

## **Earthworks intervention on Agenda item 12: Draft regulations for exploitation of mineral resources in the Area and proposed road map for 2022 and 2023 ISBA/26/C/44**

Report of the Secretary-General

We would like to stress four points related to the roadmap proposed by the Secretary General and the discussion this session:

1. Council members will not be acting irresponsibly nor be in breach of UNCLOS obligations if they do not adopt the exploitation regulations by July 2023 for the reasons expressed by the African Group, Germany, Costa Rica, Russia and many other delegations this morning.

2. We concur with the concerns that the negotiation of the regulations not be rushed. In a special issue of the journal of marine biodiversity focused on the CCZ, the editors of the edition – three leading deep-sea scientists - stated “due to the slow growth rates of nodules...the nodules and nodule dependent fauna may take millions of years to recover, and even the partial recovery of the motile sediment-dwelling fauna may take hundreds to thousands of years.” Do the regulations really need to be rushed to allow mining for nodules in the CCZ to occur over the next few years when impacts could be felt over millions of years, including the risk of species extinctions? What’s the hurry?

3. As delegations may be aware, to many outside observers, the main reason Council is debating the roadmap this week and whether to adopt regulations in the next 1.5 years is because TMC needed to convince investors that it would get a license within the next 2 years in order to complete a merger before November 2021. This is clear from reporting on the 2-year trigger by Bloomberg, Wall Street Journal, the UK Guardian and other publications over the past half year. The merger sought by TMC was successfully completed in September 2021 which then allow it to list on the NASDAQ stock exchange in the United States. TMC stated in its 3rd quarter filing with the US Securities and Exchange Commission (SEC) that the triggering of the 2-year rule by the Republic of Nauru “obliges the ISA to complete the adoption of exploitation regulations within two years”.

*["This notice by the Republic of Nauru obliges the ISA to complete the adoption of exploitation regulations within two years of the request made by the member state. An in-person ISA Council & Assembly meeting in Kingston, Jamaica has been scheduled for December 6 – 15, 2021"] TMC Q3 SEC filing November 2021*

We would submit that rushing the regulations in the absence of adequate scientific information, among other things, primarily to accommodate, or for the benefit of, The Metals Company may not only risk casting aspersions on the integrity of the ISA but may undermine public confidence in the UN Convention on the Law of the Sea itself.

4. Finally, Earthworks has many years of experience working to improve the environmental and social performance of terrestrial mining. In our view deep-sea mining for nodules will not be a substitute for terrestrial mining for nickel, cobalt, copper and manganese, but rather serve to expand the footprint of damaging industrial resource extraction into a whole new frontier of the planet. There is no such thing as sustainable deep-sea mining. It is not sustainable biologically, environmentally or even geologically.

The solution to damaging terrestrial mining is to reform the industry through, for example, promoting adherence to the Initiative for Responsible Mining Assurance (IRMA) standards for terrestrial mining, which Earthworks helped develop.<sup>1</sup> In addition, there is a need to make

---

<sup>1</sup> <https://responsiblemining.net/>

much better use of the metals already available and often discarded; ensure better product design; substitute metals whose extraction is damaging to the environment with low impact (social and environment) metals and materials for renewable and other technologies; design better transportation systems; and overall not exacerbate the biodiversity crisis in attempting to solve the climate crisis, especially in light of the many commitments made by Heads of State over the past year to halt and reverse biodiversity loss by 2030. For these reasons we support the intervention and call for a moratorium by the Deep Sea Conservation Coalition (DSCC) and the interventions by the other observers - DOSI, Greenpeace and Pew.