DOSSIER No. 21/41

NEGOTIATING GROUPS 149

ML/15
23 March 1979
Original: ENGLISH

Revised suggested compromise formula of paragraph 5 of Annex II

Approval of Plans of Work

5. (a) 1/ Six months after the entry into force of the present Convention, and thereafter each fourth month the Authority shall take up for consideration proposed plans of work.

(b) 2/ When considering an application for a contract with respect to exploration and exploitation, the Authority shall first ascertain whether

(i) the applicant has complied with the procedures established for applications in accordance with paragraph 4 of this annex and has given the Authority the commitments and assurances required by that paragraph. In cases of non-compliance with these procedures or of absence of any of the commitments and assurances referred to, the applicant shall be given 42 days to remedy such defects;

(ii) the applicant possesses the requisite qualifications pursuant to paragraph 4.

Now: (a) All plans of work proposed by qualified applicants shall be dealt with in the order in which they were received, and the Authority shall conduct, as expeditiously as possible, a preliminary inquiry in connection with the operational requirements, financial contribution, and transfer of technology as provided in the relevant provisions of the present Convention and this annex. As soon as the issues under investigation have been settled, the Authority shall approve such plans of work, provided that they conform to the uniform and non-discriminatory requirements established by the rules, regulations and procedures of the Authority, unless:

(i) Part or all of the proposed area is included in a previously approved plan of work or a previously submitted proposed plan of work which has not yet been finally acted on by the Authority; or

(ii) Part or all of the proposed area is disapproved by the Authority pursuant to Article 143, paragraph 2(xii); or

(iii) Selection among applications received during that period of time is necessary because approval of all plans of work proposed during that period would be contrary to the production limitations set forth in Article 150 bis, paragraph 2, or to the obligations

1/ Formerly paragraph 5(e) in ML/13 and Corr. 1, with amendments.
2/ Formerly paragraph 5(b) in ML/13 and Corr. 1.
of the Authority under a commodity agreement or arrangement to which it has become a party, as provided for in article 150 (bis), paragraph 1; or

(iv) in the case of the Enterprise, the proposed plan of work is one which would exceed the financial, technological, or other capacities of the Enterprise, or;

(v) the proposed plan of work has been submitted or sponsored by a State Party which has already had approved:

- three plans of work for exploration and exploitation of sites not reserved pursuant to paragraph 5 (textip) below within a circular area of 400,000 square kilometres;

- plans of work for exploration and exploitation of sites not reserved pursuant to paragraph 5 (textip) below which in aggregate size constitute three per cent of the total sea-bed area which is not reserved pursuant to that paragraph or otherwise withdrawn by the Authority from eligibility for exploitation pursuant to article 163, paragraph 2(xii).

Note: (c) For the purpose of the standard set forth in subparagraph (c)(v) above, a plan of work proposed by a consortium shall be counted on a pro rata basis among the States Parties whose nationals comprise the consortium. The Authority may approve plans of work covered by subparagraph (c)(v) above if it determines that such approval would not permit a State Party or persons sponsored by it to monopolize the conduct of activities in the Area or to prejudice other States Parties from activities in the Area.

Selection of applicants

Note: 5. (bis)

(a) Where the selection must be made among applicants because of the production limitation set forth in article 150 (bis), paragraph 2, or because of the obligations of the Authority under a commodity agreement or arrangement to which it has become a party, as provided for in article 150 (bis), paragraph 1, the Authority shall make the selection on the basis of objective and non-discriminatory standards set forth in rules and regulations drawn up in accordance with this article.

(b) The Authority shall consider all qualified applications received within the preceding period of time, as prescribed in the rules, regulations, and procedures, and shall give priority to those which:

(i) give better assurance of performance, taking into account the financial and technical qualifications of the proposed operator performance, if any, under previously approved plans of work; or

(ii) provide earlier or greater prospective financial benefits to the Authority, taking into account when production is scheduled to begin and which prospective operators, if any, are prepared to accept obligations to pay to the Authority larger or earlier financial contributions than are required by the generally applicable financial arrangements.