



December 14, 2021 (ISA Assembly Day 2)

DSCC intervention on Agenda Item 9: Annual report of the Secretary-General (ISBA/26/A/2, and ISBA/26/A/2/Add.1)

Thank you, Mr President.

We join the other delegates in thanking the Secretary-General for his report.

Firstly, we wish to associate ourselves with the observations of Greenpeace and Earthworks.

Mr President, as we told Council last week, the DSCC is profoundly concerned at the direction the Authority is being asked to take and we fear that the road map adopted last week by the Council is a map which would lead it entirely in the wrong direction. This is the Supreme organ of the Authority under Article 160 to which the other principal organs shall be accountable as specifically provided for in the Convention. The Assembly has the power to establish general policies in conformity with the relevant provisions of the Convention on any question or matter within the competence of the Authority. This includes making recommendations for the purpose of promoting international cooperation concerning activities in the Area.

Mr President, Members of the Assembly: the ISA has been asked by Nauru to rush the development of regulations, standards and guidelines to pave the way for one company, which used to be called DeepGreen and which now call themselves The Metals Company. This, we believe it is clear, is to facilitate their attempt to raise hundreds of millions of dollars on the stock exchange and to sell a story to investors that they will start producing revenue from commercial mining in 2024 - hence the 2023 date. At the same time as all this was happening, Nauru, the sponsoring State of NORI, a subsidiary of The Metals Company, triggered the 2-year rule in the midst of a pandemic, causing considerable expense and inconvenience to delegates, and inequity to those who could not travel to Kingston.

In order to justify this, the company has spun a narrative that deep-sea metals are needed for a renewables revolution. That is not true. They are not.

Firstly, a circular economy can reduce demand for “virgin metals”. In SDG 12 all States have committed to ensure sustainable consumption and production patterns. A circular economy is an important part of this.

Secondly, new battery technologies are entering the market that do not need deep-sea minerals. Estimates which call for massive increases in cobalt and phosphate ignore advances in technology. Already, BYD, China’s second largest EV carmaker, uses lithium iron phosphate batteries.

Thirdly, seabed mining would not replace terrestrial mining. It would just open the deep sea as a new, damaging industrial frontier, significantly increasing humanity’s footprint. And

Fourthly, there are sufficient reserves on land to supply what remaining demand there is that must be met for virgin metals. This is clear. The argument by industry is essentially based on a choice - a

claim that it is better to mine the deep sea. In other words, we have a choice whether to get the remaining minerals from land-based mines or whether we destroy a pristine habitat in the deep ocean.

The ISA Secretariat paper on the Sustainable Development Goals repeats the narrative, or marketing pitch, of The Metals Company. While we reject this narrative, we do welcome the paper's request to Member States to debate whether seabed mining should start. We suggest that the roadmap should also include these broader questions, including the necessity for a moratorium while these issues are debated and decided and we have the necessary scientific knowledge. As the Holy See noted, that debate must include impacted communities and civil society.

The request by Nauru must be assessed against other obligations, including the protection of the marine environment and other international commitments, notably including the [Leaders Pledge for Nature](#). That reiterates that "We are in a state of planetary emergency: the interdependent crises of biodiversity loss and ecosystem degradation and climate change - driven in large part by unsustainable production and consumption - require urgent and immediate global action." Starting seabed mining would further intensify that crisis.

We also share the concerns expressed by Federated States of Micronesia and Fiji with respect to SDG13 and the potential effects of DSM on climate change including possible disturbance of the carbon uptake functions of the ocean.

Equally, we believe that this Assembly should address the issue of whether DSM should proceed at this time, including the issue raised in the ISA SDG paper of whether deep-sea minerals are necessary for the renewables revolution. In the Securities and Exchange Commission (SEC) filings, prior to going public, The Metal Company's predecessor SOAC specifically said, and I quote, "it may also not be possible to determine whether the impact of nodule collection on global biodiversity will be less significant than those estimated for land-based mining for a similar amount of produced metal." [end quote]

If the leading proponent, when faced with the need for accuracy in its financial filings says this, we believe the Assembly should take note, just as scientists have [warned](#) that biodiversity loss in the deep ocean would be inevitable and irreversible if the ISA would permit deep-sea mining to occur.

Mr President, we also note in this context that BBNJ will have competence for marine biodiversity ABNJ, and a strong and ambitious agreement will need the powers to take necessary measures in pursuance of that competence.

It is also important to remember that the regulations being debated will allow not only nodules mining to start but also mining on hydrothermal vents, such as the Lost City, and on cobalt crusts, located on seamounts, which we also know are hotspots of biodiversity. And once regulations are adopted and contracts are issued, it will be almost impossible to put the mining genie back into the bottle.

Mr President, a healthy deep ocean is crucial for planetary health and all of us, acting as a crucial buffer against climate impacts. We cannot legally, and we must not, allow one State to push for mining when we cannot ensure the effective protection of the marine environment.

As Costa Rica made it very clear, UNCLOS does not provide for balancing exercise where the environment is balanced against economic considerations. Instead, article 192 and article 145 are very clear. The ocean must be protected and preserved.

As stated by the legislature of Guam in its unanimously supported resolution calling on the ISA to adopt a moratorium on deep-sea mining, which was shared with the ISA Secretary General only last week; *“UNCLOS requires members to protect the marine environment by implementing the precautionary principle to prevent harm on the high seas, and Nauru's use of the two (2)-year trigger asks the ISA to violate UNCLOS by finalizing insufficiently protective regulations and/or approving mining in their absence”*.

Rather than enter into a headlong rush to seabed mining, when there is inadequate scientific information to ensure the effective protection of the marine environment, no licence for seabed mining nor adequate regulatory oversight, we call on this Assembly to embrace a moratorium, taking a holistic look at the need for mining, the stressors on the ocean and the importance of the ocean for biodiversity, food security, carbon sequestration and climate change. We do have time and we must take the time.

As was discussed in the Council last week, there are many questions raised by the 2-year rule, and it is clear that the 2023 deadline may not be met. We note that the 2-year Rule, (paragraph 15 of Section 1 of the 1994 Agreement), clearly recognizes in paragraph (c) that Council may not complete the elaboration of the regulations - or more properly the RRP's which would include the standards and guidelines.

Instead, we call on this Assembly to heed the widespread calls for a moratorium and follow the call made by the World Conservation Congress of IUCN in [resolution 69](#) in its call on all State Members, individually and through relevant international fora, to support and implement a moratorium on deep seabed mining, issuing of new exploitation and new exploration contracts, and the adoption of seabed mining regulations for exploitation, including 'exploitation' regulations by the ISA, unless and until the conditions stated in that resolution are met. That call has been joined by [numerous other organizations](#), and private industry, including the BMW Group, Volkswagen, Samsung, Google, the Volvo Group, Scania and Patagonia, and the list is growing.

Finally, Mr President, we thank the many delegates who emphasised the need for transparency. But it is important that this be implemented throughout the ISA's processes, including the LTC, environmental impact assessments and workshops, to cite some examples.

In the context of the strategic plan and Strategic Direction 9 on transparency, the Secretary-General mentioned the comments on the draft stakeholder engagement strategy. As far as we know, these comments have not been published and we think it would be helpful if they were.

Thank you, Mr President.