



## CARMU Inspection Report 04/2024

Contractor: Marawa Research and Exploration Ltd.

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## Acronyms

<b>CARMU</b>	Compliance assurance and regulatory management Unit
<b>EOSG</b>	Executive office of the secretary general
<b>ISA</b>	International Seabed Authority
<b>ISO</b>	International Organisation for Standardisation
<b>LTC</b>	Legal and Technical Commission
<b>MFMRD</b>	Ministry of Fisheries and Marine Resources Development
<b>OEMMR</b>	Office of environmental management and mineral resources
<b>OLA</b>	Office of legal affairs
<b>PMN</b>	Polymetallic nodules
<b>PMN Regulations</b>	Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area
<b>SOPs</b>	Standard Operating Procedures
<b>UNCLOS</b>	United Nations Convention on the Law of the Sea

## **I. Introduction**

1. Marawa Research and Exploration Limited (Marawa or the Contractor) holds a 15-year contract for exploration of polymetallic nodules in the Clarion-Clipperton Zone, which was signed on 19 January 2015 in accordance with the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area (PMN Regulations). The contract is due to end on 18 January 2030.
2. The Secretariat of the International Seabed Authority (ISA), through its Compliance, Assurance and Regulatory Management Unit (CARMU), conducted an online supervisory inspection of the Contractor's activities within the current five-year contract period. For the avoidance of any doubt, this report does not purport to assess Marawa's performance of its contract. The inspection undertaken aimed at obtaining information on the Contractor's activities implemented in execution of its contractual obligations with a focus on how the Contractor has addressed the observations and recommendations generated by the review of previous annual reports, and the challenges faced, if any.
3. Following the review of the Contractor's annual reports for the last five years and the observations and recommendations shared with the Contractor in relation to the implementation of its programme of work, CARMU proposed that an inspection be conducted. On 8 May 2024, the Secretary-General notified Marawa of the intention of CARMU to conduct an online inspection on 3 and 4 June 2024 (see Annex 1). The agenda of the inspection was discussed and agreed upon between the Secretariat and Marawa.

## **II. Legal and policy context**

4. Under article 162(2)(1) of the United Nations Convention on the Law of the Sea (UNCLOS), the Council shall exercise control over activities in the Area in accordance with article 153(4) of UNCLOS and the rules, regulations, and procedures of ISA. Under this article, ISA is required to exercise such control over activities in the Area as is necessary for the purpose of securing compliance with the relevant provisions of Part XI of UNCLOS and the annexes relating thereto, and the rules, regulations and procedures of ISA, and approved plans of work for exploration.<sup>1</sup> Consistent with the Decision of the Council of 11 November 2023 (ISBA/28/C/27), the Secretary-General is to report to the Council on an annual basis in respect of alleged instances of non-compliance. Accordingly, the Secretariat is required to monitor Contractor's compliance with its plans of work.
5. The plan of work for exploration is the fundamental document by which a Contractor sets out the objectives and activities of its proposed exploration programme. It is approved for the entire lifespan of the contract which spreads over a period of 15 years. Once approved by the Council, the plan of work represents the core of the contract and the fundamental element against which the Contractor's performance and compliance are assessed.

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<sup>1</sup> See ISBA/24/C/4.

6. The 15-year period of each contract is generally divided in three 5-year periods. Each of them sets out the different activities that the Contractor has committed to undertake and normally covers mineral exploration, environmental baseline studies, resource assessment, mining technology and ore processing technology development, and economic evaluation. The first period of five years is usually used to enable the Contractor to focus its exploration activities on gathering basic information on geology, geomorphology, mineral resources and collecting environmental baseline data. The data and information collected normally inform the identification of priority areas for advanced exploration activities.

7. Progress is reported by the Contractor to the Secretary-General via the submission of annual reports (Standard Clause 10.1). Additionally, the Contractor and the Secretary-General jointly undertake a periodic review every five years, at the junction of each 5-year period, to assess the results and review the implementation of the plan of work for exploration (Standard Clause 4.4).

8. The primary responsibility of the Contractor is to comply with the terms of the contract signed with ISA. In so doing, it must also implement, as far as reasonably practicable, any recommendations for guidance that may be issued from time to time by the Legal and Technical Commission (LTC). The Contractor also has the responsibility to report promptly any incident arising from its activities which “have caused, are causing or pose a threat of serious harm to the marine environment” (Regulation 33 of the PMN Regulations).<sup>2</sup>

9. Monitoring of compliance with plans of work for exploration approved in the form of contracts is also one of the functions of ISA pursuant to section 1(5)(c) of the annex to the Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 (1994 Agreement). Until recently, the primary monitoring mechanisms used by ISA were the annual reports submitted by Contractors pursuant to Standard Clause 10 of the standard clauses for exploration contracts, and the periodic reviews of the plans of work for exploration required under Standard Clause 4.4. The various organs of ISA have specific and clearly defined roles and responsibilities in that regard.

10. The responsibilities of the Secretary-General in relation to monitoring compliance with plans of work for exploration, as set out in UNCLOS, the 1994 Agreement, the regulations, and the standard clauses for exploration contracts, include inspecting vessels and installations (Standard Clause 14.2), and providing relevant information to the Contractor and Sponsoring State(s) arising from the inspection reports (Standard Clause 14.7). The Council has requested the Secretary-General to report to it on an annual basis, identifying instances of alleged non-compliance of exploration contractors.<sup>3</sup> The operational unit of the Secretariat that is responsible for the implementation of the Secretary-General’s responsibilities with respect to monitoring and reporting on the activities of Contractors is CARMU.<sup>4</sup>

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<sup>2</sup> See ISBA/19/C/17

<sup>3</sup> See ISBA/24/C/22, para. 9.

<sup>4</sup> See ISBA/ST/SGB/2022/2.

11. In due time, the Council will be required to establish an appropriate inspection mechanism pursuant to article 162(2)(z) of UNCLOS. Although such an inspection mechanism does not exist at present, it is expected that the establishment thereof will be addressed in the context of the exploitation regulations.

### **III. Objective, Scope, and Methodology**

#### 3.1 Objective and scope of the inspection

12. The overall objective of the inspection was to assess the Contractor's activities under its plan of work for the second five-year period, and to obtain information, based on the Contractor's reports and elements provided during the inspection, on how the Contractor had addressed the questions and recommendations submitted by the LTC following the review of their annual reports. The questions and recommendations of the LTC in relation to Marawa's 2022 annual report were sent by the Secretary General to Marawa on 9 August 2023 (see Annex 2).

13. The scope of the inspection included the review of the organisational setting of Marawa, the funding of its programme of activities, its current and future partnerships, the management systems and standard operating procedures in place, implementation of its plans of work, data management, risk management, current strategy to transition from exploration to exploitation, and status of statutory reporting.

#### 3.2 Methodology

14. This inspection was conducted by CARMU, with the involvement of subject matter experts from the Secretariat including from the Office of Environmental Management and Mineral Resources (OEMMR) and the Office of Legal Affairs (OLA) during online meetings held with the Contractor on 3 and 4 June 2024.

15. As guiding practice, the inspection methodology followed the principles of ISO 19011 Standard – Guidance for the Auditing of Management Systems. The Standard outlines principles and practices for effective audit planning, conducting audits, and reporting results which is valuable for the inspection process. This Standard ensures that inspections are thorough, consistent, and transparent.

16. An Inspection Plan prepared by CARMU to organise and structure the inspection was shared with the Contractor on 27 May 2024 to ensure clarity in the objectives, scope, requested documentation and the inspection schedule (see annex 3).

17. Tools such as questionnaires and plans for interviews were developed to support the inspection. The inspection methodology further involved documents review, data assessment and interviews with the Contractor's representatives.

## **IV. Information Review**

18. During the inspection, the Contractor provided detailed information on specific areas through a power point presentation followed by questions and answers sessions with the Inspection Team.

19. The Contractor presented its organisational setting as being a state-owned enterprise legally registered in 2012 under the Ministry of Commerce in the jurisdiction of Kiribati. The governance framework is structured around a four-member Board of Directors, with multidisciplinary expertise in geoscience, environmental management, marine biology, environmental impact assessment, legal practice and economics. The Board is responsible for providing strategic oversight and ensuring adherence to the company's mission and statutory obligations. Mawara has engaged the services of a technical partner with whom it collaborates to carry out exploration activities and technology development. The Contractor explained that the company aligns its activities to the strategic plan of the Ministry of Fisheries and Marine Resources Development (MFMRD) which reflects the objectives of Kiribati's development strategy outlined in the Kiribati 20 Year Vision (KV20). Additionally, the Board reports to the Minister responsible for MFMRD. The Board is supported by the Geoscience Division of MFMRD which serves as its Secretariat.

20. The Contractor provided an update on the status of its plan of work for the second five-year period (2020 - 2024) and indicated that it had conducted only one exploration cruise in the contract area to date (2019).

21. In response to questions pertaining to the non-submission of geological and environmental data from its 2019 exploration cruise to ISA, the Contractor indicated that the data has been analysed and expected to be submitted to ISA as part of its 2024 Annual Report

22. In addressing the LTC comments pertaining to mining technology development in its annual reports, the Contractor indicated that it is currently collaborating with another contractor which, like Marawa, intends to utilise the same technology to proceed to exploitation.

23. The Contractor was provided with information on two documents issued by the LTC at its 29<sup>th</sup> session; (a) Criteria for identifying contractors that have responded insufficiently or incompletely, or failed to respond, to the calls from the Council to address issues identified by the Commission in relation to their contractual obligations, and (b) Modalities for facilitating an exchange of views between contractors and members of the LTC.<sup>5</sup>

24. With respect to its strategy to transition from exploration to exploitation, the Contractor recalled that in November 2023, the Secretary-General of the Authority had invited all contractors whose contracts are set to expire within the next five years (2029), to provide information on their strategies for transitioning to exploitation as requested by the LTC. Marawa was not identified as fitting in this category as their contract is due to expire by 2030. During the inspection, Marawa however indicated that their strategy on this matter would be to look for a new technical partner. Due to confidentiality issues, this was not developed in the report.

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<sup>5</sup> ISBA/29/LTC/5 and ISBA/29/LTC/6 respectively.

## V. Conclusions and recommendations

24. The Contractor is yet to fully fulfil the implementation of its approved plan of work for the second five-year contract period including outstanding exploration cruises and resource evaluations. The Contractor, by way of context, referred to several significant challenges it had encountered in fulfilling its contractual obligations over the period, citing the impacts of the COVID-19 pandemic and operational difficulties with its technical partner. To address these challenges and progress exploration activities, the Inspection Team noted that the Contractor has initiated a strategy which includes exploring opportunities for partnership with other potential partners to enhance operational capacity, advance progress and recover from the delays experienced over the years.

25. Although the Contractor successfully conducted an exploration cruise in 2019, no more exploration cruise has been carried out since. The Contractor indicated that its intention was to carry out a second exploration cruise to improve the resources assessment of the contract area and is in the process of identifying the appropriate technical partner(s) to engage. The Contractor did not provide the anticipated timelines for when future cruises would be undertaken.

26. The Contractor is yet to submit all the exploration data (i.e. geological and environmental data) collected in 2019 and /or analysed thereafter. The Contractor is advised to implement the necessary measures to ensure that all data on its contract area are submitted to ISA promptly using the correct format and templates.

27. The issue of the format and certification of the Contractor's financial statements were discussed during the inspection. According to Section 10.2 (c) of Annex IV of the PMN Regulations, the Contractor is required to submit, as part of its annual report, a statement of its actual and direct exploration expenditures, certified by the Sponsoring State. It was noted that the Contractor submitted uncertified financial statements in the years 2020, 2022 and 2023 prompting the LTC to repeatedly request the submission of certified financial statements as part of its feedback on Marawa's annual reports, but the Contractor is yet to comply. Additionally, the submitted financial statements of the Contractor did not conform to the prescribed format<sup>6</sup>.

28. The Contractor explained that its expenditures are audited by the State Audit Office under the Ministry of Finance, consistent with the ordinary practice of local public bodies. However, the Contractor cited technical challenges faced by the State Audit Office in auditing certain expenditures, particularly those related to its subcontractors. The inspection did not reveal evidence that the State Audit Office is able to verify financial reports submitted by subcontractors regarding exploration expenditures. The Contractor indicated that it was in the process of developing an internal procedure to address this issue. Pursuant to Section 9 of Annex IV of the PMN Regulations, the Contractor should implement the necessary measures to ensure that all its books and accounts on actual and direct expenditure on exploration activities are accurately maintained and reported to ISA in the prescribed format as outlined in ISBA/21/LTC/11.

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<sup>6</sup> See ISBA/21/LTC/11



29. The supervisory authority regulating the activities of the Contractor on behalf of the Sponsoring State is the MFMRD. During the inspection, the Inspection Team was informed that the Sponsoring State in exercising its mandate on effective control over its contractors as required under Articles 139 and 153 (4) of UNCLOS, article 4 (4) of annex III to UNCLOS, Regulations 11(f) and 15 of the PMN Regulations<sup>7</sup> and the Republic of Kiribati Seabed Minerals Act<sup>8</sup>, had formally issued a notification letter to Marawa, expressing concern over several critical areas requiring improvement. The Sponsoring State referenced progress reports submitted by the Contractor and its correlation with feedback from the LTC on Marawa's annual reports for the period 2016-2022. The notification letter highlighted specific areas where the Contractor could improve its performance, including delays in conducting environmental baseline studies and analyses, failure to address the LTC comments and feedback on submitted annual reports, adherence to ISA's financial reporting format, among others. Consequently, the Sponsoring State has requested the Contractor to address the areas identified to improve compliance with relevant international and national laws.

30. Under the first five-year contract period, the Contractor still had to deliver two at-sea training placements which were outstanding at the time of the inspection due to the lack of exploration cruises after 2019. The Contractor indicated that it was in consultation with the Capacity Development Unit of the Secretariat to explore options for meeting its remaining training commitments.

31. The Contractor orally reported of its collaborative efforts with another contractor on technology development, but pertinent documentation on this was not provided.

32. The Contractor was reminded of the LTC's comments and feedback on its annual reports regarding substantial deviations from the year-by-year plan of work, without prior approval. It was noted that Schedule 2 of the contract for exploration for polymetallic nodules signed between Marawa and the ISA stipulates that the proposed programme of activities and estimated schedule are indicative and subject to change. Nevertheless, it was agreed that although the programme is to be reviewed periodically, and changes could be made by the Contractor based on factors such as results of work, advancement in technology and the anticipated pace of activities in the area, any substantial change in the plan of work requires prior consultation and agreement of the Secretariat. Accordingly, the Contractor was advised that such adjustment should be done transparently and within the regulatory framework and that any modifications to the timeline of execution of its plan of work must receive prior approval from the Secretary-General, in accordance with its obligations under the PMN Regulations.

33. In respect of the LTC's consistent requests (2020, 2021, 2022) for the progress of environmental baseline data analysis to gain a comprehensive understanding of the contract area, the Contractor confirmed the engagement of three institutions (the Natural History Museum, the University of Gothenburg and the National Oceanography Centre) to carry out biological analyses

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<sup>7</sup> See ISBA/19/C/17 - Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area

<sup>8</sup> Sections 11(a), 12(1) and 93(c) of the Republic of Kiribati Seabed Minerals Act, 2017.

of box core samples collected during the 2019 cruise. The Contractor was reminded to submit the results of the analysis in a timely manner to the ISA.

34. The Inspection Team noted that the Contractor is yet to establish a management system, including the necessary policies and procedures, to effectively oversee its activities. It is recommended that the Contractor develop and formalise these policies and procedures to ensure effective management of its exploration activities.

## **VII. References and resources**

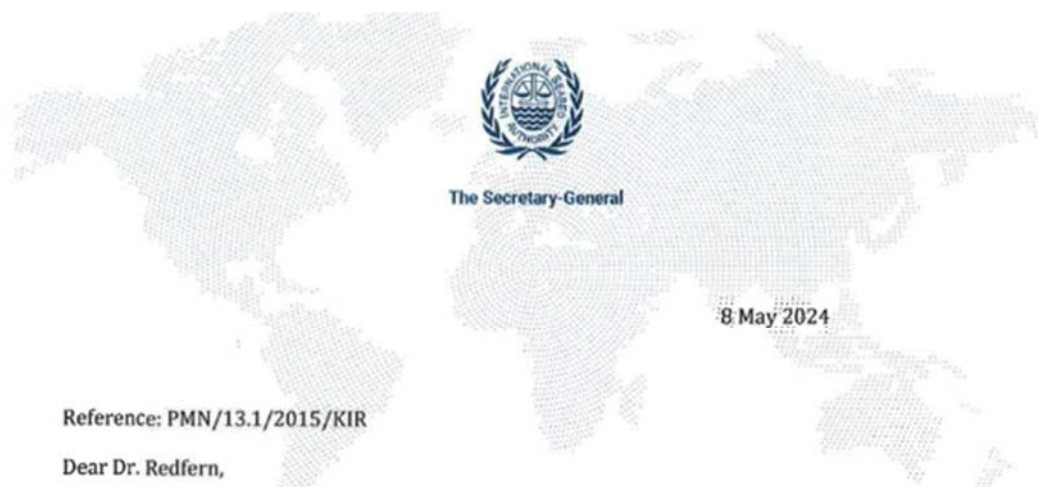
### **International Seabed Authority**

- ISA Inspection Notification Letter to the Contractor (Annex 1)
- Annual Report Letter to Marawa (Annex 2)
- Inspection Schedule - Marawa Research and Exploration Limited
- ISA Technical Support to Marawa by Pedro Madureira

### **Marawa Research and Exploration Limited**

- Organogram of Marawa
- Annual Reports of Marawa
- Evidence of supervisory oversight activities carried out by sponsoring state

## Annex 1 – Inspection notification letter



Reference: PMN/13.1/2015/KIR

Dear Dr. Redfern,

I wish to refer to the contract for the exploration for polymetallic nodules between Marawa Research and Exploration Ltd. (Marawa) and the International Seabed Authority that was signed on 19 January 2015.

The International Seabed Authority (ISA) hereby notifies Marawa Research and Exploration Ltd. (Marawa) of its intentions to conduct an online inspection on 3 and 4 June 2024 at 3pm Jamaica time, which are equivalent to 4 and 5 June 2024 at 8am Tarawa Time. These inspection schedules were agreed with you via recent email conversation with the ISA Secretariat.

This inspection will mainly focus on Marawa's programme of activities, institutional capability and other areas deemed necessary by the ISA Secretariat. A copy of the inspection plan will be shared with you in due course.

Yours sincerely,

  
Michael W. Lodge

Dr. Farran Redfern  
Chairman  
Marawa Research and Exploration Ltd.  
Ministry of Fisheries and Marine  
Resources Development  
P.O. Box 64, Bairiki, Tarawa  
Republic of Kiribati

## Annex 2 – Letter on LTC Feedback on 2022 Annual Report to Marawa



Reference: PMN/13.5/2015/KIR

Dear Dr. Redfern,

I wish to refer to the contract for the exploration for polymetallic nodules between Marawa Research and Exploration Ltd. (Marawa) and the International Seabed Authority (Authority) that was signed on 19 January 2015.

The annual report of Marawa's activities carried out in 2022 was considered and evaluated by the Legal and Technical Commission during the 28th session of the Authority between 28 June to 7 July 2023, following the usual practice of the Commission. The report and recommendations of the Commission relating to the annual report submitted by Marawa are contained in the document as attached.

I invite you to take note of the report of the Commission, which contains general comments of relevance to all contractors. In addition, I draw your attention to the specific evaluation of the annual report submitted by Marawa, including questions and comments from the Commission to Marawa.

With reference to the decision of the Council in 2022 (paragraph 7, ISBA/27/C/44) and the Report of the Chair of the Legal and Technical Commission on the work of the Commission at the second part of the twenty-eighth session (paragraphs 26 and 29, ISBA/28/C/5/Add.1), I wish to further notify that the Secretariat will be monitoring and tracking the progress made by each Contractor in addressing specific matters relating to its annual reporting.

Dr. Farran Redfern  
Chairman  
Marawa Research and Exploration Ltd.  
Ministry of Fisheries and Marine  
Resources Development  
P.O. Box 64, Bairiki, Tarawa  
Republic of Kiribati



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As a note to all contractors, I wish to make it clear that based on the relevant decisions of the Council, contractors may be reported as non-compliant if they are unable to respond adequately to the questions and recommendations of the Commission.

Finally, I wish to inform you that the Commission will evaluate the contractors' annual reports on activities carried out in 2023 during its next session in July 2024 and invite you to submit Marawa's annual report at the earliest opportunity and no later than 31 March 2024.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Michael W. Lodge".

Michael W. Lodge

Attachment: Report and Recommendations on 2022 Annual Reports

## Annex 3 – Inspection Schedule

The online inspection was conducted on 3 and 4 June 2024 at 4.00 – 6.00pm Jamaica Time / 4 and 5 June 2024 at 9.00 – 11.00am Tarawa tim

<b>Date</b>	<b>Time</b>	<b>Planned Activity</b>	<b>Organisation</b>
3 <sup>rd</sup> June 2024	4:00-4.10pm	<ul style="list-style-type: none"> <li>• Welcome and introduction.</li> </ul>	<ul style="list-style-type: none"> <li>• ISA and Marawa</li> </ul>
	4:10-4:25pm	<ul style="list-style-type: none"> <li>• Inspection background, objectives, and scope</li> </ul>	<ul style="list-style-type: none"> <li>• ISA</li> </ul>
	4:25-5.00pm	<ul style="list-style-type: none"> <li>• Presentation by Marawa</li> </ul>	<ul style="list-style-type: none"> <li>• Marawa</li> </ul>
	5:00-5:20pm	<ul style="list-style-type: none"> <li>• Discussions on Marawa’s presentation</li> </ul>	<ul style="list-style-type: none"> <li>• ISA and Marawa</li> </ul>
	5:20-6:00pm	<ul style="list-style-type: none"> <li>• Interviews on Inspection scope</li> </ul>	<ul style="list-style-type: none"> <li>• ISA and Marawa</li> </ul>
4 <sup>th</sup> June 2024	4:00-4.05pm	<ul style="list-style-type: none"> <li>• Welcome</li> </ul>	<ul style="list-style-type: none"> <li>• ISA</li> </ul>
	4:05 – 4:45pm	<ul style="list-style-type: none"> <li>• Interviews on Inspection scope (cont.)</li> </ul>	<ul style="list-style-type: none"> <li>• ISA and Marawa</li> </ul>
	4.45 – 5:05pm	<ul style="list-style-type: none"> <li>• Briefing on Criteria for identifying contractors that have responded insufficiently or incompletely, or failed to respond, to the calls from the Council to address issues identified by the Commission in relation to their contractual obligations.</li> </ul>	<ul style="list-style-type: none"> <li>• ISA</li> </ul>
	5:05 – 5:20pm	<ul style="list-style-type: none"> <li>• Briefing on Modalities for facilitating an exchange of views between contractors and members of the LTC.</li> </ul>	<ul style="list-style-type: none"> <li>• ISA</li> </ul>
	5.20-5.40pm	<ul style="list-style-type: none"> <li>• Q&amp;A</li> </ul>	<ul style="list-style-type: none"> <li>• ISA and Marawa</li> </ul>
	5:40 – 5:50pm	<ul style="list-style-type: none"> <li>• Next steps</li> </ul>	<ul style="list-style-type: none"> <li>• ISA</li> </ul>
	5:50 – 6:00pm	<ul style="list-style-type: none"> <li>• Closing</li> </ul>	<ul style="list-style-type: none"> <li>• ISA</li> </ul>