



Council

Distr.: General
18 July 2012

Original: English

Eighteenth session
Kingston, Jamaica
16-27 July 2012

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 Marawa Research and Exploration Ltd.

I. Introduction

1. On 30 May 2012, 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/6/A/18, annex) by Marawa Research and Exploration Ltd. The area under application covers a total surface area of 74,990 km² and 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. The reserved areas in the application were contributed by the Government of the Republic of Korea.

2. In accordance with regulation 20, paragraph 1 (c), of the Regulations, the Secretary-General by note verbale dated 31 May 2012 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 as an item on the agenda of the Legal and Technical Commission at its meeting held from 9 to 19 July 2012.

3. The Commission was informed that on 10 May 2012 the applicant had formally notified the Secretary-General of its intention to make an application for approval of a plan of work for exploration in a reserved area. Thereafter, in accordance with regulation 17 (1) of the Regulations, the Secretary-General on 18 May 2012 forwarded such notification to the Enterprise (represented by its Interim Director-General), whereupon the Interim Director-General informed the Secretary-General in writing that the Enterprise had no current intention of carrying out activities in the areas under application.



4. The Commission recalled in this regard that the Enterprise had not yet begun to function independently of the secretariat of the Authority and that, by reason of article 170 of the Convention and section 2, paragraph 2, of the annex to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea, the Council would take up the issue of the functioning of the Enterprise independently of the secretariat of the Authority only either (a) upon the approval of a plan of work for exploitation by an entity other than the Enterprise, or (b) upon receipt by the Council of an application for a joint venture operation with the Enterprise. Until such time as either of these eventualities takes place the secretariat of the Authority shall perform the functions of the Enterprise, which shall be as set out in section 2, paragraph 1, of the annex to the Agreement.

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

5. 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 of the Regulations; 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 (4) of the Regulations and its procedures, whether the proposed plan of work will provide for effective protection of human health and safety, 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 (5) of the Regulations 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, the Commission shall recommend approval of the plan of work for exploration to the Council.”

6. 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.

B. Consideration of the application

7. The Commission considered the application in closed meetings on 9, 10, 13, 16 and 18 July 2012.

8. Prior to commencing a detailed examination of the application, the Commission invited the designated representative of the applicant Mr. Tearinaki Tanielu (Marine Geologist, Marawa Research and Exploration Ltd.) 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 the application 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. The written responses provided by the applicant were taken into account by the Commission in its subsequent consideration of the application.

III. Summary of basic information regarding the application

A. Identification of the applicant

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

- (a) Name: Marawa Research and Exploration Ltd.;
- (b) Street address: Office of the Ministry of Fisheries and Marine Resources Development;
- (c) Postal address: P.O. Box 64, Bairiki, Tarawa, Republic of Kiribati;
- (d) Telephone number: (686) 21099;
- (e) Facsimile number: (686) 21120;
- (f) Electronic mail address: tebetee@mfmrd.gov.ki.

10. The applicant's designated representative is:

- (a) Name: Mr. Tearinaki Tanielu;
- (b) Street address: as above;
- (c) Telephone number: as above;
- (d) Facsimile number: as above;
- (e) Electronic mail address: tearinakit@mfmrd.gov.ki;

(f) Place of registration and principal place of business/domicile: Republic of Kiribati.

11. The applicant stated that Marawa Research and Exploration Ltd. is a State enterprise owned and controlled by the Republic of Kiribati. In the certificate of sponsorship, the sponsoring State also stated that the applicant was a national State enterprise wholly owned by the Republic of Kiribati, and was subject to the effective control of the State. The Board of Directors is composed only of nationals from the Republic of Kiribati. It comprises Hon. Tinian Reiher, Minister of Fisheries and Marine Resources Development, Hon. Tiarite Kwong, Minister of Environment, Lands and Agricultural Development, and Hon. Titabu Tabane, Attorney-General. A copy of the certificate of incorporation of Marawa Research and Exploration Ltd. has been submitted. It is certified that the applicant has been duly incorporated on 6 March 2012.

B. Sponsorship

12. The sponsoring State is the Republic of Kiribati.

13. The date of deposit of Kiribati's instrument of accession to the United Nations Convention on the Law of the Sea and date of the consent to be bound by the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea is 24 February 2003.

14. The certificate of sponsorship is dated 21 March 2012, and signed by Hon. Tinian Reiher, Minister of Fisheries and Marine Resources Development. The certificate of sponsorship states that the sponsoring State will assume responsibility in accordance with article 139, article 153, paragraph 4, and annex III, article 4, paragraph 4, of the Convention.

C. Area of application

15. The area under application of Marawa Research and Exploration Ltd. covers a total area of 74,990 km² in the Clarion-Clipperton Fracture Zone of the Pacific Ocean. The area lies within the reserved areas and is divided into three regions: the first area is located within Block 18 and covers an area of 9,810 km²; the second area is located within Block 19 and covers an area of 24,410 km²; and the third area is located within Block 20 and covers an area of 40,770 km². The coordinates and general location of the areas under application are shown in the annex to the present document.

D. Other information

16. The date of receipt of the application is 30 May 2012.

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

18. The applicant submitted a written undertaking dated 21 March 2012 and signed by the Director of Marawa Research and Exploration Ltd., Hon. Tinian Reiher, stating that the applicant will comply with regulation 14 of the Regulations.

19. The applicant has paid a fee of \$250,000 in accordance with regulation 19 of the Regulations.

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

20. 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 in accordance with the World Geodetic System 1984 (WGS 84);

- (ii) Average nodule abundance and grade and station data pertaining to the area under application;
- (iii) A chart and a list of the coordinates 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

21. In evaluating the financial capacity of the applicant, the Commission noted that in accordance with regulation 12 (4) of the Regulations, the sponsoring State had provided a statement dated 18 April 2012 certifying that the State enterprise Marawa Research and Exploration Ltd. had the necessary resources to meet the estimated costs of the proposed plan of work for exploration. The applicant also stated that it has the financial capability to respond to any incident or activity which causes serious harm to the marine environment in accordance with regulation 12 (1) and 12 (7) of the Regulations.

B. Technical capacity

22. In evaluating the technical capacity of the applicant, the Commission was provided with technical information in relation to expertise, skills and exploration equipment. As a State enterprise, the applicant stated that it would draw on the expertise and skills of the government departments of the sponsoring State. The applicant further indicated that it would engage world experts and utilize leading technology sourced from around the globe. The applicant outlined the equipment that would be used for its activities and stated that it would hire (and where equipment is unavailable, purpose build) the equipment necessary to carry out the relevant exploration activities.

23. The applicant stated that the discovery of polymetallic nodules within the national waters of the Republic of Kiribati during the 1960s and since the 1980s, interest in polymetallic nodules has been within the national development plans of the Republic of Kiribati. The applicant notes that the sponsoring State is the closest State to the region of the Clarion-Clipperton Fracture Zone that is covered by the application.

24. The Commission was provided with information relating to the prevention, reduction and control of pollution and other hazards to and possible impacts on the marine environment. The applicant noted that an Environmental Impact Assessment would be submitted prior to any test mining in accordance with the Regulations of the Authority. The Environmental Impact Assessment will provide greater detail on the potential impacts and proposed mitigation measures. The applicant noted that the Authority was currently in the process of formulating further regulations pertaining to Environmental Impact Assessments, and it is the intention of the applicant to incorporate such regulations into its environmental programme as they become available. The applicant committed to apply best environmental practices for sampling and preservation of samples and best available technology for conducting physical oceanographic studies and collecting data.

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

25. 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, as well as possible impacts, to 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

26. The Commission noted that, in accordance with regulation 27 and section 8 of annex 4 to the Regulations, the applicant stated that it would draw up and fund a programme for the training of personnel of the Authority and developing States, including the participation of such personnel in offshore exploration activities in the proposed contract area. The applicant indicated that the training programme would be prepared with the Authority, to determine, inter alia, the number and type of candidates in order to ensure optimum effectiveness of the programmes.

VIII. Conclusion and recommendations

27. 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.

28. The Commission states that none of the conditions in regulation 21 (6) of the Regulations apply.

29. 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.

30. Accordingly, pursuant to regulation 21 (5) of the Regulations, the Commission recommends to the Council approval of the plan of work for exploration submitted by Marawa Research and Exploration Ltd.

Annex

List of coordinates and map of general location of the reserved areas under application

<i>ISA Reserved Block No.</i>	<i>Turning point</i>	<i>Longitude West (decimal degrees)</i>	<i>Latitude North (decimal degrees)</i>
18	1	-128.117	10.8135
	2	-128.167	10.8135
	3	-128.167	10.6667
	4	-128	10.6667
	5	-128	10.1088
	6	-128.833	10.1088
	7	-128.833	10.25
	8	-129.01	10.25
	9	-129.01	10.5387
	10	-128.833	10.5387
	11	-128.833	11.0833
	12	-128.117	11.0833
19	1	-126.25	11.5
	2	-126.25	11.3333
	3	-126	11.3333
	4	-126	11.1
	5	-125	11.1
	6	-125	11.6833
	7	-124.5	11.6833
	8	-124.5	10.6667
	9	-125.167	10.6667
	10	-125.167	10.5
	11	-126	10.5
	12	-126	10.3333
	13	-126.833	10.3333
	14	-126.833	11.5
20	1	-126	11.6667
	2	-126	12.25
	3	-125.333	12.25
	4	-125.333	12.75
	5	-123.583	12.75
	6	-123.583	11.3333
	7	-123.667	11.3333
	8	-123.667	11.1667

<i>ISA Reserved Block No.</i>	<i>Turning point</i>	<i>Longitude West (decimal degrees)</i>	<i>Latitude North (decimal degrees)</i>
	9	-124.5	11.1667
	10	-124.5	11.6833
	11	-125	11.6833
	12	-125	11.1
	13	-126	11.1
	14	-126	11.3422
	15	-126.25	11.3422
	16	-126.25	11.6667

Map of general location of the reserved areas under application

Marawa Application Areas Within ISA Reserved Area Blocks 18, 19 and 20

