

DSCC Briefing on the ISA Council Meeting

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The Deep Sea Conservation Coalition (DSCC) unites over 100 non-governmental organizations committed to the protection of the blue heart of our planet: the deep ocean. The United Nations First World Ocean Assessment, states that “This truly vast deep-sea realm constitutes the largest source of species and ecosystem diversity on Earth” and that it “supports the diverse ecosystem processes and functions necessary for the Earth’s natural systems to function”. However, the deep sea faces multiple environmental stressors with a new threat on the horizon: deep-sea mining.

Science has repeatedly demonstrated that deep-sea mining would cause **irreversible damage** to unique ecosystems, and **significant adverse environmental impacts**, including the potential **extinction of species**. Impacts could [extend to fisheries](#) and the [deep-sea’s climate regulatory functions](#). Any [benefits would line the pockets of industry players in wealthy countries](#), while the greatest risks would be faced by vulnerable coastal communities.

In June of this year, the United Nations Environment Programme Finance Initiative published a [report](#) that concluded that there is **no foreseeable way in which deep-sea mining can be viewed as compatible with the spirit and intent of the Sustainable Blue Economy**. Rapid developments in battery technology and circular economy sectors offer an expanding set of [alternatives to reduce demand](#) and avoid opening a vast new extractive frontier. Meanwhile, the [opposition](#) from States and a large array of stakeholders, including the fishing sector, corporations including [Volkswagen Group, Triodos Bank, Scania, and Patagonia](#), scientists, coastal communities and [civil society](#) is rapidly growing.

In this context, governments are gathering in Jamaica, at the end of October, for the meeting of the **Council of the International Seabed Authority (ISA)**. The **main issue of concern** for this Council meeting is the fast approaching expiration of a two year deadline, triggered in June 2021, that could see The Metals Company (TMC) subsidiary, Nauru Ocean Resources Inc (NORI), mining in the Pacific deep sea as soon as July 2023.

The DSCC urges governments attending the ISA Council meeting to:

1. Publicly support the growing call for a moratorium or precautionary pause on deep-sea mining by joining the like-minded States who have taken a public

stance against DSM and in support of a healthy, sustainable ocean and planet, including the Alliance of Countries calling for a Deep-Sea Mining Moratorium.

More and more governments are voicing their concerns and opposition to deep-sea mining. At the UN Ocean Conference that took place in Lisbon earlier this year, Palau launched the [Alliance of Countries calling](#) for a Deep-Sea Mining Moratorium, an initiative that received immediate support from a number of the Pacific Island States that would be at the forefront of the impacts of deep-sea mining, were the industry to go ahead. In the same week, France's President Emmanuel [Macron](#) called for a "stop" to deep-sea mining. At the most recent ISA meetings in July of this year, resistance grew, with States such as Chile, Costa Rica, Ecuador and Spain calling to postpone the rush to mine the deep.

2. Prevent the adoption of mining regulations in 2023

There is **insufficient scientific information** for responsible, evidence-based decision-making. If regulations were adopted, the ISA would be able to allow the allocation of mining contracts up to 60 years long (30 years contract and multiple 10 year renewals). [We are at least 10 years away](#) from even having a sufficient environmental baseline to make informed decisions regarding the impacts of deep-sea mining (Amon et al.). The adoption of regulations would give the green light to deep-sea mining and allow all contractors to apply for exploitation contracts, despite the significant environmental risks and vast knowledge gaps about deep-sea biodiversity and climate regulatory functions. Deep-sea mining therefore cannot be considered a sustainable solution to the challenges of the 21st century.

Moreover, regulations are only as good as the regulator, and the regulator is currently not fit-for-purpose. The rush to mine served by the business as usual approach taken by the ISA Secretariat was **made evident again just a few weeks ago** by a **highly irregular approval process** allowing a subsidiary of TMC to conduct a test mine. The [DSCC has asked for the approval to be reversed](#); that the relevant documentation and decisions be released; that a transparent, full Legal and Technical Commission (LTC) meeting be called; that independent scientific advice be obtained; and that the environmental impact statement (EIS) be re-examined in its entirety and made available for public scrutiny.

3. Prevent the granting of mining contracts, unless and until there is a robust environmental baseline and it can be clearly demonstrated that deep-sea mining will not harm the marine environment

Due to an obscure loophole in the 1994 Agreement, often referred to as the "2 year rule", States are currently faced with the possibility of having to consider the approval of a mining contract for the Pacific Ocean, even if the regulations are not adopted by July 2023. Given the vast gaps

in scientific knowledge and the certainty of harm to the marine environment from nodule mining, “fast-tracking” the start of deep-sea mining would be reckless, irresponsible and contrary to international commitments for nature. There is an emerging discussion over the options available to Council members should such an application be submitted for consideration (referred to as “what if” scenarios). Far from approaching it as a one way street to “unregulated” mining, **States must exercise their power preemptively to ensure no mining is fast-tracked under the “2 year loophole”**. States could:

- **Use their powers to preemptively prevent or lessen the chances of any contract being approved. For example:**
 - **Council** could exercise its powers to issue a directive that the LTC should not recommend approval of applications to mine.
 - **Assembly** could establish a general policy that no deep-sea mining can be permitted unless and until a number of conditions are fulfilled.
 - The Secretary-General could be instructed not to issue a contract for exploitation if a plan of work is recommended without approval of the Council.
- **Reject** a recommendation to approve a **mining application** (at least $\frac{2}{3}$ majority with a majority of all the Chambers).

Despite the urgency and the importance of this issue for the future health of the ocean and coastal communities, the ISA Secretariat has dedicated insufficient time in the upcoming meeting agenda for this discussion. Instead, the Secretariat has issued a **business-as-usual** programme of work, aimed at advancing the approval of mining regulations and the beginning of a dangerous new extractive industry.

DSCC urges States to ensure there is adequate time to formally and openly address the critical question of avoiding fast-tracking unregulated mining. This may well be the space where States decide that **mining cannot go ahead as soon as next year**, a discussion mining interests would prefer not happen. It is also essential that the full ISA membership, in the form of the **ISA Assembly**, is convened before the expiry of the two-year deadline in July 2023, as this issue involves all States that must have their say over whether or not mining is permitted as of next year.

4. Initiate an international inquiry following the New York Times and Los Angeles Times allegations.

In addition to the [inherent flaws](#) of the ISA that point to the need for institutional reform, this year alone, concerning examples have been revealed in reports from the [New York Times](#) (NYT) and the [Los Angeles Times](#). The NYT in particular, [posted a cache](#) of internal memos, emails etc that underpinned the story. The DSCC urges the Council to initiate an independent inquiry into the allegations and consider the implications, including for TMC subsidiary exploration contracts.

For more information please contact the DSCC team that will be attending the upcoming Council meeting:

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