



DSCC Intervention to the ISA Council debate on the drafting of a framework for exploitation regulations

20 July 2015

We appreciate the comprehensive document prepared by the LTC, the amount of work that has gone into producing the document and the value of the stakeholder consultation that is clearly reflected in the document. In regard to the President's request that we provide comments on the High Level Issues outlined in Annex 2 of the document, we would like to make the following observations:

Issue 6 - Confidentiality

We fully agree with the sentence at the end of the first paragraph that “The issue of publically available information and meaningful stakeholder participation in the decision-making processes is a policy matter for the Authority in discussion with stakeholders” and with the following sentence that “This issue should be prioritized”. The Commentary in the second paragraph of the section proposes two potential options for moving this forward – “a technical paper setting out the legal options based on best practice and trends” and “options may be proposed in the draft exploitation regulations for consideration by stakeholders.” We would suggest that both options have merit but that a technical paper setting out the legal options could be produced and then circulated to stakeholders for their input before drafting options for the exploitation regulations. We also agree with final sentence that there is a general consensus that environmental information should be publicly available and for the need for a transparent process.

Issue 7: Effective protection for the marine environment from harmful effects

We support the need for an ecosystem based approach and the proposal to develop specific criteria and guidance for concepts such as “significant adverse change”; vulnerable marine ecosystems” ; concepts which have been debated quite extensively by the UN General Assembly in regard to deep-sea bottom fisheries in ABNJ. In regard to point number 2 under Issue 7, in our view Strategic Environmental Assessments (SEAs) and SEMP are an essential approach. They are a necessary prerequisite to determine the size, locations and numbers of areas in a given bioregion that should be set aside to conserve source populations, ensure species connectivity and viable population sizes, and otherwise ensure continued ecosystem function and viability across the region. SEMP are a necessary framework within which to evaluate individual, site specific, environment impact assessments and establishing management plans for such sites and a critical mechanism for assessing potential and actual cumulative impacts at appropriate bioregional scales, not only those related to seabed mining activities but also impacts of other activities, or from other sources, combined (e.g. ocean acidification, deep-sea fishing). The SEAs and SEMP must be science based and will need to be developed independently of individual contractors' EIAs, although the SEMP can and should benefit from the environmental impact assessments and baseline information collected by contractors in a region, and vice versa.

We would add that SEMP's should include provisions for periodic review, as has been agreed for the CCZ EMP, particularly as new information is generated from contractor's accumulation of baseline data, EIAs and EMP's as well as independent research and surveys, and the SEMP's revised accordingly. Such a review process would also provide an important tool to address cumulative effects of multiple exploration and exploitation activities in a region, as well as to take into consideration cumulative impacts from other activities affecting the region as well. There needs to be a dynamic relationship between SEMP's and site specific EMP's.

Issue 14. Mining inspectorate / directorate / environmental regulator

Monitoring Control and Surveillance is a critical element of the regulatory framework. And while there are fundamental differences between deep-sea mining and deep-sea fishing in ABNJ, nonetheless consideration of flag state compliance; observers, vessel monitoring systems and other types of monitoring technology; at sea transshipment measures and both at sea and port based inspection requirements and procedures. In this regard, we have listened carefully to the discussion during this meeting regarding concerns over the provision of data by contractors as required under the exploratory licenses. We urge the ISA to maintain vigilance and effective oversight lest inadvertently an atmosphere of lax regulation and compliance takes root in regard to the regulations currently in place which may make it much more difficult to ensure compliance with the regulation if and when exploitation takes place.