



The Secretary-General

Note No. ISA/EOSG/2023/310

The Secretariat of the International Seabed Authority presents its compliments to the President of the Council of the International Seabed Authority. The Secretariat has the honour of transmitting to the President of the Council the Notification of the Secretary-General of immediate measures of a temporary nature taken in respect of the Contract for Exploration for Polymetallic Nodules between the International Seabed Authority and Nauru Ocean Resources Inc dated 22 July 2011 pursuant to Regulation 33 of the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area, issued on 27 November 2023.

The Secretariat of the International Seabed Authority avails itself of this opportunity to renew to the President of the Council of the International Seabed Authority the assurances of its highest consideration.

27 November 2023



President of the Council of the International Seabed Authority



The Secretary-General

Notification of immediate measures of a temporary nature taken in respect of the Contract for Exploration for Polymetallic Nodules between the International Seabed Authority and Nauru Ocean Resources Inc dated 22 July 2011 pursuant to Regulation 33 of the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area

1. Pursuant to Regulation 33 of the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area, when the Secretary-General becomes aware of an incident resulting from a contractor's activities in the Area that poses a threat of serious harm to the marine environment, the Secretary-General shall report immediately *inter alia* to the Council. Pending any action by the Council, the Secretary-General shall take such immediate measures of a temporary nature as are practical and reasonable in the circumstances to prevent any threat of serious harm to the marine environment.
2. Nauru Ocean Resources Inc is entitled to conduct exploration activities in the Area in accordance with the Contract for Exploration for Polymetallic Nodules between the International Seabed Authority and Nauru Ocean Resources Inc dated 22 July 2011, including in the NORI-D contract area specified in Schedule 1 of the Contract, which is located within the Clarion-Clipperton Zone of the Pacific Ocean. Pursuant to the terms of the Contract (in particular Appendix II, Section 15), the Authority is entitled to expect full compliance with the generally accepted international rules and standards established by competent international organizations or general diplomatic conferences concerning the safety of life at sea, and the prevention of collisions. In accordance with Appendix II, Section 6 of the Contract, contingency measures of Nauru Ocean Resources Inc, implemented to respond effectively to incidents that are likely to cause serious harm to the marine environment, shall include warning of ships which might be about to enter the immediate vicinity of its exploration vessels (Section 6.1(c)). More fundamentally, international law requires that all conditions be met at all times to ensure safety of life at sea, which ultimately applies in the context of organizing, carrying out and controlling activities in the Area.
3. As recorded in Clause C of the Contract (consistent with Regulation 23 and Annex III of the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area), the Authority and Nauru Ocean Resources Inc have mutual interest in the conduct of exploration activities pursuant to the United Nations Convention on the Law of the Sea and the 1994 Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea.
4. On 25 November 2023 and on 26 November 2023, Nauru Ocean Resources Inc notified the Authority of the disruption of its exploration activities in the NORI-D contract area, by representatives of Greenpeace International. As Nauru Ocean Resources Inc informed the Authority, it is presently engaged in an exploration campaign in activities in the NORI-D contract area aimed at gathering scientific and environmental data and observations, consistent with the recommendations of the

Legal and Technical Commission communicated to Nauru Ocean Resources Inc on 5 September 2022.

5. In its letters to the Authority, Nauru Ocean Resources Inc alleged that the conduct of Greenpeace International representatives had caused significant safety risk since 23 November 2023 in the NORI-D contract area, with Greenpeace International repeatedly disregarding requests to maintain a safe distance from the exploration vessel *MV Coco*. According to Nauru Ocean Resources Inc, a number of representatives from Greenpeace International subsequently boarded the *MV Coco* without authorization and climbed to the top of the A-frame at the stern of *MV Coco*, further gravely exacerbating the safety risks, whilst the ongoing actions of several zodiacs and kayaks with other representatives of Greenpeace International on board have interfered and continue to interfere with the operations of *MV Coco*. Nauru Ocean Resources Inc further alleges that Greenpeace International has communicated to Nauru Ocean Resources Inc the intention to stay on board the *MV Coco* as long as *MV Coco* is within the Exploration Area. The photo and video recordings provided to the Authority *prima facie* indicate the presence of Greenpeace International representatives on board and in the immediate vicinity of the vessel *MV Coco*, and show interference with the operations of *MV Coco*. In its letter of 26 November 2023, Nauru Ocean Resources Inc requested the Authority to explore available legal options to protect its rights under the Contract.
6. On 26 November 2023, the Secretary-General requested Greenpeace International to comment on the allegations raised by Nauru Ocean Resources Inc. In that letter, the Secretary-General indicated to Greenpeace International that “[t]he circumstances described by NORI *prima facie* pose a serious threat to the safety of individuals present in the Exploration Area and to the marine environment.” On 27 November 2023, Greenpeace International provided its response. According to Greenpeace International, it is engaged in a “safe and peaceful protest at sea”, in the exercise of its “right to peaceful protest at sea”. According to Greenpeace International, “there are [no] threats to the safety of individuals caused by the actions of Greenpeace International”. However, Greenpeace International does not deny that it has repeatedly disregarded and continues to disregard requests to maintain a safe distance from *MV Coco*, nor the allegation that its representatives have interfered with the operation of *MV Coco* and boarded the *MV Coco* without authorization. While Greenpeace International argues that its actions have not *caused* a threat to the safety of individuals, Greenpeace International has not contested the *existence* of safety hazards. Nor has Greenpeace International offered materials (such as photo or video recordings) to rebut the observation of the Secretary-General that “[t]he circumstances described by NORI *prima facie* pose a serious threat to the safety of individuals present in the Exploration Area and to the marine environment.”
7. On 26 November 2023, the Secretary-General informed the Kingdom of the Netherlands, as the flag state of the vessel of Greenpeace International (the *Arctic Sunrise*), of the allegations raised by Nauru Ocean Resources Inc. On 27 November 2023, the Secretary-General informed the Kingdom of Denmark, as the flag state of *MV Coco*, of the same.
8. Considering the immediate and urgent threat of serious harm to the marine

environment and the safety of life at sea, and consistent with the precautionary approach, the Secretary-General hereby takes the following immediate measures of a temporary nature:

- a. *Calls upon* all parties present in the vicinity of *MV Coco* as of 27 November 2023 (other than the crew of *MV Coco*) to maintain a safety distance from *MV Coco* of at least 500m (unless otherwise authorized by the captain of *MV Coco*);
 - b. *Calls upon* parties who have boarded *MV Coco* on or since 25 November 2023 without authorization from the captain of *MV Coco* to refrain from interfering with the operation of *MV Coco*;
 - c. *Calls upon* Nauru Ocean Resources Inc and Greenpeace International to co-operate with a view to ensuring that the parties who have boarded *MV Coco* on or since 25 November 2023 without authorization from the captain of *MV Coco* are safely disembarked from the *MV Coco* as soon as practicable;
 - d. *Calls upon* Nauru Ocean Resources Inc and Greenpeace International to report to the Authority on a daily basis as to the steps taken to ensure compliance with this immediate measure of temporary nature (unless no further updates are required by the Secretary-General);
 - e. *Calls upon* Nauru Ocean Resources Inc and Greenpeace International to relay the contents of these immediate measures of a temporary nature to their personnel on board or in the vicinity of *MV Coco*;
 - f. *Calls upon* Nauru Ocean Resources Inc to provide a detailed report on the assessment of the consequences of the disruption of the exploration activities Nauru Ocean Resources Inc alleges to have taken place since 23 November 2023;
 - g. *Calls upon* the Kingdom of the Netherlands to consider what measures, if any, are warranted pursuant to international law and the laws of the Netherlands concerning the conduct of Greenpeace International and the *Arctic Sunrise* in the present circumstances.
9. The temporary measures of the Secretary-General shall remain in effect for no longer than 90 days, or until the Council decides at its next regular session or a special session, what measures, if any, to take pursuant to Regulation 33(6). The temporary measures of the Secretary-General cannot be construed as conclusive determinations of facts or the rights or obligations of any party.

Issued on 27 November 2023



Michael W. Lodge
Secretary-General