



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

18/7/22

Intervention Open Ended Working Group

Thank you Mr President

Firstly, we would like to address the fact that almost all people following online have been cut off following the commencement of the working groups. They were following on Webtv which is now playing music.

Given that many delegates had intended to attend physically, but changed those plans because of the restrictions, intending to participate virtually, this is a double blow. Nowhere was it stated that the feed would stop once the working groups begin.

We believe that proceedings should have stopped, as Canada, Costa Rica, Chile, Italy, Spain and Belgium and others have suggested, until web-tv is reinstated.

Presumably somebody just has to push a button.

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Mr President, in our earlier intervention we emphasised our disappointment with the physical restrictions on public participation.

Given that many delegates had intended to attend physically, but changed those plans because of the restrictions, intending to participate virtually, turning off webtv is a double blow.

Firstly, on the webtv issue, we thank Canada, Costa Rica, Chile, Italy, Spain, Dominican Republic, NZ, and others for supporting transparency and continued webtv. The Aarhus Convention on public participation, which is endorsed in the CCZ EMP, and to which many European States are party, requires transparency in fori such as these.

Nowhere was it stated that the feed would stop once the working groups begin. Nowhere did the Secretariat clearly state that delegates should request a token.

How will persons who did not know about the restrictions on virtual participation

The Aarhus Convention on public participation, which is endorsed in the CCZ EMP, requires transparency

Now moving to the substance

Like other delegates who have mentioned this, we are taken aback that the Briefing Note has no mention of the valuation of externalities. It was agreed in principle during the Working Group session in March that Council would request the Secretary-General to commission an independent study to assess the value of ecosystem services and natural capital, as well as potential environmental costs of activities in the Area, including effects on ecological functions and biodiversity.

For those who were not here in March, this suggestion more specifically concerned the valuation of ecosystem services such as carbon sequestration via the marine biological pump; tuna and other fisheries (e.g. in the Clarion Clipperton Zone); and potential future benefits from marine genetic resources to both current and future generations. Even more important is valuing the damage that would be caused to these ecosystem services by deep-sea mining, which the science indicates is likely to be significant and, in some cases, irreversible.

Valuing natural capital and ecosystem services enables accounting for nature's role in the economy and human well-being. But, more broadly, we should also be considering the non-monetary and intrinsic value of nature. The 'value' of nature lies not only in the ways in which it benefits humans, but also in its *existence independent of us*. Anthropocentric perceptions of nature's value belong to a bygone era of limitless extractivism - it is time to take a more holistic approach to the way we assign value to the world around us.

We note also that many leading companies are pre-divesting from using minerals from the deep sea, such as Google, BMW and Volvo, to name but a few. We also note advances in battery technology and innovative recycling solutions that are reducing demand for deep-sea metals. Even The Metals Company itself acknowledges, and I quote "Technology changes rapidly in the industries that utilize our materials. If these industries introduce new technologies or products that no longer require these metals, or if suitable substitutes become available, it could result in a decline in demand which could significantly affect our profitability". We have not seen any economic valuation or discussion of those impacts to date, either.

The ISA is required to effectively protect the marine environment from harmful effects arising from mining activities, and yet there has been no attempt to assess any of the above. Furthermore and linked to this, there is no scientific rationale behind the quantum of the proposed compensation funds. This is not the first time this has been brought to the attention of the Authority.

We appreciate that it will not be easy to make these assessments due to technological challenges and limited scientific data relating to the deep-sea. However, these factors are crucial to ensuring a comprehensive understanding of what is at stake and therefore must be evaluated and taken into account. Any study must recognise the data gaps, and mining should not be allowed to proceed without a full appreciation of what we and future generations will lose.

The externalities including value of and potential damage to natural capital and ecosystem services must be quantified. The ISA is required to effectively protect the marine environment from harmful effects arising from mining activities, and yet environmental externalities have not been included in the discussion we have had here to date, leaving the environment and damage to the environment to one side. The environment cannot be put to one side. Intergenerational equity, healthy fisheries, carbon sequestration processes, marine genetic resources and the marine environment are all at the heart of the issue of deep-sea mining. And so is the irreversible damage that would be caused - damage to the seabed, damage from plumes, including to coastal communities and damage to fisheries. Failing to quantify these matters does not make them go away.

We do want to be clear that there is no case for damaging the environment, even if it has been valued. The uncertainties inherent in deep-sea mining alone make this very clear. A moratorium would give us time to undertake the necessary studies.

Thank you

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Opening/Council

Items 1, 6

Thank you Mr President and good morning delegates.

I am delivering this for the Deep Sea Conservation Coalition and our over 100 member organizations concerned about the conservation of the deep sea.

We very much appreciate the efforts of the host State Jamaica to provide for this meeting. It is always a pleasure to be here in Jamaica and to be able to appreciate the hospitality Jamaica is famous for. We also join other delegations in noting the importance of Nelson Mandela Day and the enormous contribution of Nelson Mandela to peace, dignity and equality.

This is a critical meeting, and we do want to acknowledge the member State delegates and observers that have not

come due to the announced limitations. There simply was no point in going to the expense and making the journey here for delegates to sit in their hotel rooms. We believe that the restrictions on participation at this meeting are unacceptable, as well as non-inclusive and non-transparent – and utterly out of step with the norms and expectations of international decision-making processes, particularly given the importance of the coming 3 weeks. If they were unavoidable, we believe this meeting should have been postponed until a suitable venue was available. Instead, we are restricted to one delegate per delegation in a separate room to the State delegates. Interactions between States and Observers have been severely curtailed by placing the two groups in separate rooms. What's more, we have been informed by several journalists that they too have been denied access to the meetings.

We do thank those delegations which wrote to the Secretariat seeking to relax these restrictions, and we do welcome the virtual participation possibilities for Council and, we hope, Assembly.

We are only a one short year away from the moment when Council members may be required to make a decision on whether or not to adopt hastily negotiated regulations to strip-mine the seabed, in spite of the significant environmental concerns.

Mr President, this meeting continues to be framed by the 2 year Rule invoked by Nauru for the benefit of its contractor, NORI. DSCC is alarmed that the rush to develop regulations, standards and guidelines is being driven by the 2 year Rule, in response to the merger and flotation of The Metals Company and its need to promise investors a rate of return through starting seabed mining in 2024.

This is the worst possible way to develop regulations and the worst possible reason to develop them, when scientists tell us how much uncertainty there is yet how much damage would be caused by deep-sea mining.

The rush to develop regulations is fundamentally misconceived. It is far, far too early to develop regulations. Put very simply, the adoption of regulations will mean the start of seabed mining. The

Metals Company makes that very plain in their many statements to potential investors. That is their plan. The ISA and indeed the world must not be led by the nose by a company which openly says it intends to engage in seabed mining in 2024 once it obtains a contract, and whose current market capitalization is around 1/15 of the value that they promised.

But to those who have despaired that we are on a one way path towards the start of mining next year, there is now hope. A number of Council members and other States have now recognised that a delay or a moratorium on the adoption of regulations is essential. There are three reasons this is so.

Firstly, we know that mining will be damaging. Deep-sea mining will damage the seabed and kill or harm living creatures of the deep-sea (the word used in Annex IV is “crush”) and smother life on the seabed and life on the nodules, cause damaging benthic sediment plume and a sediment plume from the return discharge, release toxic substances and harmful noise as well as other effects. The science we do have shows that effects from mining will be widespread, significant, and long-lasting, or to all intents and purposes, permanent, causing damage to and loss of biodiversity. Numerous scientific papers bear this out. Other members and observers will speak to these matters in coming days and weeks including the scientists of DOSI.

Secondly, there is inadequate scientific information about the deep sea. Deep-sea scientific knowledge is currently too sparse to avoid environmental risks and ensure the protection of the marine environment from deep-seabed mining. We are years, decades even, away from having comprehensive environmental baseline information for the regions where deep-seabed mining may occur, both for the seafloor and water column within and outside contract areas. Lack of understanding the impacts of deep-seabed mining is a critical gap.

Thirdly, there are structural and governance issues at the heart of the ISA. By this we mean no disrespect to delegates who have worked long and hard. But there are severe structural and functional problems.

To cite a few issues, the LTC meets behind closed doors, there is no scientific committee, which is a major gap, recommendations of the LTC for plans of work can only be disapproved by a $\frac{2}{3}$ majority of Council including a majority in all the Chambers, meaning that the $\frac{2}{3}$ majority of Council could be opposed to approving a plan of work, and yet it would be accepted anyway.

There are conflicts inherent in the ISA structure; there is no appeal from decisions to approve a plan of work other than that contractors themselves can take a case to ITLOS over a refusal of a Plan of Work; numerous issues of public participation and transparency still exist, and the restrictions on participation in this meeting speak volumes. And to this we must add the lack of a transparent, independent hearings process that would impartially and transparently process any applications should they ever eventuate, applying independent best available science. It is simply magical thinking to imagine that mining could occur in just 2 years time and not cause enormous damage to the marine environment. Speaking quite frankly, as we saw in the United Nations Oceans Conference just a few weeks ago, there is deep and widespread dismay at the prospect of regulations being adopted next year giving the green light to deep-sea mining. Put very simply, and clearly, if regulations are adopted next year, that will see the commencement of deep-sea mining, no matter how stringent the regulations may appear.. That would be a tragedy for the ocean, but also for the ISA.

Mr President, for all these reasons, and more, this is why a moratorium on deep-sea mining is essential. That is why we are delighted that the global Alliance for a moratorium was formed and we want to pay our respects to the States that have put up their hands to support a moratorium, together with a strong statement by the President of France, who called for States to “create the legal framework to stop high sea mining and to not allow new activities putting in danger these ecosystems”. We believe it is time for the Council and Assembly to take note of and act on these initiatives.

We again emphasise that the regulations, standards and guidelines under discussion would cover all 3 types of mining - nodules, cobalt crusts and sulphides - yet almost all discussion is about nodule mining, ignoring two unique and important ecosystems - hydrothermal vents and seamounts. This is another major concern which is too easily forgotten.

Thank you Mr President

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Item 12 intervention

Item 12: Report of the Secretary-General on the implementation of the decision of the Council in 2021 relating to the reports of the Chair of the Legal and Technical Commission (ISBA/27/C/27)

Thank you Mr President

In the last session in March, we noted concerns around the so-called Circular Metals application with Tuvalu as a sponsoring State, and a discussion followed in Council, expressing concerns about transparency and information being given by the LTC and lack of publicly known information about the company.

The following month, in April, Tuvalu announced that it was rescinding its sponsorship of Circular Metals Ltd, with its Foreign minister saying that his government was now standing firm in its opposition to seabed mining.

Tuvalu's Ambassador Samuelu Laloniua at the United Nations Ocean Conference said Tuvalu rescinded its deep-sea mining sponsorship application in March as an expression of their 'common stewardship responsibility' He said, and I quote, that

"Our common stewardship responsibility is to ensure stringent environmental protection in light of the potential harm that deep-sea mining could entail on ecosystems, biodiversity, fisheries and worse still, the potential harm on the climatic function that the deep ocean plays, which will be a liability borne by the sponsoring state."

This statement underlines the issues of environmental damage, liability and common stewardship responsibility faced by sponsoring States, and the first case of a sponsoring State taking such a step.

But we have not seen anything on the ISA website or in communications by the ISA of this important step.

In ISBA/27/C/16 we read that "The Commission decided to continue its consideration of the application at part II of its twenty-seventh session, in July. " No correction was issued.

In the interests of transparency, we would ask the Secretariat why not and ask them to disclose relevant correspondence with Tuvalu? Delegations should not have to rely on google and interventions for such relevant information