

7 December 2021

## **Tuesday Council Day 2: Item 12 - Draft Regulations for the exploitation of resources in the Area (Roadmap)**

Thank you, Mr President,

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

Mr President, DSCC is profoundly concerned at the direction this organisation is being asked to take and we fear that the road map is a map which would take it entirely in the wrong direction.

The ISA has been asked 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, to 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, the sponsoring State of NORI, Nauru, triggered the 2-year rule in the midst of a pandemic, and causing considerable expense and inconvenience to delegates.

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.

Only last week, the ISA published a paper on the Sustainable Development Goals which repeats this narrative. But while we reject the narrative, including for the reasons explained by Earthworks, we do welcome the request to Member States to debate whether seabed mining should start. Our briefing to this meeting addresses these arguments in more detail. We think 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 outlined by Greenpeace in its intervention.

Mr President, Nauru's Canadian-based contractor's parent The Metals Company's listing in the New York based NASDAQ stock exchange raises important questions about effective control - where is the effective control of NORI, a subsidiary of the Metals Company? If not in Nauru, where is it, and what are the consequences of that? This effective control issue previously arose on the acquisition of NORI from its previous owner, Nautilus, which went into liquidation, at the cost to Papua New Guinea of over \$100 million.

We believe that this issue of effective control needs to be added to the list of urgent issues and needs to be addressed by Council urgently, through requesting an Advisory Opinion if necessary, as well as for questions on paragraph 15 as suggested by Belgium. This should be added to the long list, including the list noted by CR and other member States in their letter and by Belgium just now.

Another important issue, noted by Germany, is liability which has not been debated in Council.

As Chile and Costa Rica noted, the request by Nauru must be viewed in the context of the pandemic, and its validity must be assessed, considering force majeure and impossibility and the ongoing pandemic. It must also be assessed against other obligations including the protection of the marine environment and other international commitments, which were noted yesterday by Fiji.

Mr President, We support Germany's suggestions to add an Item in the roadmap on common understanding on the issues of Council response to submission of a plan of work and the support of the idea by the Netherlands.

Equally, we suggest that the road map should address the issue of whether DSM should proceed at this time, including the issue raised in the ISA paper of whether deep sea minerals are necessary for the renewables revolution.

Mr President, we support the letter written to the Council by the Latin American Working Group on Ocean Mining, a group of civil society organizations that are experts in protecting the environment and marine ecosystems, in expressing concern that the roadmap excludes such fundamental issues as the effective protection of the marine environment, how to protect the common heritage of humankind, how to incorporate the precautionary principle and what is in the interests of humanity. These are important questions which cannot be rushed and must not be ignored.

Mr President, numerous delegates, including Costa Rica and most recently Belgium, have noted that comments by non-Council members and observers have not been incorporated anywhere. Nor have comments on either batch of standards or guidelines. Transparency, Mr President, requires not just the ability to comment but also that the comments are taken into account, as Pew has just pointed out.

Mr President, with Germany, Russia France and Costa Rica, Chile the African Group and Australia, New Zealand and Pew, we note 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 recognises 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.

As Belgium said, there are important legal questions arising from paragraph 15 which this scenario would raise which we believe the Council should start considering as soon as possible. There should be scope in the road map to consider this as well. This should also include the legal questions on Nauru's request itself which Costa Rica identified, as well as the broader questions we have raised above.

Thank you.