



Council

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Report and recommendations of the Legal and Technical Commission to the Council of the International Seabed Authority relating to an application for the approval of a plan of work for exploration for polymetallic nodules by the Cook Islands Investment Corporation

I. Introduction

1. On 27 December 2013, the Secretary-General of the International Seabed Authority received an application for the approval of a plan of work for exploration for polymetallic nodules in the Area. The application was submitted pursuant to the regulations on prospecting and exploration for polymetallic nodules in the Area (ISBA/19/C/17, annex) by Cook Islands Investment Corporation. The area under application is located within the areas reserved for the Authority pursuant to annex III, article 8, of the 1982 United Nations Convention on the Law of the Sea.

2. In accordance with regulation 20, paragraph 1 (c), of the regulations, the Secretary-General, by a note verbale dated 30 December 2013, notified the members of the Authority of the receipt of the application and circulated information of a general nature concerning the application. The Secretary-General also placed consideration of the application on the agenda of the Legal and Technical Commission at its meeting held from 3 to 13 February 2014.

II. Methodology for consideration of the application by the Legal and Technical Commission

A. General methodology applied by the Commission in consideration of the application

3. In its consideration of the application, the Commission noted that, in keeping with the scheme established in article 6 of annex III to the Convention, it was first required to make an objective determination as to: whether the applicant had fulfilled the requirements contained in the regulations, particularly with respect to



the form of applications; whether the applicant had provided the necessary undertakings and assurances specified in regulation 14; and whether it had the necessary financial and technical capability to carry out the proposed plan of work for exploration. The Commission is then required to determine, in accordance with regulation 21, paragraph 4, and its procedures, whether the proposed plan of work will provide for effective protection of human health and safety and effective protection and preservation of the marine environment, and will ensure that installations are not established where interference may be caused to the use of recognized sea lanes essential to international navigation or in areas of intense fishing activity. Regulation 21, paragraph 5, provides that, if the Commission makes the determinations specified in paragraph 3 and determines that the proposed plan of work for exploration meets the requirements of paragraph 4, it shall recommend approval of the plan of work for exploration to the Council.

4. In considering the proposed plan of work for exploration for polymetallic nodules, the Commission took into account the principles, policies and objectives relating to activities in the Area as provided for in part XI and annex III of the Convention and in the Agreement relating to the Implementation of Part XI of the Convention.

B. Consideration of the application

5. The Commission considered the application in closed meetings on 6, 7 and 10 February and on 7 and 8 July 2014.

6. Prior to commencing a detailed examination of the application, the Commission invited the Seabed Minerals Commissioner of the Cook Islands, Paul Lynch, accompanied by the Director of Cook Islands Investment Corporation, Michael Henry, and a special advisor, Jacques Paynjon, to make a presentation of the application. Members of the Commission then asked questions to clarify certain aspects of the application before convening in closed session to examine it in detail. Following its initial consideration, the Commission also decided to request the Chair of the Commission to transmit a list of questions to the applicant in writing through the Secretary-General. Responses were received from the applicant but the Commission did not have time to complete consideration of the application and decided to defer it, to be taken up as a matter of priority at its next meeting in July 2014. The written responses provided by the applicant, which supplemented the equivalent parts of the originally submitted application, were taken into account by the Commission in its subsequent consideration at its session in July.

III. Summary of basic information regarding the application

A. Identification of the applicant

7. The name and address of the applicant are as follows:

- (a) Name: Cook Islands Investment Corporation;
- (b) Street address: Main Road, Avarua, Rarotonga, Cook Islands;
- (c) Postal address: P.O. Box 733, Avarua, Rarotonga, Cook Islands;

- (d) Telephone number: +682 29 193;
 - (e) Mobile number: +682 55 331;
 - (f) E-mail address: paul.lynch@cookislands.gov.ck
8. The applicant's designated representative is:
- (a) Name and title: Mark Brown, Minister Responsible;
 - (b) Street address: as above;
 - (c) Telephone number: as above;
 - (d) Mobile number: as above;
 - (e) E-mail address: as above;
 - (f) Place of registration and principal place of business/domicile: Avarua, Rarotonga, Cook Islands.
9. The applicant states that it is an enterprise entirely owned by the State. The State enterprise has been established pursuant to section 3 of the Cook Islands investment corporation act 1998 (as amended) which is included in the application. The applicant has its registered office at the Office of the Minister Responsible in the Cook Islands. In the certificate of sponsorship, the sponsoring State adds that the applicant is under the effective and sovereign control of the Cook Islands Government, subject to the laws of the Cook Islands and controlled by the Government of the Cook Islands.

B. Sponsorship

10. The sponsoring State is the Cook Islands.
11. The Cook Islands deposited its instrument of accession to the United Nations Convention on the Law of the Sea and consented to be bound by the Agreement relating to the Implementation of Part XI of the Convention on 15 February 1995.
12. The certificate of sponsorship is dated 18 December 2013 and signed by the Minister Responsible of the Government of the Cook Islands, Mark Brown. The certificate of sponsorship states that the sponsoring State will assume responsibility of a sponsoring State in accordance with articles 139 and 153, paragraph 4, and annex III, article 4, paragraph 4, of the Convention. The applicant states in a letter dated 18 December 2013 that the sponsoring State has initiated steps pursuant to Article 4 of annex III of the Convention to finalize and pass national legislation, regulations and administrative measures to secure compliance by persons under its jurisdiction.

C. Area of application

13. The area under application covers a total area of approximately 75,000 km² in the Clarion-Clipperton fracture zone of the Pacific Ocean. This is the reserved area contributed by G-TEC Sea Mineral Resources NV. The area under application comprises three non-continuous subparts, which are adjacent to the subparts of the area under exploration allocated to G-TEC Sea Mineral Resources NV. The

coordinates and general location of the area under application are shown in the annex to the present document.

D. Other information

14. The applicant has not been previously awarded any contract with the Authority.

15. The application includes a written undertaking dated 18 December 2013 and signed by the Minister Responsible, Mark Brown, stating that the applicant will comply with regulation 14 of the regulations.

16. The applicant has paid a fee of \$500,000 in accordance with regulation 19 of the regulations.

IV. Examination of information and technical data submitted by the applicant

17. The following technical documents and information were submitted in the application:

- (a) Information relating to the application area:
 - (i) Boundaries of the area under application by a list of geographic coordinates in accordance with the World Geodetic System 1984;
 - (ii) Chart of the area under application;
- (b) Copy of the certificate of incorporation;
- (c) Certificate of sponsorship;
- (d) Information to enable the Council to determine whether the applicant is financially capable of carrying out the proposed plan of work for exploration;
- (e) Information to enable the Council to determine whether the applicant is technically capable of carrying out the proposed plan of work for exploration;
- (f) Plan of work for exploration;
- (g) Written undertakings;
- (h) Training programmes.

V. Consideration of financial and technical qualifications of the applicant

A. Financial capacity

18. The Commission noted that the sponsoring State had provided a statement dated 18 December 2013 attesting that the applicant had the financial capability to meet the estimated costs of the proposed plan of work for exploration.

B. Technical capacity

19. The Commission noted that the sponsoring State had entered into an arrangement with G-TEC Sea Mineral Resources NV to ensure that the applicant would benefit from the necessary joint support and assistance in carrying out its obligations under the proposed plan of work for exploration. In particular, the applicant would have access to the technical resources and capabilities of G-TEC Sea Mineral Resources NV. The applicant and G-TEC Sea Mineral Resources NV would adopt a complementary approach to guarantee a more logical scientific method, to minimize costs, to prevent overlapping studies and to ensure access to relevant in situ survey data. In addition to the cruises conducted by the applicant on its own, G-TEC Sea Mineral Resources NV would collect data during its annual cruises in the applicant's area on behalf of the applicant. The applicant further stated that this would allow it to overcome the financial threshold related to an application without affecting the performance of the obligations under the plan of work. The Commission welcomed the proposed cooperation between the applicant and G-TEC Sea Mineral Resources NV in the conduct of joint exploration cruises as it would reduce mobilization costs and optimize results. In recognizing the emphasis that the applicant had placed on complementarity between its application and the contract with G-TEC Sea Mineral Resources NV, the Commission also emphasized that each approved plan of work in the form of a contract had to be implemented and monitored separately in activity reports that each contractor was required to submit annually.

20. The Commission was provided with technical information in relation to expertise, skills and exploration equipment, including potential research vessels, multibeam echo sounders deep tow systems, remotely operated vehicles and sampling equipment for surveys.

21. The Commission was also provided with information relating to the prevention, reduction and control of pollution and other hazards to, as well as possible impacts on, the marine environment. The applicant stated that it would apply a rigorous approach to manage environmental risks so that serious harm did not come to the marine environment. The applicant further mentioned that G-TEC Sea Mineral Resources NV, its industrial partner, had significant resources available by way of vessels and deep sea platforms that could be deployed were a significant incident to occur.

VI. Consideration of data and information submitted for approval of the plan of work for exploration for polymetallic nodules

22. In accordance with regulation 18 of the regulations, the application includes the following information for approval of the plan of work for exploration:

(a) A general description and a schedule of the proposed exploration programme, including the programme for the first five-year period;

(b) A description of the programme for oceanographic and environmental baseline studies in accordance with the regulations and any environmental rules, regulations and procedures established by the Authority that would enable an

assessment of the potential environmental impact of the proposed exploration activities, taking into account any recommendations issued by the Legal and Technical Commission;

(c) A preliminary assessment of the possible impact of the proposed exploration activities on the marine environment;

(d) A description of proposed measures for the prevention, reduction and control of pollution and other hazards to, as well as possible impacts on, the marine environment;

(e) Data necessary for the Council to make the determination it is required to make in accordance with regulation 12, paragraph 1, of the regulations;

(f) A schedule of anticipated yearly expenditures in respect of the programme of activities for the first five-year period.

VII. Training programme

23. The Commission noted that the proposed training programme focusing on young professionals from developing States consisted of fellowships in cooperation with selected universities, internships and traineeships within the applicant and partner companies, including participation in campaigns and specific professional training at sea. The applicant further stated that the exact range of training opportunity, programme and schedule would be designed in consultation with the Authority and the sponsoring State. The Commission highlighted that, in developing the training programme, the applicant and the Secretary-General should ensure that the training programme was in line with the recommendations for the guidance of contractors and sponsoring States relating to training programmes under plans of work for exploration, as developed by the Commission at its nineteenth session ([ISBA/19/LTC/14](#)).

VIII. Conclusion and recommendations

24. Having examined the particulars submitted by the applicant, which are summarized in sections III to VII above, the Commission is satisfied that the application has been duly submitted in accordance with the regulations and that the applicant is a qualified applicant, as defined in articles 4 and 9 of annex III to the Convention, and regulation 17 of the regulations. The Commission is further satisfied that the applicant:

(a) Has complied with the provisions of the regulations;

(b) Has given the undertakings and assurances specified in regulation 14 of the regulations;

(c) Possesses the financial and technical capability to carry out the proposed plan of work for exploration.

25. The Commission states that none of the conditions in regulation 21, paragraph 6, of the regulations apply.

26. With respect to the proposed plan of work for exploration, the Commission is satisfied that the proposed plan of work for exploration will:

- (a) Provide for effective protection of human health and safety;
- (b) Provide for effective protection and preservation of the marine environment;
- (c) Ensure that installations are not established where interference may be caused to the use of recognized sea lanes essential to international navigation or in areas of intense fishing activity.

27. Accordingly, pursuant to regulation 21, paragraph 5, of the regulations, the Commission recommends to the Council approval of the plan of work for exploration submitted by the Cook Islands Investment Corporation.

Annex I

A. List of coordinates of the area under application

<i>Longitude</i>	<i>Latitude</i>
<i>Subpart 1</i>	
-128.58333	15.33333
-127.83333	15.33333
-127.83333	15.25000
-127.76667	15.25000
-127.76667	14.33333
-128.00000	14.33333
-128.00000	12.00000
-127.71667	12.00000
-127.71667	11.66667
-128.58333	11.66667
-128.58330	13.57600
-128.25000	13.57600
-128.25000	13.91670
-128.16670	13.91670
-128.16670	14.00000
-128.08330	14.00000
-128.08330	14.25000
-128.15220	14.25000
-128.15220	14.62500
-128.20830	14.62500
-128.20830	14.75000
-128.58330	14.75000
-128.58333	15.33333

<i>Longitude</i>	<i>Latitude</i>
<i>Subpart 2</i>	
-126.7000	15.7333
-126.0000	15.7333
-126.0000	13.7500
-126.2500	13.7500
-126.2500	14.3333
-126.7000	14.3333
-126.7000	15.7333
<i>Subpart 3</i>	
-125.3333	16.2333
-124.3333	16.2333
-124.3333	16.0667
-123.9520	16.0667
-123.9520	14.0833
-125.0000	14.0833
-125.0000	13.7500
-125.3333	13.7500
-125.3333	16.2333

B. Map of the general location of the area under application

