

## **DSCC afternoon intervention Day 3**

### **Part IV**

Thank you Mr President

We also associate ourselves with Germany in its assessment that there are many other matters to be developed in this Part and that a systematic development is necessary. Perhaps most obvious are the needs for incorporation of REMPs and lack of development of EIAs in the new section 46bis, including the lack of provisions about scoping, and lack of public participation provisions such as comment and review provisions on the EMMP the new section 46ter, but we will address those in turn.

As a general comment, we suggest that an Environment Committee is needed to develop and implement these provisions in Part IV, such as development, monitoring and implementation of the of environmental management and monitoring plans, conduct of performance assessments, and implementation and monitoring of the emergency response and contingency plan.

Subject to that, we have some observations on specific draft articles.

#### **DR 46 Concerning general obligations**

This should specifically incorporate the Fundamental Obligations to be developed in DR 2. We agree with the United Kingdom, for example, that the ecosystem approach is relevant, and believe so are other provisions such as best scientific data, and suggest that the best way to do this is to directly reference the fundamental obligations.

With respect to DR 46BIS on EIS and DR 46 TER on EMMP, the following observations apply: We found this morning's side event by DOSI very helpful in laying out step by step requirements in developing goals, objectives, targets, indicators and thresholds. To develop all of these, an adequate baseline is essential. To ensure such a baseline, scoping and an iterative process is needed where more information is obtained by the contractor if necessary. These procedures are necessary to ensure consistency and adequacy of the baselines.

In general terms, we believe that the procedure should be a review, including public comment and independent scientific review, and revision by the Authority following such a review.

#### **DR 49 compliance with EMMP**

Paragraphs (a) and (b) should refer to the EMMP to be developed elsewhere. In addition, there should be provision for oversight and monitoring of EMMPs.

#### **DR 50 performance assessment**

We believe it is important that the ISA should carry out the compliance assessment, not the contractor. Currently the only requirement is that the report is to be made public. It should also require public comment.

We also agree with Australia that reviews should be annual.

#### **52, 53 Liability Fund**

This fund is welcome. However, the Fund combines two funds discussed to date: the Environmental Liability Trust Fund and the Sustainability Fund.

The DSCC sees difficulties in combining the funds, as they address different issues. The former addresses the 'gap' where funds cannot be recovered from a Contractor (52(a) – a contingent fund which needs to be funded to be able to be called upon – whereas the latter addresses ongoing needs (52(b)-(e)). This would mean constantly drawing down on the Liability fund. It would not be appropriate to combine the two very different funds.

Thank you Mr President

## **Part V**

The review in DR 56 should include independent reviews, as were provided for in the earlier draft, including independent scientific assessment. The review should provide for publication of the review and comments from stakeholders: making public the results of the review does not suffice. The list of triggers in DR 56(1) should also include new information relevant to the marine environment. The review should be able to result in changes being made: in the current draft, under DR 56(3), the only result is “Where as a result of a review the Contractor wishes to make any changes to a Plan of Work.” This is seriously inadequate. The result needs to result in the Secretary-General recommending changes to the Plan of Work to the LTC and Council.

## **Part VI**

We associate ourselves with Australia's observations. The closure plans show the need for a liability fund. Even if financial performance guarantees are provided, they may not be enough to pay for the closure procedures needed and the ongoing monitoring.

We also suggest that these procedures should include references to publication of closure plans and monitoring results and public participation.

Also the length of monitoring plans may need to be adjusted according to different types of mining to ensure that the full impacts of the mining activity are understood. Further development may be necessary.