the wording of the second sentence of paragraph 2 as it could be mistaken for an explanation of Principle 15 of the Rio Declaration. Canada suggested splitting the paragraph while Ghana proposed moving the sentence to paragraph 3.

By the end of the discussion, the Council had adopted the Preamble with the inclusion of the date, and Regulation 1, with the changes suggested by the United States Observer.

When the Council meets tomorrow morning, it will hear the report of the Legal and Technical Commission from its Chairman, David Billett (United Kingdom).

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