



Council

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Periodic review of the implementation of the plans of work for exploration in the Area

Report of the Secretary-General

1. The present report is intended to provide the Council with information on the status of the periodic reviews of the current contracts for exploration in the Area, in accordance with regulation 28 of the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area and regulation 30 of the Regulations on Prospecting and Exploration for Polymetallic Sulphides in the Area.
2. Pursuant to the Regulations, every contract for a plan of work for exploration in the Area has a duration of 15 years. In submitting an application for a plan of work, applicants are required to provide, among other things, a general description and a schedule of the proposed exploration programme, including the programme of activities for the immediate five-year period, and a schedule of anticipated yearly expenditures in respect of that programme of activities.¹ Those requirements were included in the Regulations in recognition of the fact that exploration is a dynamic process and that it would be difficult for applicants to specify their anticipated activities and expenditures over the full 15-year period.
3. Regulation 28 of the Nodules Regulations and regulation 30 of the Sulphides Regulations therefore provide a mechanism whereby contractors can adjust their programmes of activities at five-year intervals. This is to be achieved through a periodic review process undertaken jointly between the contractor and the Secretary-General. Pursuant to clause 4.4 of the standard clauses for exploration contracts, such a review is to be undertaken not later than 90 days before the expiration of each five-year period from the date on which the contract entered into force. As part of the review, the contractor is to indicate its programme of activities for the following five years, including a revised schedule of anticipated yearly expenditures, making such adjustments to its previous programme as are necessary. The Secretary-General may require the contractor to submit such additional data and information as may be necessary for the purposes of the review.

¹ Regulation 18, paras. (a) and (f), of the Nodules Regulations and regulation 20, paras. 1 (a) and (f), of the Sulphides Regulations.



4. In 2016, periodic reviews are due to be undertaken in respect of two exploration contracts for polymetallic nodules and one exploration contract for polymetallic sulphides. In the case of the contract for exploration for polymetallic nodules between the Authority and the Federal Institute for Geosciences and Natural Resources of Germany, the second five-year period will expire on 19 July 2016. In the case of the contract for exploration for polymetallic nodules between the Authority and Nauru Ocean Resources Inc., the first five-year period will expire on 22 July 2016. In the case of the contract for exploration for polymetallic sulphides with the China Ocean Mineral Resources Research and Development Association, the first five-year period will expire on 18 November 2016.

5. In accordance with the Regulations and the terms of the contracts, the Secretary-General initiated the process for periodic review in March 2016 by inviting the Federal Institute and Nauru Ocean Resources Inc. to provide a detailed synthesis and analysis of all exploration work and environmental studies carried out during the previous five-year period. They were also invited to include in the report a revised historical breakdown of reported actual and direct exploration expenditures in accordance with the recommendations for the guidance of contractors relating to such reporting issued by the Legal and Technical Commission in 2015 (ISBA/21/LTC/11), together with raw data previously collected and not yet supplied to the Authority. They were further invited to provide a proposed programme of activities for the next five-year period of the contract, together with a revised schedule of anticipated expenditures and a proposed training programme for the same period. The Secretary-General will initiate the process for periodic review with the China Ocean Mineral Resources Research and Development Association following the current session.

6. Nauru Ocean Resources Inc. and the Federal Institute responded to the request of the Secretary-General in April and May 2016, respectively, and submitted their proposed programmes of activities and schedules of anticipated expenditures for the coming five-year period. Those documents will be made available to the members of the Commission for their review. In the case of Nauru Ocean Resources Inc., the contractor also submitted an environmental inception report in relation to a proposed test of a nodule collector with a view to seeking input from the Commission with regard to the proposed scope and timings for the contractor to meet relevant requirements as to the submission of an environmental impact assessment. The Secretary-General has not yet responded to the contractors with regard to the periodic reviews, but intends to do so at an appropriate opportunity following the current session in the light of any comments or suggestions by the Commission, including by holding consultations with individual contractors where appropriate.

Recommendation

7. The Council is invited to take note of the status of the periodic reviews of the above-mentioned plans of work for exploration.
