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Acting President Olav Myklebust
International Seabed Authority
Kingston, Jamaica
Sent via email: olav.myklebust@mfa.no

cc. Michael Lodge (mlodge@isa.org.jm)

Dear Acting President Myklebust,

We write to you concerning the proceedings of the Assembly of the International Seabed Authority during the 27th Session on August 4, more specifically during the discussion of Agenda Item 19 (other matters).

It had been decided that the new agenda item proposed by Chile, regarding issues relating to the triggering of the "two-year rule", would be discussed under Item 19. This was a matter of central interest and concern to both Member States and Observers. A number of States duly spoke. After they had concluded, as President, you referenced Rule 82, paragraph five of the Rules of Procedure of the Assembly that states that Observers "may sit at public meetings of the Assembly, and upon the invitation of the President and subject to the approval by the Assembly may make oral statements on questions within the scope of their activities." You mentioned that you would invite the six Observers that requested the floor to make statements under agenda item 19, but that the speaking time would be limited to three minutes per Observer so that the session, and the entire Assembly meeting, could conclude before 1pm.

We would like to share the following concerns with you regarding this decision:

1. We deeply regret that there was absolutely no notice given to any of the Observers, including the Deep Sea Conservation Coalition, which you invited to take the floor seconds after your ruling. This meant that Observers had no opportunity to revise prepared statements to fit your time limit.
2. We also note that the meeting was not scheduled to finish during the morning session of 4 August. Instead, the Assembly meeting was scheduled to run for another day and a half. As you indicated in your later remarks, the meeting could have resumed after lunch. Therefore, there was no specific need for this unplanned speaking time limitation. From the Observer vantage point, you offered to conclude the meeting after lunch, and were dissuaded from doing so, but - from the Observer perspective, it was not apparent which delegation or person spoke against doing so.

3. To the Observers present at the meeting, this decision appeared arbitrary, impromptu and non-transparent, especially because there was no time limitation applied to any State's intervention. This is in contravention of many commitments and stated goals of the ISA.

Yet, the Strategic Plan, [ISBA/24/A/10](#), states as follows;

"25. Transparency is an essential element of good governance and is therefore a guiding principle for the Authority in the conduct of its business as a publicly accountable international organisation. This includes transparency in the internal administration of the Authority, as well as its internal procedures, the procedures of its various organs and subsidiary bodies, and its procedures towards States. Transparency plays a fundamental role in building trust in the Authority and in enhancing the Authority's accountability, credibility, and support across its stakeholder base."

Even more specifically, the Environmental Management Plan for the Clarion Clipperton Zone ([ISBA/17/LTC/7](#)) provides in paragraph C.13(f) that *"The Authority shall enable public participation in environmental decision-making procedures in accordance with the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, 1998, and its own rules and procedures."*

That Convention, known as the Aarhus Convention, requires in Article 7 that *"Each Party shall make appropriate practical and/or other provisions for the public to participate during the preparation of plans and programmes relating to the environment, within a transparent and fair framework"*.

The [Almaty Guidelines on Promoting the Application of the Principles of the Aarhus Convention in International Forums ECE/MP.PP/2005/2/Add.5](#) require reasonable timeframes (para 35) and that the public should be informed in due time of the opportunities, procedures and criteria for public participation in the decision-making.

Finally, the [Strategic Directions for the ISA](#) for the most recent reporting period (2021-2022) include Strategic direction 8: improve the organizational performance of the Authority, a subpart of which is to "Further encourage the active participation of members and relevant stakeholders to achieve the Authority's mission objectives through cooperation and collaboration" (8.2.1) and Strategic direction 9: Commit to transparency, a subgoal of which is to "9.4.2 Actively engage relevant stakeholders in the work of the Authority, as appropriate." (9.4.2).

We believe that it is clear that in the circumstances, where there was ample time left in the agenda, the three-minute time limit was not reasonable, and it was further abuse of process that Observers were not informed in due time of this newly imposed constraint. These actions are not in line with a commitment to stakeholder engagement and participation.

We urge the International Seabed Authority and all its organs to follow natural justice and due process in future proceedings in order to ensure transparency in the internal administration of the Authority, as well as its internal procedures, and the procedures of its various organs and subsidiary bodies.

Yours sincerely,

