

**Council**

Distr.: General  
8 August 2006

Original: English

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**Twelfth session**  
Kingston, Jamaica  
7-18 August 2006

**Possible adjustments to the draft regulations for prospecting and exploration for cobalt-rich ferromanganese crusts and polymetallic sulphides suggested by the workshop on technical and economic considerations relating to mining polymetallic sulphides and cobalt-rich crusts in the Area with respect to polymetallic sulphides**

**Note by the Secretariat**

1. From 31 July to 4 August 2006, the Authority convened a workshop on technical and economic considerations relating to mining polymetallic sulphides and cobalt-rich crusts in the Area. During that workshop, two small working groups were convened to consider issues relating to the size of areas to be allocated for exploration and subsequent exploitation of polymetallic sulphides and cobalt-rich crusts. The working groups examined the draft regulations currently under consideration by the Council contained in ISBA/10/C/WP.1/Rev.1 (as proposed by the Legal and Technical Commission), as well as the additional papers on the same subject prepared by the Secretariat for the information of the Council (ISBA/12/C/3, Parts I and II).
2. As a result of its deliberations, the working group on polymetallic sulphides made a number of recommendations. These recommendations were introduced to the Council at its 106th meeting, on 8 August 2006, by the coordinator of the working group, Charles Morgan. At the end of the presentation, the Council had requested that the recommendations be summarized in a document for future reference, noting also that the full report of the workshop would, in due course, be published.
3. The working group considered the appropriate size of areas for exploration and exploitation of polymetallic sulphides. In so doing, it used the draft regulations contained in ISBA/10/C/WP.1/Rev.1 as a starting point. The group agreed that the draft regulations provided an appropriate regulatory framework for exploration for the resources. With respect to the size of areas for exploration, it reached the following conclusions:

(a) A block measuring 10 kilometres by 10 kilometres was an appropriate basic unit;

(b) The exploration area should consist of a maximum of 100 contiguous blocks;

(c) To provide greater incentives to develop resources, an alternative should be provided to the single application fee of \$250,000;

(d) The alternative should provide for a lower initial application fee, together with an annual fee per block that increases over time in order to provide an incentive for active exploration and relinquishment.

The group proposed an annual fee per block after the first year of \$500, increasing after the first relinquishment to \$1,000 and after the second relinquishment to \$2,000 and doubling thereafter in the event of any extension of the initial 15-year exploration contract.

4. With respect to relinquishment, the working group concluded that:

(a) There should be no requirement for contiguity of relinquished blocks;

(b) The time schedule for relinquishment provided in the draft regulations was appropriate, however at the point of final relinquishment, the contractor should be allowed the flexibility to nominate the area to be retained in the form of sub-blocks so as to allow for more precise delineation of mineable areas.

5. In the light of the recommendations of the working group, the Secretariat has prepared suggested revisions to relevant provisions of the draft regulations. These are set out in the annex to the present report. It is important to note that the suggested revisions are applicable only to polymetallic sulphides.

## Annex

### **Suggested revisions to the draft regulations<sup>a</sup>**

#### **Regulation 12**

##### **Total area covered by the application (polymetallic sulphides)**

1. For the purposes of these Regulations, a “polymetallic sulphide block” means a cell of a grid as provided by the Authority, which shall be approximately 10 kilometres by 10 kilometres and no greater than 100 square kilometres.
2. The area covered by each application for approval of a plan of work for exploration for polymetallic sulphides shall consist of a single group of not more than 100 contiguous polymetallic sulphide blocks. Two polymetallic sulphide blocks that touch at any point shall be considered to be contiguous.
3. Notwithstanding the provisions in paragraph 2 above, where an applicant has elected to contribute a reserved area to carry out activities pursuant to annex III, article 9, of the Convention, in accordance with regulation 17, the total area covered by an application shall not exceed 200 polymetallic sulphide blocks arranged in two groups of equal estimated commercial value. In each such group the polymetallic sulphide blocks shall be contiguous.

#### **Regulation 17**

##### **Data and information to be submitted before the designation of a reserved area**

1. Where the applicant elects to contribute a reserved area to carry out activities pursuant to article 9 of annex III to the Convention, the area covered by the application shall be sufficiently large and of sufficient estimated commercial value to allow two mining operations and shall be configured by the applicant in accordance with regulation 12, paragraph 3.
2. Each such application shall contain sufficient data and information, as prescribed in section III of annex 2 to these Regulations, with respect to the area under application to enable the Council, on the recommendation of the Legal and Technical Commission, to designate a reserved area based on the estimated commercial value of each part. Such data and information shall consist of data available to the applicant with respect to both parts of the area under application, including the data used to determine their commercial value.
3. The Council, on the basis of the data and information submitted by the applicant pursuant to section III of annex 2 to these Regulations, if found satisfactory, and taking into account the recommendation of the Legal and Technical Commission, shall designate the part of the area under application which is to be a reserved area. The area so designated shall become a reserved area as soon as the plan of work for exploration for the non-reserved area is approved and the contract is signed. If the Council determines that additional information, consistent with these Regulations and annex 2, is needed to designate the reserved area, it shall refer the matter back to the Commission for further consideration, specifying the additional information required.

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<sup>a</sup> See ISBA/10/C/WP.1/Rev.1.

4. Once the plan of work for exploration is approved and a contract has been issued, the data and information transferred to the Authority by the applicant in respect of the reserved area may be disclosed by the Authority in accordance with article 14, paragraph 3, of annex III to the Convention.

**Regulation 21**

**Fee for applications (polymetallic sulphides)**

1. The fee for processing a plan of work for exploration for polymetallic sulphides shall be:

(a) A fixed fee of 250,000 United States dollars or its equivalent in a freely convertible currency, payable by the applicant at the time of submitting an application; or

(b) At the election of the applicant, a fixed fee of 50,000 United States dollars or its equivalent in a freely convertible currency, payable by the applicant at the time of submitting an application, and an annual fee per block of:

(i) 500 United States dollars on the date of the first anniversary of the contract;

(ii) 1,000 United States dollars on the date of the first relinquishment in accordance with regulation 27(2); and

(iii) 2,000 United States dollars on the date of the second relinquishment in accordance with regulation 27(3).<sup>b</sup>

2. The amount of the fee shall be reviewed from time to time by the Council in order to ensure that it covers the administrative costs incurred by the Authority in processing the application.

**Regulation 27**

**Size of area and relinquishment (polymetallic sulphides)**

1. The contractor shall relinquish the polymetallic sulphide blocks allocated to it in accordance with paragraphs 2, 3 and 4 of this regulation.

2. By the end of the fifth year from the date of the contract, the contractor shall have relinquished:

(a) At least 50 per cent of the original number of polymetallic sulphide blocks allocated to it; or

(b) If 50 per cent of that number of polymetallic sulphide blocks is a whole number and a fraction, the next higher whole number of blocks.

3. By the end of the tenth year from the date of the contract, the contractor shall have relinquished:

(a) At least 75 per cent of the original number of polymetallic sulphide blocks allocated to it; or

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<sup>b</sup> The working group also recommended that the fee per block retained should double in the event of an extension of the contract for exploration pursuant to regulation 28.

(b) If 75 per cent of that number of polymetallic sulphide blocks is a whole number and a fraction, the next higher whole number of blocks.

4. At the end of the fifteenth year from the date of the contract, or when the contractor applies for exploitation rights, whichever is earlier, the contractor shall nominate an area from the remaining polymetallic sulphide blocks allocated to it to be retained for exploitation. Such area shall be defined by the contractor in the form of sub-blocks comprising one or more cells of a grid as provided by the Authority, provided that the aggregate size of such sub-blocks shall not exceed the equivalent of 25 polymetallic sulphide blocks.

5. Relinquished polymetallic sulphide blocks or portions thereof shall revert to the Area.

6. The Council may, at the request of the contractor, and on the recommendation of the Commission, in exceptional circumstances, defer the schedule of relinquishment. Such exceptional circumstances shall be determined by the Council and shall include, inter alia, consideration of prevailing economic circumstances or other unforeseen exceptional circumstances arising in connection with the operational activities of the contractor.

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