

International Seabed Authority

Press Release



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COUNCIL CONTINUES DEBATE ON SULPHIDES DRAFT

Provisions in the draft sulphides regulations concerning the processing of application for approval of a plan of work, and contracts for exploration were the focus of deliberations in the Council this morning as the International Seabed Authority continued its 13th session in Kingston.

The Council is conducting a regulation-by-regulation review of the draft code that will govern prospecting and exploration for polymetallic sulphides in the deep ocean beyond national jurisdiction. Forty-three regulations and four annexes are included in the draft being considered by the 36-member body.

The Council will meet next at 3 p.m. today to continue its deliberations on the draft regulations on prospecting and exploration of metallic sulphides.

Draft regulations

Regulation 21 sets out, in two paragraphs, the fees the Authority would charge contractors for processing applications for a plan of work for exploration, and makes provisions for periodic review of such fees. Contractors may elect to pay a fixed fee of 250,000 United States dollars at the time of submitting an application, or elect to pay a lower fixed application fee of 50, 000 United States dollars and subsequent annual fees for each sulphide block allocated.

Agreeing that the fees were too low, Argentina, Brazil and Jamaica said they should be revised to reflect inflation and increased costs to the Authority since the fees were set in 2000 when the nodules regulations were approved. Pointing to a relationship between regulations 21 and 12 (Total area covered by the application), Argentina and China wanted more discussion on the provision which linked a fee structure to the allocation and configuration of sulphide blocks. India asked for clarification on procedures for the relinquishment of blocks after prospecting.

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Secretary-General Satya N. Nandan said a study would be undertaken to review the application fees. He said the Authority should have a system of fees that reflected fair prices for the acquisition of areas for exploration and that were aligned with current land mining contracts. He argued for a “fair and balanced” structure of fees for application and said the block system would render seabed mining more competitive.

Regulation 22, which covered receipt, acknowledgement and safe custody of applications, was adopted with an amendment by Jamaica to the phrase “within 30 days” to indicate a time frame in which the Secretary-General shall acknowledge, in writing, receipt of every application.

Regulation 23, consideration of the application by the Legal and Technical Commission, attracted amendments to paragraph 4 from Argentina, Mexico and Spain.

Mexico wanted the inclusion of a provision that would guarantee contractor compliance with emergency orders, in accordance with paragraph 7 of regulation 35 of the draft. Mexico proposed the following as Regulation 23.4 bis:

“In considering a proposed plan of work for exploration, the Commission shall determine whether the guarantees provided by the contractor, in accordance with paragraph 7 of regulation 35, are adequate to comply with emergency orders or to assure that the Council can take such emergency matters.”

Consideration of Argentina’s proposal for an additional paragraph 4 bis was deferred pending further input from the Legal and Technical Commission.

Paragraph 4(c) seeks to ensure that exploration installations do not interfere with sea lanes essential to international navigation or areas of intense fishing activity. No amendments were proposed to the text of the paragraph but Kenya suggested that it might be repositioned as paragraph 4(d) to accommodate the inclusion of Mexico’s proposal on emergency measures.

Paragraphs 5 through 11 of Regulation 23 were approved by the Council. They relate to how the Commission will handle applications for approval of a plan of work for exploration. With regard to paragraph 6(c), Spain proposed the addition of a specific reference to the protection “other non-geological resources whose existence depends on the ocean sub-strata” from the risk of serious harm. However, Brazil pointed out that those resources were already included in the definition of the marine environment in regulation 1 paragraph 3(c). The Secretary-General also noted that the wording of paragraph 6(c) was taken directly from Article 162, paragraph 2(x) of the 1982 United Nations Convention on the Law of the Sea.

Regulation 24, deals with the consideration and approval of plans of work by the Council. The Russian Federation sought clarification on how the Commission would decide on the approval of plans of work if two or more applicants requested overlapping areas. This issue,

he said, must be considered within the context of regulation 23, paragraph 2 which stipulates that applications be examined in the order in which they were received.

Japan shared those concerns and added that in the case of the polymetallic nodules, the pioneer investors had coordinated among themselves to resolve issues of overlapping areas.

The Secretariat explained that with regard to the polymetallic nodules, all the pioneer investors had made applications simultaneously. The issue of overlapping areas was regulated by the system of arbitration set out in Resolution II of the Third United Nations Conference on the Law of the Sea.

With regard to the order in which applications would be considered, the representative of Japan suggested that a period be established within which all applications would be equally treated, after which a first-come, first-served system would be applied. The Secretary-General recommended the redrafting of regulation 24, paragraph 2, as it was unclear in its present form.

The Council went on to examine Part IV of the regulations, which concerns the contractual arrangements between applicants and the Authority.

Regulation 25, paragraph 1 refers to Annex 3 (where the contract form is set out) and Annex 4 (containing the standard clauses for the exploration contract). Paragraph 2 requires the Secretary-General to notify all members of the Authority in writing of the conclusion of each contract. This regulation was approved.

Regulation 26 deals with the rights of contractors. Paragraph 1 states that, once a contractor is granted the exclusive right to explore an area for polymetallic sulphides, the Authority “shall ensure that no other entity operates in the same area for resources other than polymetallic sulphides in a manner that might interfere with the operations of the contractor.”

Uganda expressed the view that the paragraph was confusing. He felt the wording implied restrictions on exploring for other resources but left the way open for other entities to explore polymetallic sulphides. Taking into account suggestions from Fiji and Germany to delete the reference to sulphides, the Secretary-General proposed amending the paragraph as follows:

“The Authority shall ensure that no other entity operates in the same area for other resources in a manner that might interfere with the operations of the contractor.”