



Deep Sea Conservation Coalition ISA 27 Interventions (July - August 2022)

21/7/22

Item 15 report of the Finance Committee/item 16 Budget

We support comments of Chile, Costa Rica, Peru, DOSI about the lack of foundation for the sustainability fund.

We also support the comments of Costa Rica and Spain on the need to budget the cost of study on environmental costs within the financial mechanism

Finally we note there is no allocation for external reporting such as by the earth negotiations bulletin

Thank you

Informal Working Group on the Protection and Preservation of the Marine Environment

Opening Intervention

Thank you Madam facilitator and it is good to see you in the chair again and we join other delegations in thanking you for your hard work on the revised documents

We welcome the cautions expressed by the many delegations, too lengthy to list here.

We particularly welcome the comments this afternoon by the Federated States of Micronesia about the Alliance, the effects on the Pacific Ocean and its people and the views of different delegations on how a moratorium is best progressed.

We have spoken in Council about the need for a moratorium due to the three essential reasons: known damage that will be caused to the marine environment from deep sea mining; the lack of adequate scientific information about the deep sea; and that the ISA is structurally and functionally not fit for purpose.

Specifically, on the latter point, we have noted the lack of a scientific committee, the lack of a process for independent scientific advice; the lack of an open hearings process where concerns, issues as well as scientific matters can be brought to the attention of the decision-makers; the absence of review procedures; the near impossibility of the Council deciding to disapprove a recommendation from the LTC to approve a plan of work, among others.

For all these reasons it is essential that regulations are not rushed to be put into place. We again want to speak plainly: the adoption of regulations would mean that applications can be accepted and a green light is given to mining.

This is why a moratorium is essential and why we welcome the expressions of support worldwide by civil society and by the Global Alliance of States.

We look forward to the discussions which we believe underline the issues we have just discussed..

On Germany's presentation, we thank Germany for its submission.

Our concerns revolve around the lack of scientific information - in short baseline information - sufficient to inform such an initiative, but in addition, the lack of independent scientific information to provide the information for such thresholds and the lack of a structure of the ISA for the provision of such independent scientific information in a transparent way.

Transparency is particularly important: looking at the ISA structure, where there is no scientific committee, and for example such thresholds could be developed in a closed LTC, far from the transparency procedure that is required. This illustrates why we continue to emphasise the lack of an adequate ISA structure and function.

There has been experience in New Zealand with a similar approach having been attempted by a proponent of seabed mining, which led to a similar approach being overturned in court, and upheld by higher courts, and specifically involving the lack of a baseline and therefore objective thresholds and we believe this reflects the above concerns.

DR 44: General Obligations

Thank you for the floor Madam facilitator

We are pleased to see reinstated "stakeholder participation" paragraph (1) (a)(iv).

Paragraph (1) (a) (ii) that currently reads "Apply the Best Available Techniques and Best Environmental Practices" should further specify [quote] "that ensure the effective protection of the marine environment and no loss of biodiversity". [unquote]

We think it is essential to include the precautionary principle (rather than approach) throughout the draft. The precautionary principle is a cornerstone of international environmental law and has a higher normative value than "approach". The precautionary principle requires that lack of full scientific certainty shall not be used as a reason for failing to prevent environmental degradation. We associate ourselves with the observations of FSM on this. We hear a lot about how important the precautionary principle outside the ISA; we believe it should be implemented within it.

In paragraph C, there is no reference to cumulative impacts, including the impacts of climate change and noise, and the need to prevent environmental damage not only in areas directly impacted but in all affected areas. All cumulative impacts must be taken into account.

We have a proposed new subparagraph to implement Article 145 of UNCLOS. The subparagraph should read as follows:

"Ensure there is no loss of biodiversity, damage to the flora and fauna of the marine environment, or degradation of ecosystems and ecosystem services."

This is key to implementing Arts 145 and 194(5) and to ensuring consistency with the Sustainable Development Goals, in particular SDG 14, Target 2, as well as protecting biodiversity in the face of the growing biodiversity crisis.

Finally we associate ourselves with Italy's suggestion that Council discusses liability, and with the United States' comments about remediation.