Beijing Pioneer Company's views on the textual proposal of the Australian Equalization Measures Working Group

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We have different views on three aspects of the textual proposal submitted by the Australian Working Group on Equalization Measures and suggest the following modifications:

（1）The original textual proposal submitted by the Australian Working Group on Equalization Measures is:

Draft Regulation 64Bis, Determination of the Applicable Equalization Measure

1. A Contractor is liable for the Additional Royalty unless its most recent annual Equalization Measure Audit confirms that:

   (a) the Contractor does not have any Tax Exemptions from the sponsoring State(s); and

   (b) the Contractor does not receive any Subsidies from the sponsoring State(s).

2. A Contractor that is not liable for the Additional Royalty payment in a given fiscal year is liable for the Top-up Profit Share payment in that year.

We have different views on "Draft Regulation 64Bis, Determination of the Applicable Equalization Measure，, Article 2 (underlined font)"， and we think that Article 2 should be changed to ：

During the operation of the exploitation project, the contractor may choose one of the equalization measures of "Additional royalty payment" or " Top-up profit share payment " for financial inspection (or audit) and payment.

We believe that under the 1994 《Implementation Agreement》, contractors have the right to choose the payment system applicable to their exploitation contracts. The original textual proposal requires the contractor to conduct a financial inspection (or audit) of two equalization measures simultaneously, which is unreasonable and unnecessary ， and unreasonably increases the financial management costs of the contractor.

（2）The original textual proposal submitted by the Australian Working Group on Equalization Measures is:

Draft Regulation 64Ter Additional Royalty

3. In accordance with the relevant Standard and applicable Guidelines, the Additional Royalty payment for a fiscal year is equal to zero when X minus Y is less than or equal to zero, and is equal to X minus Y when X minus Y is greater than zero, where:

(a) X is the Gross Additional Royalty Liability for that year, which is equal to [8%] multiplied by the Aggregate Relevant Metal Value for that year; and

(b) Y is any amount of Allowable Sponsoring State Tax that has not been credited in previous years against either the Additional Royalty payment or the Top-up Profit Share Payment.

We have different views on "Draft Regulation 64Ter Additional Royalty , Article 3, (a) (underlined font)", and we think that Article 3,(a) should be changed to :

X is the Gross Additional Royalty Liability for that year, which is equal to ?? multiplied by the Aggregate Relevant Metal Value (or the total value of the transferred raw ore , or the total value of the raw ore) for that year ;

We believe that it is not appropriate to determine an 8% rate coefficient at the current stage, as the MIT financial model is only a theoretical model, and this rate coefficient should be negotiated and determined by the contractor after completing the technical and economic evaluation of the exploitation project.

We believe that in addition to using the metals in the ore for pricing, the calculation of royalty using the transferred raw ore（or the raw ore）pricing should also be included.

（3）The original textual proposal submitted by the Australian Working Group on Equalization Measures is:

5. Please indicate the rationale for the proposal. [150-word limit]

An equalization measure is needed to ensure that contractors face similar rates of payment to land-based miners.

The intersessional working group proposes text for inclusion in the draft

regulations of a hybrid royalty and top up profit share equalization measure.

Under this measure, the contractor pays the additional royalty if it receives tax exemptions or subsidies, and it pays the top-up profit share if it does not.

We have different views on “5. Please indicate the rationale for the proposal. , third paragraph text (underlined font)”， and we think that third paragraph text (underlined font) should be changed to ：

Under this measure , if the contractor receives tax exemptions or subsidies, an additional royalty payment or top-up profit share payment shall be paid, and the contractor shall choose one between the two measures.

We believe that the reasons for the modification are as expressed in （1）.

Personal views on Equalization Measures

Zhu Kechao （BPC）， August 18, 2023

Firstly, I agree with the mechanism of "ETR", but I believe that there is no need for "Equalization Measures". The mechanism design of "Equalization Measures" is redundant and unnecessary, and its implementation effect may be ineffective or negative.

Why should the African Group formulate regulations and provisions for "Equalization Measures"?， I think the purpose is to increase the revenue of the ISA, so that some countries with CIT not reaching 25% contribute (or balance) some mining enterprises' profits to the ISA. But if the ISA has formulated and implemented the provision of "Equalization Measures", let's imagine the response of the sponsor country of mining enterprise to this provision.

Because the sponsor countries of mining enterprise in the international seabed area are all facing a situation that has not been encountered before, that is, the royalty of mining enterprise do not belong to the sponsor country, but belong to the ISA.

If the ISA formulates and implements the "Equalization Measures" provision, the sponsor country of the mining enterprise may establish special CIT rate for special enterprise such as international seabed mining enterprise.

For example, before the implementation of the "Equalization Measures" provision ,mining enterprises from 10 sponsor countries had a CIT of 25% in 7 of them, two sponsor countries of mining enterprise with CIT of 20% ,and one sponsor country of mining enterprise with CIT of 30% .

If the ISA implements the provision of "Equalization Measures", the CIT of two sponsor countries of mining enterprise（with CIT of 20%） may be revised to 25%. Make the "Equalization Measures" provision of the ISA invalid.

For the sake of fairness, mining enterprises with a CIT of 30% should pay an additional fee to the ISA, as this is within the scope of the sovereign tax law. The "Equalization Measures" provision cannot force mining enterprises with a CIT of 30% to pay an additional fee, so the "Equalization Measures" provision is invalid for CIT greater than 25%.

If there are no "Equalization Measures" provisions by ISA, the sponsor country of mining enterprises may establish provision for reducing CIT rate for special enterprises such as international seabed mining enterprises. These incentive

mechanisms will be conducive to the exploitation of seafloor mining enterprises, achieving commercial mining as soon as possible, and paying royalty to the ISA as soon as possible.

Since the current CIT of most countries has reached 25%, and it can be foreseen that the implementation of "Equalization Measures" provision will not increase the revenue of the ISA. I believe it is unnecessary for the ISA to formulate a "Equalization Measures" mechanism provision without a positive guiding effect.

Personal views on the payment regime during the second day of the meeting on equalization measures

Zhu Kechao （BPC）， August 16, 2023

I would like talk about my personal views on the payment regime and equalization measures. Those views does not represent BPC.

（1）I believe that the payment regime of the ISA is an integral whole, and I believe that the profit sharing of exploitation contract right transfer , and Equalization Measures cannot be considered separately, without considering the royalty payment regime, as the three issues are closely linked. I believe that royalty payment is the foundation of the payment regime, and we should focus our research on establishing a reasonable royalty payment regime.

（2）I believe that in the international seabed area, the resource rent of the exploitation contract represents the maximum amount of royalty that the ISA can obtain, which can be measured in monetary terms, and also represents the maximum value of mining assets belonging to the ISA.

For the exploitation project of polymetallic nodule resources, resource rent is considered to be the value of polymetallic nodule ore in its original natural state, and also the economic value invested by the ISA in the exploitation project in the form of resource rent. This resource rent is calculated through the full lifecycle of the exlpoitation project of polymetallic nodules. In the exlpoitation project, the ISA obtains resource rent belonging to the ISA by collecting royalty.

（3） We can calculate the resource rent for the exlpoitation project of polymetallic nodules and compare it with the results of ETR（Effective Tax Rate）.

（4） I suggest calculating resource rent as a new mechanism except ETR.

（5）My view is that the ISA have right to share some economic benefits from exlpoitation contract in the form of royalty or resource rent, no need to touch the tax laws of the sponsoring country（for example， CIT）, otherwise it goes beyond the management scope of the ISA.

（6）Equalization Measures and the profit sharing of contract right transfer are both redundant ,unnessary , and unreasonable mechanisms.