



Deep Sea Conservation Coalition

Statement to Working Group of the Parties on Public Participation in International Forums

Thank you Chair

I am speaking for the Deep Sea Conservation Coalition (DSCC), a coalition of over 100 non-governmental organizations concerned with the conservation of the deep ocean.

Today, we would like to bring to the attention of the Working Group three concerns around public participation in the decision-making procedures of the International Seabed Authority (ISA).¹

Firstly with respect to the Legal and Technical Commission. The 30-member Commission² holds its meetings behind closed doors.³ We would like the Working Group to take appropriate action, including for example recommending that the Commission opens up its meetings to the public, including broadcasting them via the internet, in view of the fact that the Area is the common heritage of humankind.

Secondly, with regard to public participation in Council and Assembly meetings: the Authority is in the process of executing a 'road map' for the accelerated elaboration of regulations to mine the deep sea. A three-week meeting is about to start on July 18. Yet despite the importance of this meeting, the Authority has introduced restrictive provisions on participation, placing observer delegations in a separate room to Member States and allowing only one delegate per delegation in the room. Other accredited delegation members are not even allowed onto the premises of the meeting and delegates will not be able to make interventions virtually.⁴ We would like the Working Group to recommend that non-restrictive, inclusive and transparent processes for public participation be implemented, or failing this, that the meetings be postponed until they can be.

The third matter we wish to bring to the attention of the Working Group relates to workshops held by the Authority. Workshops are one of the ISA's primary methods of developing policy yet are far from transparent. While Council emphasized the need to hold workshops in a transparent and open manner,⁵ the agenda, speakers and participants are tightly controlled by the Secretariat and accredited observers are routinely not entitled to participate. This applies both to physical and virtual workshops. We would like the Working Group to recommend that all workshops are fully open to public participation.

We look to the Working Group to take action to improve public participation in the ISA to comply with Aarhus Convention principles.

Thank you.



ENDNOTES

¹ We note that The Aarhus Convention is expressly incorporated in the Authority's Environmental Management Plan. "The Authority shall enable public participation in environmental decision-making procedures in accordance with the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, 1998, and its own rules and procedures." Environmental Management Plan for the Clarion-Clipperton Zone. ISBA /17/LTC/7. C.13 (f). At <https://www.isa.org.jm/environmental-management-plan-clarion-clipperton-zone>. Public interest in the work of the ISA has increased considerably, since the invocation by Nauru of the so-called "two year rule": Paragraph 15 of section 1 of the Annex of the 1994 Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 ("1994 Agreement"). The Rule is designed to achieve rapid adoption of regulations for exploitation of seabed minerals (deep-sea mining) and/or approval of a plan of work (leading to a contract granting approval to a contractor to commence deep-sea mining), despite significant and mounting environmental concerns. The two year rule could facilitate regulations which would allow mining to begin as soon as June 2023.

² The Commission, while advisory in form, in fact is very influential. For example, if it approves a contract and submits it to the vote of the ISA Council, it would take a $\frac{2}{3}$ majority of Council members including a majority of each Chamber to deny the contract (1994 Agreement, Annex Section 3, Paragraph 11). This is practically impossible to achieve, and means that, even if a majority of Council members are not in favour, a contractor could be allowed to mine nonetheless.

³ This is despite having been requested by ISA member States in 2017 in the Assembly, the supreme organ of the Authority under Article 160 of the Convention, to hold more open meetings for greater transparency. Assembly decision ISBA/23/A/13. At https://isa.org.im/files/files/documents/isba-23a-13_1.pdf. Para. 4.

⁴ The Secretariat has said that these restrictions have been necessitated by renovations of its normal Convention Centre and relocation to a smaller hotel, but this does not justify the lack of virtual participation or the exclusion of accredited observers from the premises. The DSCC and others have suggested that if a suitable venue could not be found, then in the light of the intense public interest in the meetings and their importance, the meeting should have been postponed.

⁵ ISBA/24/C/8 Statement by the President of the Council on the work of the Council during the first part of the twenty-fourth session. 13 March 2018. At <https://www.isa.org.jm/sites/default/files/files/documents/isba24c-8-en.pdf>.