SEABED COUNCIL ADOPTS CRUSTS REGULATIONS; ENDORSES 2013-14 BUDGET OF $14.3 MILLION

The Council of the International Seabed Authority meeting in Kingston this afternoon, decided to adopt the Regulations on Prospecting and Exploration for Cobalt-rich Ferromanganese crusts in the Area following deliberations over three sessions since 2010.

The new rules covering all the world’s oceans beyond national jurisdiction represent the third set of detailed regulations for exploring minerals in the deep ocean that will be added to the Authority’s Mining Code.

Also this afternoon, the 36-member Council decided to recommend for approval by the Assembly a budget in the amount of $14,312,948 for the Authority’s operations for the 2013 and 2014 biennium, and a scale of assessment based on the scale used for the regular budget of the United Nations for 2011 and 2012 respectively. The decision to recommend the budget followed deliberations that begun in the morning, after the Finance Committee presented its report to the Council, and continued to the afternoon part of the meeting.

In other matters, the Council, acting on the recommendations of the Legal and Technical Commission, approved plans of work for exploration of polymetallic nodules, and sulphides from five entities.

Crusts regulations

In its decision, the Council set out procedures in an annex, which will have effect for a period of one year following the date of its adoption. These procedures relate to the responsibility of prospective applicants to use their best efforts to ensure, before making an application that areas in respect of which applications are made do not overlap.

The draft Regulations on Prospecting and Exploration for Cobalt-rich ferromanganese Crusts in the Area (document ISBA/16/C/WP.2) were adopted by the Legal and Technical Commission in 2009 for consideration by the Council at the Authority’s sixteenth session. The Council was not able to complete that undertaking.
The text of the draft Regulations on prospecting and exploring for cobalt-rich crusts consists of a preamble and 44 regulations organized into ten parts and four annexes. The Preamble sets out the principles underlying the Regulations – that the resources of the international seabed Area are the common heritage of mankind and that activities there are for the common benefit of all mankind.

The draft Regulations contain provisions that stress the freedom of marine scientific research in the Area and the exercise of freedom of the high seas; and lays out the legal rules that potential prospectors must follow to gain a contract. The protection and preservation of the marine environment are covered under several regulations.

At the end of the seventeenth session, the Council had agreed on all provisions, except those dealing with “Certificate of sponsorship” (regulation 11); “Total area covered by application” (regulation 12); “Fee for application” (regulation 21); and “Size of area and relinquishment” (regulation 27).

During this session, regulation 30, relating to the periodic review of the implementation of the plan of work for exploration, was the centre of lengthy debates. Some members maintained that there was a link between the costs referred to in regulations 21 and 30 both these costs should be borne by the contractors rather than the members of the Authority.

No amendment was made to regulation 30. It was agreed that Section 24 of the standard clauses of contracts for exploration, which provides for a contract to be revised by agreement between the Contractor and the Authority, would facilitate the application of any rules, regulations and procedures adopted by the Authority subsequent to the entry into force of any contract.

Finance Committee Report

Several members expressed satisfaction with the Finance Committee report. Delegates from Bangladesh, Brazil, Germany, The Netherlands, Spain, United Kingdom, said they supported the increase in fees paid for processing of applications for approval of plans of work for exploration for polymetallic nodules (Regulation 19, para 2, of the regulations on prospecting and exploration for polymetallic nodules in the Area) from $250,000 to $500,000. Bangladesh described the Financial Committee’s document as a “detailed quality report” and said the revised fee was not an unreasonable amount. Mexico, however, said the revised fee would not be an easy sell for members with struggling economies.

On the issue of outstanding contributions amounting to $246,972 from delinquent members (from 1998-2012), Argentina and Bangladesh concurred with the Committee that the Secretary-General must continue his efforts to recoup these funds.

Also, Brazil, Germany and The Netherlands requested that in future the Finance Committee’s report be made available in a prompt manner for members to study it before the session.

The United Kingdom said it could not support the notion that member states continue paying administrative and supervision costs of contractors and said it considered this a matter of urgency which should be addressed at the nineteenth session. The representative introduced a “compromise plan” which requested the Secretary-General to report at the next session on possible measures to ensure that the cost of reviewing contracts was not borne by member states. The Finance Committee would make recommendations on these measures to the Council for its consideration. Once a decision had been made, the Secretary-General would alert contractors of this decision.
Brazil agreed, saying the Council should express deep concern that “we are running a deficit in administrative costs.” He called for a 20-minute break to peruse and modify the United Kingdom document. The President upheld the suggestion.

When the meeting resumed, the United Kingdom presented a new draft which was further amended by members. The final compromise proposal by the delegation of the United Kingdom reads as follows:

The Council of the International Seabed Authority:

Taking account of Section 8 of the annex to the Agreement relating to the implementation of Part XI of the Convention;
Noting with concern the report of the Secretary General of the International Seabed Authority under Article 166, paragraph 4, of the Convention concerning the increased costs associated with reviewing the annual reports of contractors;

Noting that the Finance Committee has requested a report from the Secretary General, at its next meeting in 2013, on possible measures to ensure that the cost of administration and supervision of contracts between the Authority and the contractors was not borne by member states;

1. Requests the Finance Committee, as a first priority, to report to the Council at its nineteenth session on the measures to establish a system of cost recovery which the Finance Committee recommends as a result of the Secretary General’s report;
2. Decides to take up the issue at its nineteenth session, with a view to adopting measures as a matter of urgency at that session which are fully consistent with the Convention and the Agreement;
3. Requests the Secretary General to draw to the attention of all contractors this decision and the provisions in the standard clauses regarding the revision of contracts.

Plans of work for exploration

In other action, the Council adopted five applications of plans of works in the afternoon period. The country and companies who got licenses to explore polymetallic sulphides and polymetallic nodules in the Area in the order they were received by the Legal and Technical Commission, are:

b. Institut francais de recherche pour l’exploitation de la mer (IFREMER) (submitted 23 May 2012)
c. UK Seabed Resources Ltd. (submitted 23 May 2012)
d. Marawa research and Exploration Ltd (submitted 30 May 2012)
e. G-TEC Mineral Resources NV (submitted 31 May 2012)

The Republic of Korea and IFREMER will explore polymetallic sulphides while UK Seabed Resources Ltd, Marawa Research and Exploration Ltd and G-TEC Minerals Resources NV from Belgium, will conduct similar operations for polymetallic nodules.

Other matters

Under agenda item 20 - Other matters, the Legal Counsel advised members of the Council on the status of the Authority’s cooperation with members of OSPAR. He referred to a document entitled Status of the draft collective arrangement between competent authorities on the management of selected areas in
areas beyond national jurisdiction in the North-East Atlantic (ISBA/18/C/10). This document refers to a memorandum of understanding between the OSPAR Commission and the Authority aimed at ensuring the appropriate coordination of measures between the two organizations. This memorandum of understanding was concluded with OSPAR and approved by the Council in 2010, the same year in which OSPAR was granted observer status to the Authority.

Section III of the document – Recommendations - the Council is invited to ‘take note of the draft collective arrangement between competent authorities on the management of selected areas in areas beyond the limits of national jurisdiction in the North-East Atlantic and to request the Secretary-General to continue to pursue the dialogue with the Executive Secretary of the OSPAR Commission with a view to the implementation of the draft collective arrangement and on other matters of mutual interest for the two organizations.”

Mexico made a statement to the effect that the adoption of such decision would be premature and impractical. The representative said it would compromise all the members of the Authority, including those which were not members of OSPAR. He further cited the Rio +20 Conference on Sustainable Development where a call was made to the UN General Assembly Working Group on Marine Biodiversity beyond national jurisdiction to urgently address the issue of conservation and the sustainable use of marine biodiversity in areas beyond national jurisdiction and to take a decision on the development of an international instrument on the issue along the lines of the United Nations Convention on the Law of the Sea.

The representative proposed that more time should be given for the members of the Authority to consider and analyse any decision on the Authority’s cooperation with OSPAR, postponing its possible adoption to the nineteenth session. The statement by Mexico was supported by Argentina and Brazil.

With regard to Agenda item 16, the Council suggested that the Legal and Technical Commission address as a priority at the next session, the consideration of amendments to the Regulations on Prospecting and Exploration and of polymetallic nodules in the Area.

The Assembly meets tomorrow to complete its agenda for the eighteenth session.

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