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Press Release



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COUNCIL MAKES PROGRESS ON DRAFT SULPHIDES REGULATIONS

The sensitive issue of human remains that might be discovered during exploration activities in the deep oceans - and which may have been the product of the transatlantic slave trade - attracted much debate, at times emotional, as the Council of the International Seabed Authority continued its review of the draft regulations on sulphides in Kingston today.

Also this morning, the Council adopted **Regulation 23**, Consideration by the Legal and Technical Commission and made progress on the four remaining parts of the nine-part text (ISBA/13/C/WP.1) before ending the session.

Discussions

A provision of the draft regulations (**Regulation 37**), which deals with the preservation of discoveries of an archaeological or historical nature, was the subject of an amendment elaborated between Kenya, Uganda and the United Kingdom. The amendment was intended to set out details of actions that would be taken in circumstances where objects of archaeological or human nature were found by a contractor. It addressed the action to be taken by the contractor and by the Secretary-General to inform the United Nations Educational, Scientific and Cultural Organization (UNESCO).

As amended, the title and provisions of regulation 37 reads as follows:

“**Objects and sites of an archaeological or historical nature**”

The contractor shall immediately notify the Secretary-General in writing of any finding in the exploration area, of any object (which includes human remains) or a site of an archaeological or historical nature and its location. The Secretary-General shall transmit such information to the Director-General of the United Nations Educational, Scientific and Cultural Organization (UNESCO). Following the finding of any such object or site of an archaeological or historical nature in the exploration area, and in order to avoid disturbing such object or site,

no prospecting or exploration shall take place in the area. The Contractor shall report to the Secretary-General and to the Council on the measures taken in this regard.”

The Netherlands representative said that while she appreciated the thinking behind the proposal, her delegation questioned the validity of suspending the mining activities of a contractor who found human remains not associated with the slave trade. Nigeria and Kenya took issue with the implication in the amendment that there was no difference between human remains and an object of archaeological or historical nature. China said it needed more time to study UNESCO’s obligation in the event of such findings.

Supporting the amendment, Trinidad and Tobago said the issue was of tremendous importance to the people of his nation and the Caribbean in general. He said the regulation was the focus of “the human remains of my ancestors in a graveyard that is the result of what is now being termed a crime against humanity.” The representative described the provision as “an emotive subject” that should be included in the regulation as amended “out of respect for the millions who perished in the slave trade operation.” The President of the Council, Ambassador Raymond Wolfe (Jamaica), appealed for understanding from the members for the emotion shown by African and Caribbean delegations during deliberation on the issue. “The intent of this amendment goes to the soul and heart of the descendants of a very painful ancestry,” he said.

Argentina and Honduras endorsed the sentiments of the Caribbean delegations, with the representative of Argentina noting that the issue was also of significance to the mestizo ancestry of Central America.

The United Kingdom, in an attempt to reach a consensus, proposed additional language in the amendment to indicate that the Secretary-General “may, where appropriate” transmit such information to the Director-general of UNESCO “and other appropriate international organizations.” The Netherlands suggested that separate paragraphs be used to address the two issues, namely archaeological objects and human remains. Following interventions by China, India, South Africa and Uganda, the United Kingdom representative agreed to reformulate the amended regulation.

Mexico’s redrafted amendment to Regulation 23, paragraph 3 (c) was presented to Council. It read:

“3. The Commission shall determine if the applicant:
(c) possesses the financial and technical capability to carry out the proposed plan of work for exploration, and has provided assurances as to its ability to comply promptly with emergency orders: and...”

The Netherlands delegation, with support from the United States observer, questioned the meaning of the word “assurances” used in a provision that deals with the application phase. The proposed amendment by Mexico was adopted with the word “details” replacing “assurances” as suggested by Portugal.

The Council returned to consideration of **Regulation 35**, emergency orders, following lengthy debate yesterday over, among other issues, the time frame during which temporary measures could be taken by the Authority to prevent, contain and minimize the threat of serious damage to the marine environment.

India again raised concerns about the extended periods recommended in the Australian proposal. India, supported by Germany said the two 180 day periods during which the Secretary-General may take measures of a temporary nature, meant an entire year could elapse before the Council addressed possible irreversible damage to the marine environment. India said the Council should consider ways it could meet in emergency session, and recommended the regulation be bracketed to allow more time for consultation with its capitals.

The Council proceeded to examine Part VI of the draft regulations, which addresses the issue of confidentiality. **Regulation 38** deals with how the Authority should deal with data and information transferred to it by contractors. All paragraphs of this regulation were adopted with the exception of paragraph 2, which reads:

“Data and information that is necessary for the formulation by the Authority of rules, regulations and procedures concerning protection of the marine environment and safety, other than equipment design data, shall not be deemed proprietary.”

China suggested replacing “proprietary” with “confidential”, while the Netherlands proposed an amendment to read “protection and preservation of the marine environment...” Following an explanation by the Secretary-General that the wording reflected language in Article 14, paragraph 2 of Annex III of the Convention, China recommended replacing paragraph 2 of regulation 38 entirely with the relevant paragraph from the Convention. At the suggestion of the Council president, the paragraph was bracketed to give delegations more time to consider the wording.

Regulation 40 on notice and general procedures, sets out the guidelines for communication between contractors and the Authority. In response to a query from the Netherlands about the reason this regulation differed from the corresponding nodules regulation, the secretariat explained that wording had been updated to accommodate technological advances such as electronic mail. Germany suggested the deletion of the second sentence of the paragraph, which reads: “The requirement to provide any information in writing under these Regulations is satisfied by the provision of the information in an electronic document containing an authorized digital signature.” The third sentence would be amended as follows: “Service shall be by hand, or by telex, facsimile or registered airmail or by electronic mail which contains an authorized signature.”

Regulation 39, which sets out procedures for ensuring confidentiality of data, **Regulation 41**, related to recommendations for the guidance of contractors; **Regulation 42** on the settlement of disputes, and regulation 43 dealing with the discovery of resources other than sulphides during prospecting, exploration or exploitation activities were all adopted without discussion.

The Council will resume deliberations this afternoon.