



Legal and Technical Commission

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

Note by the Secretary-General

1. The Legal and Technical Commission will recall that, pursuant to the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area, every contract for a plan of work for exploration for polymetallic nodules in the Area has a duration of 15 years. In submitting an application for a plan of work for exploration, applicants are required to provide, inter alia, 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 the programme of activities for the immediate five-year period (regulation 18, paras. (a) and (f)). These 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.

2. Regulation 28 therefore provides 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 prior to the expiration of each five-year period from the date on which the contract entered into force. As part of the review, the contractor shall 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 of activities as are necessary. The Secretary-General may request the contractor to submit such additional data and information as may be necessary for the purposes of the review.

3. Pursuant to regulation 28, the Secretary-General shall report on the review to the Commission and the Council of the International Seabed Authority. The purpose of the present note is therefore to provide information to the Commission on the status of the periodic reviews of the current contracts for exploration issued by the Authority.

4. In 2011, periodic reviews are to be undertaken in respect of seven exploration contracts. In the case of the contract for exploration between the Authority and the Federal Institute for Geosciences and Natural Resources of Germany, the first five-year period will expire in July 2011. In the case of the contracts for exploration between the Authority and Yuzhmorgeologiya, the Interoceanmetal Joint Organization, the Government of the Republic of Korea, the China Ocean Mineral Resources Research and Development Association, the Deep Ocean Resources Development Company and the Institut français de recherche pour l'exploitation de la mer, 2011 marks the end of the second five-year programme of activities since the contracts were issued. In accordance with the Regulations and the terms of the contracts, the Secretary-General initiated the process for periodic review in October 2010 by inviting all contractors to provide a comprehensive account of the work carried out and results obtained during exploration to date, as well as a summary of expenditures incurred during the exploration programme. At the same time, as recommended by the Commission at its meetings during the sixteenth session, the contractors were invited to provide a summary of exploration work actually carried out to date, including raw data previously collected and not yet supplied to the Authority, as well as a comprehensive historical breakdown of expenditure reported to date, itemized according to the expenditure headings set out in the recommendations for the guidance of contractors for the reporting of actual and direct exploration expenditure as required by annex 4, section 10, of the Regulations (see ISBA/15/LTC/7).

5. As at 6 June 2011, all contractors had responded to the Secretary-General's request and submitted their proposed programmes of activities and schedules of anticipated expenditure for the next five-year period, for review by the Commission. In addition, the Secretariat will provide the Commission with a summary of the periodic reports. The Secretary-General has not yet responded to the contractors with respect to the periodic reviews, but intends to do so at an appropriate opportunity following the seventeenth session, including by holding consultations with individual contractors where appropriate.

Recommendations

6. The Commission is not required to approve or disapprove the proposed programmes of activities, and has no formal role in the review process. Nevertheless, the Secretary-General wishes to invite the Commission to review the reports and other information provided by the contractors and to make such recommendations as may be appropriate to assist the Secretary-General in carrying out his responsibilities under regulation 28, including recommendations as to any additional data and information that may be necessary for the purposes of the review. In considering the sort of recommendations that may be appropriate, the Commission may also wish to take into account the information contained in the analysis of reported expenditure by contractors (ISBA/17/LTC/L.2) and the summary of environmental work carried out by contractors (ISBA/17/LTC/L.3/Rev.1 and ISBA/17/LTC/CRP.1) prepared by the secretariat.