



Legal and Technical Commission

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Draft regulations on prospecting and exploration for cobalt-rich ferromanganese crusts in the Area

Note by the Secretariat

1. The purpose of the present document is to provide background on the draft regulations for prospecting and exploration for cobalt-rich ferromanganese crusts in the Area (“the draft cobalt crusts regulations”) contained in document ISBA/13/LTC/WP.1, which are to be presented for consideration by the Legal and Technical Commission during the thirteenth session of the International Seabed Authority.

I. Background to the draft regulations

2. Members of the Legal and Technical Commission will recall that in 1998, the delegation of the Russian Federation formally requested the Authority to develop regulations for prospecting and exploration for deep sea polymetallic sulphide deposits and cobalt-rich ferromanganese crusts. In the light of that request, the Authority held a workshop in June 2000 on the status and prospects for seabed minerals other than polymetallic nodules. Subsequently, a document was prepared for the consideration of the Council at the seventh session, held in 2001, on considerations relating to the proposed regulations (ISBA/7/C/2). That document contained a summary of the discussions that had taken place in the workshop on the possible elements of a regime for prospecting and exploration for polymetallic sulphides and cobalt crusts.

3. After extensive discussions, the Council decided to continue its consideration of issues associated with the elaboration of the regulations at the eighth session (2002). In the meantime it requested the Secretariat to provide additional background information and decided that the Legal and Technical Commission should commence consideration of the issues. Consequently, during the eighth session, a one-day seminar was convened, at which presentations were made by invited experts on the status and prospects for polymetallic sulphides and cobalt-rich ferromanganese crusts.

4. Subsequently, the Legal and Technical Commission began preliminary consideration of the subject by reviewing the approaches suggested in the Secretariat's document (ISBA/7/C/2). The Commission emphasized the need to proceed cautiously and in a logical manner towards the development of regulations. It was emphasized that, bearing in mind the uncertainties associated with activities in the Area, any scheme for prospecting and exploration should be subject to review after an initial period. While prospecting and exploration should be encouraged, and potential prospectors should therefore be provided with rights over particular areas and priority to apply for exploration contracts, there was also a need to ensure that the Authority received adequate data and information, particularly with regard to the protection and preservation of the marine environment.

5. The Commission requested the Secretariat to provide it with further information on the problems associated with sulphides and crusts prior to its meeting in 2003. Key issues associated with the regulations that were identified by the Commission as matters for further discussion included a progressive fee system rather than a relinquishment system; further consideration of the grid system for licensing; and continued development and elaboration of the parallel system as it applied to these resources.

6. During the ninth session, held in 2003, the Commission met for two weeks. Informal working groups were convened to enable detailed consideration of technical aspects of the proposed regulations. The Secretariat then prepared a complete set of draft regulations based on the existing regulations on prospecting and exploration for polymetallic nodules in the Area, but incorporating the model clauses developed by the Secretariat in 2001, together with some of the elements that emerged from discussions in the Commission during 2002 and 2003.

7. These draft regulations were taken up by the Commission at its meeting in 2004 and submitted to the Council for consideration (ISBA/10/C/WP.1) at the tenth session. Insufficient time prevented substantive consideration of the draft regulations by the Council.

8. During the eleventh session, held in 2005, the Council undertook a first reading of the draft regulations as recommended by the Commission (ISBA/10/C/WP.1). The draft regulations at that time covered both polymetallic sulphides and cobalt-rich ferromanganese crusts. As a result of that first reading, the Council identified a number of substantive issues for further consideration. At the same time, the Council requested the Secretariat to prepare a revised text of the draft regulations, incorporating certain minor revisions agreed upon at the preceding session. That text had been made available to the Council as document ISBA/10/C/WP.1/Rev.1*.

9. At the twelfth session, held in 2006, the Council resumed consideration of the draft regulations. The Council also had before it a series of technical information papers prepared by the Secretariat (ISBA/12/C/2 and ISBA/12/C/3). Those papers, which had been specifically requested by the Council during the eleventh session, provided further explanation and clarification with respect to certain aspects of the draft regulations.

10. At the 106th meeting, on 8 August 2006, the Council was provided with an oral briefing on the technical issues dealt with in documents ISBA/12/C/2 and ISBA/12/C/3. The briefing was given by the Secretariat with the assistance of

technical experts. In addition, the Council was presented with a report on the preliminary outcomes of a workshop on the technical and economic considerations relating to mining of polymetallic sulphides and cobalt-rich crusts, which had taken place immediately before the twelfth session. At the request of the Council, a summary of the workshop recommendations was issued in the form of a document (ISBA/12/C/7).¹ The delegation of the Russian Federation also submitted a draft proposal relating to the draft regulations (ISBA/12/C/6).

11. Following extensive discussion of the way in which the Council would address the outstanding technical issues with respect to the draft regulations, it was agreed that the Secretariat should attempt to revise the draft regulations further in the light of the outcomes of the technical workshop and in the light of the presentations, proposals and discussions in the Council during the twelfth session.

12. In revising the draft, it was agreed that separate sets of regulations would be prepared for polymetallic sulphides and cobalt-rich crusts. In considering the revised draft regulations, the Council recommended that the Legal and Technical Commission should give priority to the regulations relating to polymetallic sulphides, so that the Council could be in a position to give substantive consideration to the regulations for polymetallic sulphides in 2007. In order to expedite this process, it was agreed that a revised draft of the draft sulphides regulations would be circulated to the outgoing members of the Legal and Technical Commission before 31 December 2006² for comment, following which the draft would be made available to member States. In this regard, the Council requested that the revised draft regulations be made available in sufficient time for delegations to consider the technical issues well in advance of the thirteenth session. The incoming Legal and Technical Commission would then review the draft regulations for cobalt-rich crusts and submit them for consideration by the Council in 2008.

II. Regulations on polymetallic sulphides

13. In accordance with the Council's request, the Secretariat prepared a set of draft sulphides regulations in October 2006. The draft was circulated to outgoing members of the Legal and Technical Commission in the same month. By the requested date of 31 December, comments had been received from three members of the Commission. In the light of those comments, the Secretariat has prepared an explanatory note, annexing the revised draft sulphides regulations, for the consideration of the Council in 2007 (ISBA/13/C/WP.1)

III. Regulations on cobalt crusts

14. Also in accordance with the Council's request, the Secretariat has prepared the revised draft regulations relating to cobalt-rich ferromanganese crusts (ISBA/13/LTC/WP.1). The revised draft is based on document ISBA/10/C/WP.1/Rev.1*, with technical adjustments consistent with the recommendations that emerged from the discussions during the Authority's

¹ The full report on the proceedings of the workshop will be published in 2007.

² The expiry of their terms of office.

workshop on technical and economic considerations relating to mining polymetallic sulphides and cobalt-rich crusts in the Area held from 31 July to 4 August 2006.

15. The main substantive changes introduced into the revised draft regulations include the following:

(a) Introduction of new formula for determining the size of the exploration area in regulation 12;

(b) Revision of the relinquishment schedule in regulation 27;

(c) Revision of the provisions relating to participation by the Authority in regulations 16 and 19.

16. Additional, consequential, amendments of a minor nature have been made as a result of separating regulations dealing with cobalt-rich crusts from regulations dealing with polymetallic sulphides.

IV. Commentary and action by the Legal and Technical Commission

17. The Commission is requested to finalize the draft regulations during the thirteenth session and make a recommendation to the Council for consideration in 2008.

18. Although most of the draft regulations are identical to the existing regulations for polymetallic nodules and should not, therefore, be controversial, the critical pending issue remains the question of the size and configuration of the area to be allocated for exploration and, ultimately, exploitation. Other important issues are the question of whether to introduce a progressive fee system and how to ensure participation by the Authority. These issues have been discussed extensively in the Commission, in expert workshops and in the Council over the past three sessions. The Commission and the Council have also received the benefit of expert technical advice on the matter. In relation to the size of area, while it would appear that a block system is considered appropriate, the main divergence of views relates to the way in which those blocks are configured and the size of the overall area to be allocated to each contractor.

19. Further technical information will be made available to assist the Commission in its deliberations during the session.
