Dear Mr Lodge,

Re: Secretary-General's bulletin and media accreditation

We are writing with reference to your bulletin of 22 June (ISBA/ST/SGB/2023/1) on the “Management of conferences and events of the International Seabed Authority held in the Jamaica Conference Centre” and regarding media access to the ISA meetings.

We recognise that it is within the right of the ISA’s Secretariat to establish rules for the effective functioning and management of conferences. However, we are concerned that these rules do not further the ISA’s ability to effectively execute its mandate.

We recommend that media be accredited for Assembly and that the Bulletin is revised according to the following points raised in this letter:

● Removal of instructions for actions outside of the conference centre
● A revision of the rules regarding actions, demonstrations and protests inside the conference to bring them in line with similar guidance of other multilateral organisations
● Removal of the ban on “derisory activity or criticism directed at the Authority, its Member States, the Secretariat, the competent authorities of the host government”
● Removal of vague prohibitions such as “Aggressive actions in order to access or obtain media coverage of high-profile participants which may create an unsafe environment, impedes safe movement, invades the personal space of the high-profile participant or creates a potential for mob effects”
● Apply more flexible rules and allow a degree of flexibility regarding the use of cameras and audio/video recording particularly when participants are only recording themselves
● Revise the prohibition on the use of the ISA emblem or logo according to international and national jurisdiction on freedom of expression
It is important that those conference management rules and their application in practice scrupulously uphold international standards particularly in the area of freedom of expression. Accredited NGOs and media organisations have an important role to play in the functioning of multilateral organisations, including the ISA. The very purpose of their participation in conferences is to ensure all perspectives are heard, all questions answered, and all concerns addressed. For such organisations to do so, the deliberations must be open to public scrutiny.

However, part of the new guidelines and the way they are being applied can have a chilling effect on fundamental freedoms recognised by the vast majority of the ISA member States. Numerous human rights institutions, both national, regional and international, have repeatedly emphasised the importance of the freedom of expression.\(^1\) You have undoubtedly noted that the UN High Commissioner on Human Rights has recently expressed the need to ensure transparent, inclusive, safe and meaningful participation of civil society in environmental negotiations.\(^2\)

Restraining access to meetings for media and threatening public monitors with removal of accreditation is in contradiction with promoting “a work environment that is safe, professional and of mutual trust where diversity and inclusion are valued”.

This is especially true for anything that happens outside the conference, where the Secretary-General does not have any prescriptive jurisdiction. Instructions for actions outside the conference venue should therefore not feature in any ISA documentation, as they do under paragraph 21 of the bulletin.

We note that there are other provisions in the bulletin which could raise concerns under international standards on freedom of expression. The prohibition of “non-authorised actions, demonstrations or protests and other political acts” within the JCC itself (Section VIII) is much stricter than similar guidelines issued by other multilateral organisations. Moreover, as has been pointed out by numerous international bodies, demonstrators have the right to protest “within sight and sound” of their target audience,\(^3\) a principle which we trust will be respected in the designation of an area for peaceful demonstrations.

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2 The UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), which is implemented in the Clarion Clipperton Zone Environmental Management Plan’s Almaty Guidelines on Promoting the Application of the Principles of the Aarhus Convention in International Forums emphasises the need for international meetings to be open to the participation of the public subject to restrictions which are necessary and unavoidable for practical reasons. We also note the article by Elisa Morgera and Hannah Lily. Public participation at the International Seabed Authority: An international human rights law analysis. Available at https://onlinelibrary.wiley.com/doi/full/10.1111/reel.12472

What is more, the ban on media actions engaging in “derisory activity or criticism directed at the Authority, its Member States, the Secretariat, the competent authorities of the host government” is difficult to reconcile with international standards. The requirement seems unique to the ISA; is subjective and therefore vulnerable to abuse or capable of creating an atmosphere of fear. The UN Human Rights Committee, expressing a well-established principle, has stated that “the mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties” and it has expressed concern about rules against “disrespect for authority” or for “the protection of the honour of public officials”. The prohibition on “e) Aggressive actions in order to access or obtain media coverage of high-profile participants which may create an unsafe environment, impedes safe movement, invades the personal space of the high-profile participant or creates a potential for mob effects are not permitted” is undoubtedly vague and unclear. This, in addition to the failure to accredit media during week one of Council and the Assembly, creates an atmosphere where rigorous journalism is not welcome, and the transparency expected from an international institution is not upheld. This is inconsistent with other international fora, and is egregious for an institution affiliated with the United Nations tasked with governing shared resources for the benefit of humankind as a whole.

Regarding the use of cameras, audio/video recording devices by participants, we would point out that a complete ban on any recordings during open meetings (para 35) is quite unique in the UN system and that most multilateral bodies have more flexible rules or apply a degree of flexibility particularly when participants only record themselves.

Section XII of the Bulletin mentions that the Secretariat of the Authority provides full recordings for all official open plenary meetings in audio format and webcast on the Internet and that all webcast recordings are available at the website of the Authority. We would like to kindly ask you to point out where on the ISA website these recordings can be found, given that we were only able to locate the ISA webTV live stream of the meetings.

Last, we note that, according to Section XI of the Bulletin, misuse of the emblem or logo of the Authority in publications, websites, business cards, etc. is prohibited and that the unauthorised use of the emblem or logo of the Authority may constitute grounds for removal of accreditation with the Authority.

We would like to point out that litigation in different jurisdictions prompted, among others, by parodies of governmental or corporate logos have consistently led to the conclusion that such parodies are protected expression, so long as they are non-commercial and there is no scope for confusion about their parodic nature.

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4 General Comment No. 34, supra note 2, para. 38.
5 Ibid.
In the same vein, the UN Human Rights Committee discourages legislation that seeks to prevent “disrespect for flags and symbols”.7

Against this background, a concern arises that Section XI of the Bulletin is meant to stifle future criticism in the form of parody or other lawful exercise of the right to freedom of expression. We seek confirmation that this is not the case, and that Section XI refers to actions that are generally not considered protected speech, such as impersonation of the ISA or commercial exploitation of its emblem.

We also urge reversal of the UN decision by the Secretariat not to accredit any media organisation for the Assembly meeting. This decision is out of step with any multilateral environmental organisation of which we are aware. It is practically universal international policy to accredit media to attend plenary meetings.

In conclusion, while we are supportive of clearly articulated standards of conduct for the effective functioning of all conferences and events of the Authority, we urge the Secretariat to be mindful of the right to freedom of expression, including the right to criticise the ISA, and as stated above we seek your assurance in this regard.

Kind regards,

Deep Sea Conservation Coalition
Greenpeace International
Interamerican Association for Environmental Defense
Oceans North
Pacific Blue Line
Pacific Network on Globalisation
The Ocean Foundation

7 See General comment No. 34 (Article 19: Freedoms of opinion and expression), 12 September 2011, UN Doc. CCPR/C/GC/34, para. 9.