



Brief to the 19th Session of the International Seabed Authority
Kingston, Jamaica
July 2013

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Introduction

This briefing is submitted by the Deep Sea Conservation Coalition (DSCC), a coalition of over 70 non-governmental organizations concerned about the deep sea.

The deep sea is facing large-scale industrial exploitation as mining of the deep seabed for minerals fast becomes reality. Deep seabed mining poses a major threat to our oceans, which are already suffering from a number of pressures including overfishing, pollution, and the effects of climate change.¹ At stake is access to manganese nodules, polymetallic sulphides, cobalt-rich ferromanganese crusts, including rare earth elements (REEs) which are key components of many new digital and e-mobility technologies. However, very little is known about deep-sea habitats, or the impact that mining operations will have on ecosystems and the wider functioning of our oceans. Putting environmental protection, sustainability and the precautionary approach first is the only way to ensure that the oceans – a vital part of the life support system of our planet – are adequately protected and are able to continue to provide essential ecosystem services and resources, now and in the future.

Once thought to be relatively lifeless, scientists now recognise that the deep sea is actually a species-rich environment,² with many species still to be discovered. Because deep-sea species live in rarely disturbed environments and tend to be slow growing and late maturing, with some unique to their particular habitat types (such as hydrothermal vents) or even specific locations, they are highly vulnerable to disturbance or even extinction.³ The deep and open oceans host a major part of

the world's biodiversity and are vital for our survival on Earth.⁴ The deep sea plays an important role in regulating planetary processes, including regulation of temperature and greenhouse gases.⁵ It supports ocean life by cycling nutrients and providing habitat for a vast array of species.

The deep sea is also the largest reservoir of marine genetic resources, and is of major interest to pharmaceutical companies, a number of which already hold patents for products discovered in the deep.⁶ Enzymes from hydrothermal vent species are estimated to have an annual commercial value of \$150 million.⁷ Despite their intrinsic ecological and scientific value and their potential benefit to humankind, deep seabed mining could destroy these genetic resources before they are fully understood or even discovered⁸ – resources that could, for example, hold cures for diseases such as cancer.

The current lack of scientific knowledge on the deep-sea environment and the lack of knowledge of the technology employed limits our ability to predict the environmental impacts of mining operations and to determine whether habitats can ever recover from the disturbance.⁹ We know that deep-sea species from many habitats such as seamounts and abyssal plains are particularly vulnerable due to their slow growth rates, their low resilience to changes in their environment and slow recovery rates after disturbance.¹⁰

An international, multi-sector approach to management and protection is needed if we are to ensure the health and sustainable use of our oceans. This includes environmental impact assessments, strategic environmental assessments, measures to control identified effects, and the implementation of marine reserves. Marine reserves are proven and effective tools to conserve and protect marine biodiversity, fish populations and vulnerable marine ecosystems. Within the deep sea context, marine reserves also provide a mechanism for protecting not just what is known at present to be important, but what may turn out to be important in the future. Deep seabed habitats – including hydrothermal vents, seamounts and cold-water corals – form particularly vulnerable and unstudied ecosystems that require robust protection regimes. Only 3% of the oceans are protected and less than 1% of the high seas,¹¹ making them some of the least protected places on Earth.

Deep seabed mining must not take place unless and until the institutional framework is in place to ensure that the global commons are effectively protected, which means that the full range of marine habitats, biodiversity and ecosystem functions are adequately protected, including:

- a High Seas Biodiversity Agreement adopted under UNCLOS that provides the global framework for the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction;
- the establishment of a global network of marine reserves; and
- rules to ensure that the environmental and cumulative impacts of seabed mining, as well as potential impacts on alternative uses and livelihoods, have been thoroughly assessed and properly addressed in advance.

Recommendations

With respect to the 19th ISA meeting, DSCC recommends that:

1. A 5-year strategy for ecosystem-based management within the International Seabed Authority (ISA) is adopted, including the revision and universal application of the Environmental Management Plan and that environmental considerations are mainstreamed into all ISA discussions. These should include such well accepted principles as the precautionary approach and the implementation of an ecosystem approach to an integrated management of human activities in the marine environment, the polluter-pays principle, best available techniques (BAT) and best environmental practices (BEP). This plan should also take into account existing commitments and developments relevant to the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction, including the

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Aichi commitments to protect 10 per cent of coastal and marine areas, especially areas of particular importance for biodiversity and ecosystem services, applying the criterion that they be effectively and equitably managed, ecologically representative and well connected.

2. In line with the Deep Ocean Stewardship (DOSI) recommendation, an environmental strategy workshop be held in 2014 to develop the strategy, and in addition a series of regional scale workshops and collaborative projects be held to address specific issues and regions;
3. The Nodules Regulations be revised in line with recommendations made in this brief, to allow establishment of marine protected areas within allocated areas; provide for the cessation of work in all or part of the allocated areas when necessary, including but not limited to an emergency situation, such as where significant adverse impacts to vulnerable marine ecosystems (VMEs) or ecologically or biologically sensitive areas (EBSAs) are identified, and adequately provide for emergency actions and actions that can be taken, including the cessation of operations, and that the threshold of significant adverse effects (rather than serious harm) is adopted for such cases;
4. The Nautilus Joint Venture proposal must not proceed, given insurmountable issues of governance, transparency, regulatory, equity and resourcing issues;
5. The transparency provisions in the Environmental Management Plan be implemented to open the Legal and Technical Commission (LTC) to observers, subject only to specific and limited exceptions;
6. A Working Group be established to investigate options for liability and redress for damage caused by seabed mining in the Area; including a fund; and
7. The process for establishment of exploitation regulations is subject to:
 - Mechanisms to protect ecologically and biologically significant areas (EBSAs) on the seabed, including mechanisms to establish marine protected areas, according to the Aichi criteria that they be effectively and equitably managed, ecologically representative and well connected, and including being inside areas approved for exploration and, later, for exploitation;
 - Mechanisms to protect vulnerable marine ecosystems (VMEs), especially those protected from bottom fishing, from being damaged by exploration or exploitation, and including hydrothermal vents and cold seeps;
 - Adequate public and transparent environmental and strategic environmental assessments, including taking account of cumulative impacts, and including mechanisms for review;
 - Mechanisms to ensure that measures are implemented to prevent significant adverse effects identified in environmental impact assessments from occurring, and to ensure that mining can be stopped or modified where it threatens or is being found to cause significant adverse effects to the marine environment; and
 - Adequate governance and transparency mechanisms are in place.

As noted earlier, deep seabed mining must not take place unless and until the institutional framework is in place to ensure that the global commons are effectively protected, which means that the full range of marine habitats, biodiversity and ecosystem functions are adequately protected.

Issues Facing the 19th ISA

Nodules Regulations

The amendment of the nodules regulations is welcome and overdue. However the proposed recommendations fall short of what is needed to ensure the marine environment is effectively protected from the impacts of seabed mining: it is no longer enough to simply align them with the sulphides regulations. The proposed amendments to date do not:

1. allow the establishment of marine protected areas prior to the allocation of exploration areas or within existing allocated areas;
2. specifically provide for the cessation of work in all or part of the allocated areas, including where VMEs or EBSAs are identified, including but not limited to an emergency situation; or
3. adequately provide for emergency actions and actions that can be taken, including the permanent cessation of operations, and ensure that thresholds for such emergency actions that are based on modern practices.

In addition, the threshold of ‘serious harm’ is out of step with modern practice, which adopts a threshold of ‘significant adverse effects’.

1. Protected Areas

Impact reference zones¹² and preservation reference zones,¹³ as currently proposed, are necessary but not sufficient. Firstly, after exploration or mining has commenced, areas may be identified that need to be protected. Secondly, scientists have consistently stated that marine protected areas are needed to build resilience, and to protect not just what is known at present to be important, but what may turn out to be important in the future. Article 145 of UNCLOS provides ample basis for such protection.¹⁴

Moreover, the CBD Aichi Target 11 agreed in 2010 calls for “areas of particular importance for biodiversity and ecosystem services, conserved through effectively and equitably managed, ecologically representative and well connected systems of protected areas and other effective area-based conservation measures”¹⁵ In 2012, *The Future We Want*, the Rio+20 outcome document,¹⁶ reaffirmed the importance of area based conservation measures, including marine protected areas consistent with international law and based on best available scientific information as a tool for conservation of biological diversity and sustainable use of its components.

One way of implementing this would be to extend the “areas of particular environmental interest” (APEIs) introduced in the Environmental Management Plan for the Clarion-Clipperton Zone (EMP).¹⁷ Regulation 31 could thus add a definition of “Areas of particular environmental interest” to mean representative seafloor areas within and outside of exploration areas closed to mining activities to protect biodiversity and ecosystem structure and function. APEIs should be identified prior to the allocation of areas for mining exploration, or, where exploration areas have already been allocated, a process must be initiated urgently to establish APEIs within the allocated exploration areas.

2. Cessation of Work

Regulation 31 as proposed would read:

“4. The Commission shall develop and implement procedures for determining ..., whether proposed exploration activities in the Area would have serious harmful effects on vulnerable marine ecosystems, and ensure that, if it is determined that certain proposed exploration activities would have serious harmful effects on vulnerable marine ecosystems, those activities are managed to prevent such effects or not authorized to proceed.”

There are four problems with this.

1. The threshold of ‘serious harmful effects’ is too high. The United Nations General Assembly and FAO in the Deepsea Fisheries Guidelines¹⁸ have adopted the threshold of ‘significant adverse effects’. This is a far more appropriate test.
2. It is not clear what ‘authorized to proceed’ means in the context of deep seabed mining. It seems that this language may be taken from UNGA resolution 61/105.¹⁹ It is also not clear who make the ‘determination’. It should not be the explorer.
3. There is no provision for protection of ecologically or biologically sensitive areas (EBSAs).²⁰ VMEs are only one type of vulnerability: EBSAs should be likewise protected.
4. The UNGA process adopted in resolution 61/105 should be adopted whereby (a) EIAs are undertaken before any operations are undertaken; (b) VMEs, and, we submit, EBSAs, are closed until it can be shown there will be no significant adverse impacts; (c) measures should be implemented to protect VMEs (and EBSAs) and to ensure protection of the marine environment; and (d) a ‘backstop’ such as the ‘move-on rule’ should be adopted, whereby if indicators of a VME or EBSA are found, operations are closed until the area is assessed and measures be put into place.

3. Emergency Orders

One serious difficulty with the proposed Regulation 33 is the threshold of ‘serious harm’. As noted above, ‘serious harm’ is a much higher threshold than ‘significant adverse effect’, which was developed by the FAO to protect VMEs from bottom trawling.²¹

Another is that under proposed paragraph 6, the Council may only issue emergency orders which may include orders for the suspension or adjustment of operations. ‘Adjustment’ is too vague. There needs to be a specific ability to stop operations permanently where they are causing significant adverse effects that cannot effectively be otherwise addressed.

The Enterprise

There are major difficulties with this proposal. Not least are the governance implications, which must be concerning for all Parties. The proposal to have legal experts and consultants, outside the Secretariat, advise the Enterprise is itself concerning as it potentially takes the Enterprise outside the ISA governance structure, subject only to periodic reporting. But quite apart from other concerns, very serious concerns arise with the proposed Heads of Agreement. The proposed arbitration clause is completely unacceptable, as are the proposed confidentiality provisions, there must be public participation and access to information with regard to all steps of governance, and international law must at all times be both applicable and pre-eminent over the joint venture.

Public participation in negotiations is essential. Secondly, the Environmental Management Plan (EMP) must be implemented, and specifically its Guiding Principles, including common heritage of mankind, the precautionary approach, protection and preservation of the marine environment, prior environmental impact assessment, conservation and sustainable use of biodiversity, and transparency. With the latter, the EMP specifically provides 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.

The proposed Heads of Agreement includes an arbitration clause for arbitration in Sydney for any dispute.²² Should the ISA attempt to implement or enforce a new environmental condition, for instance, the joint venture may invoke the arbitration clause, which would be binding on the ISA. So in this way, an important aspect of governance is removed from the ISA and placed, in essence,

in the commercial/judicial arena where the terms of the joint venture, rather than broader international law, would be the determining factor. ITLOS would only be involved, as envisaged, if there is a question of “the interpretation of Part XI and the Annexes” – as opposed, for instance, to a question of the application of Part XI, interpretation or application of the reset of UNCLOS, or indeed of any other international instrument. So any other international agreement or development, or other international law, would fall outside the proposed agreement, and steps taken pursuant to them may be opposed and damages or other remedies sought according to the arbitration agreement. The proposed Heads of Agreement includes an arbitration clause for arbitration in Sydney for any dispute.²³ The agreement would be governed by English law.

There are also proposed provisions for the confidentiality of information on a ‘need to know’ basis, where confidential information is defined as that “treated by the Disclosing Party as confidential.”

Such confidentiality provisions, arbitration outside ITLOS and applicable international law, governance by lawyers and consultants and lack of public participation and confidentiality all mean that the agreement proposed by Nautilus²⁴ is completely unacceptable.

New Applications

The JOGMEG (Japan) and COMRA (China) applications for cobalt crust exploration and ESSO (India – Indian Ocean) sulphides applications are all proposed to be granted without mainstreaming environmental considerations as part of the process, without any means for APEIs or any other MPAs to be implemented within the proposed areas and without means of addressing significant environmental effects. DSCC submits that no new applications should be granted until these environmental considerations are adequately addressed.

Development of a Regulatory Framework for Polymetallic Nodule Exploitation in the Area

It is deeply concerning that environmental considerations are being addressed in a separate process. They should be mainstreamed in any discussion of exploitation, rather than ‘bolted on’ as was the case with the Environmental Management Plan. The Nodules, Sulphides and Cobalt Crust Regulations should not have been approved without full integration of environmental considerations.

One way forward would be an environmental workshop, following the Fiji Workshop in 2011, in addition to regional workshops, as proposed by the Deep Ocean Stewardship Initiative (DOSI).²⁵

There are a number of issues that have arisen since 2011, both within the ISA and outside the ISA but relevant to the ISA. To name a few issues:

- The ISA need to develop methods of protecting ecologically and biologically significant areas (EBSAS) on the seabed;
- The ISA needs to find ways to establish representative networks of marine protected areas, including inside areas approved for exploration and, later, for exploitation;
- The ISA needs to find ways of preventing vulnerable marine ecosystems (VMEs), especially those protected from bottom fishing, from being damaged by exploration or exploitation, including hydrothermal vents and cold seeps; and
- The ISA needs to implement transparency provisions, as approved in the Environmental Management Plan, including in the LTC and with respect to any ongoing discussions and negotiations at all levels with respect to the Enterprise.

Transparency

The Environmental Management Plan (EMP) adopted at ISA 18 specifically provides as a Guiding Principle that:

Transparency. 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.

This is an important and specific principle that is not being implemented at present. Specifically, observers are not permitted to observe the LTC.

The Chisinau Declaration made by the Aarhus Convention Parties stated that it is vital that the public has effective channels for input into international environmental processes and that the process must be transparent, inclusive and accountable.²⁶ The Almaty Guidelines developed under the Convention state that participation of the public concerned should be as broad as possible²⁷ and that an international forum, or a process within it, should in principle be open to the participation of the public.²⁸ They state that each Party should encourage international forums to make available the agenda, drafts, agreed resolutions and reports in a timely manner.²⁹ The public should be allowed at all relevant stages of the decision-making process, subject to specific exclusions:³⁰ there must be a reasonable basis to exclude participation according to transparent and clearly stated standards that are made available, if possible, in advance. The Guidelines stress the entitlement to have access to all documents relevant to the decision-making process produced for the meetings, to circulate written statements and to speak at meetings.³¹ The Aarhus Convention specifically permits interventions from observers during debates on an agenda item – not only after interventions from States are exhausted. Rule 27 of the Convention's rules of procedure³² states that observers are entitled to seek to address meetings of the Parties under each agenda item and, having made such a request, will be included on the list of speakers. The Chair will in general call upon speakers in the order in which they signify their desire to speak, but may, at his or her discretion, decide to call upon representatives of Parties before observers.

In summary, the LTC should be open to observers, and specific meetings only closed according to clear transparent criteria disclosed in advance.

Conclusion

The legal and regulatory environment of the deep sea is rapidly changing, as is technology, and as are the deep seas themselves, particularly through climate change and ocean acidification. The international community is engaged in ongoing discussions on the protection of marine biodiversity in areas beyond national jurisdiction, and considering entering into negotiations for an implementing agreement to this end. Live and constantly debated issues include the access to and sharing of benefits of marine genetic resources in areas beyond national jurisdiction and the conservation of marine biodiversity, including through the establishment of marine protected areas and the conduct of environmental impact assessments. These discussions are made necessary by, and framed by, a keen awareness of the rapidly changing threats to the deep sea, including through climate change, ocean acidification and other anthropogenic stressors.

In light of these concerns and developments, and rapidly developing deep seabed mining technology, it is imperative that parties to the ISA, and the ISA itself, conduct their discussions and reach decisions that take account of these considerations, that do not prejudice these discussions and which ensures that the ISA is part of the mainstream of international environmental practice.³³

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- ¹ See Greenpeace (2013) *Oceans in the Balance: the crisis facing our waters*, 2nd Edition, Greenpeace International, <http://www.greenpeace.org/international/en/publications/Campaign-reports/Oceans-Reports/Oceans-in-the-Balance/>
- ² Ramirez-Llodra E., Tyler PA., Baker MC., Bergstad OA., Clark MR., et al. (2011) Man and the Last Great Wilderness: Human Impact on the Deep Sea. *PLoS ONE* 6(7).
- ³ Ibid.
- ⁴ Koslow, T. (2007) *The Silent Deep: The Discovery, Ecology and Conservation of the Deep Sea*.
- ⁵ Armstrong, C. W., Foley, N., Tinch, R., & van den Hove, S. (2010) Ecosystem goods and services of the deep sea. Deliverable D6.2 HERMIONE Project (p. 68) and Armstrong, C. W., Foley, N. S., Tinch, R., & van den Hove, S. (2012). Services from the deep: Steps towards valuation of deep sea goods and services. *Ecosystem Services*, 2, 2-13.
- ⁶ Armstrong, C., Foley, N., Tinch, R. and van den Hove, S. (2012) Services from the deep: steps towards valuation of deep sea goods and services. *Ecosystem Services* 2:2-13.
- ⁷ United Nations University (2007) *An Update on Marine Genetic Resources: Scientific Research, Commercial Uses and a Database on Marine Bioprospecting*. http://www.ias.unu.edu/resource_centre/Marine%20Genetic%20Resources%20UNU-IAS%20Report.pdf.
- ⁸ UNEP (2012) *Green economy in a blue world*. UNEP, FAO, IMO, UNDP, IUCN, WorldFish Center, GRIDArendal. www.unep.org/greeneconomy [accessed 6/2/13].
- ⁹ The impacts outlined in this report represents information gathered from modelling studies, benthic disturbance experiments, scientific information and observations by companies involved in mining operation development. Extensive deep-sea data is needed to predict impacts, but this is currently lacking. Allsopp, M., Miller, C., Atkins, R., Steve R., Tabor, I., Santillo, D. & Johnston, P. A Review of the Current State of Development and the Potential for Environmental Impacts of Seabed Mining Operations. Greenpeace Research Laboratories Technical Report (Review)(2013):. At <http://www.greenpeace.to/greenpeace/wp-content/uploads/2013/07/seabed-mining-tech-review-2013.pdf>.
- ¹⁰ Rodrigues, N., Sharma, R. and Nagender Nath, B. (2001) Impact of benthic disturbance on megafauna in Central Indian Basin. *Deep-Sea Research II* 48:3411-3426; Rosenbaum, H. (2011) Out of our depth: mining the ocean floor in Papua New Guinea. MiningWatch Canada, CELCOR PNG and Oxfam Australia. www.deepseaminingoutofourdepth.org [accessed 4/1/13]
- ¹¹ Spalding et al (2013) *Protecting Marine Spaces: Global Targets and Changing Approaches*; *Ocean Yearbook* 27: 213 – 248
- ¹² Areas to be used for assessing the effect of activities in the Area on the marine environment and which are representative of the environmental characteristics of the Area.
- ¹³ Areas in which no mining shall occur to ensure representative and stable biota of the seabed in order to assess any changes in the biodiversity of the marine environment
- ¹⁴ Article 145 Protection of the Marine Environment
Necessary measures shall be taken in accordance with this Convention with respect to activities in the Area to ensure effective protection for the marine environment from harmful effects which may arise from such activities. To this end the Authority shall adopt appropriate rules, regulations and procedures for inter alia:
(a) the prevention, reduction and control of pollution and other hazards to the marine environment, including the coastline, and of interference with the ecological balance of the marine environment, particular attention being paid to the need for protection from harmful effects of such activities as drilling, dredging, excavation, disposal of waste, construction and operation or maintenance of installations, pipelines and other devices related to such activities;
(b) the protection and conservation of the natural resources of the Area and the prevention of damage to the flora and fauna of the marine environment.
- ¹⁵ "...areas of particular importance for biodiversity and ecosystem services, are conserved through effectively and equitably managed, ecologically representative and well connected systems of protected areas and other effective area-based conservation measures." CBD COP10, Decision IX/29 (2010), para. 14. CBD Aichi Biodiversity Target 11. Available at: <http://www.cbd.int/sp/targets/>. Governments had already committed in 2002 in the Johannesburg Plan of Implementation (JPOI) to establish marine protected areas, including representative networks by 2012 and time/area closures for the protection of nursery grounds and periods. Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August-4 September 2002 (Johannesburg Plan of Implementation, or JPOI), at http://www.un.org/esa/sustdev/documents/WSSD_POI_PD/English/POIToc.htm.
- ¹⁶ "177. We reaffirm the importance of area based conservation measures, including marine protected areas consistent with international law and based on best available scientific information as a tool for conservation of biological diversity and sustainable use of its components. We note decision X/2 of the 10th Meeting of the Conference of the Parties to the Convention on Biological Diversity, that by 2020, 10 percent of coastal and marine areas, especially areas of particular importance for biodiversity and ecosystem services, are to be conserved through effectively and equitably managed, ecologically representative and well-connected systems of protected areas and other effective area-based conservation measures". The Future We Want, UNGA Resolution 66/288 (27 July 2012), para. 177.
- ¹⁷ At <http://www.isa.org.im/files/documents/EN/17Sess/LTC/ISBA-17LTC-WP1.pdf>. Subsequently adopted.
- ¹⁸ FAO, *International Guidelines for the Management of Deep-sea Fisheries in the High Seas*. 2009. At <http://www.fao.org/docrep/011/i0816t/i0816t00.htm>.
- ¹⁹ "Resolution 61/105 para 83 "Calls upon regional fisheries management organizations or arrangements with the competence to regulate bottom fisheries to adopt and implement measures, in accordance with the precautionary approach, ecosystem approaches and international law, for their respective regulatory areas as a matter of priority, but not later than December 31, 2008:(a) To assess, on the basis of the best available scientific information, whether individual bottom fishing activities would have significant adverse impacts on vulnerable marine ecosystems, and to ensure that if it is assessed that these activities would have significant adverse impacts, they are managed to prevent such impacts, or not authorized to proceed."
- ²⁰ Parties to the CBD have engaged in a process to consolidate information on areas of ecological or biological significance in the open-ocean and deep sea within and beyond national jurisdiction. In 2008, the CBD defined and adopted seven criteria for ecological and biologically significant areas (EBSAs) : (1) uniqueness or rarity; (2) special importance for life history of species; (3)

importance for threatened, endangered or declining species and/or habitats; (4) vulnerability, fragility, sensitivity, slow recovery; (5) biological productivity; (6) biological diversity; and (7) naturalness. Additionally, five properties were stipulated for MPA networks: (1) Ecologically and biologically significant areas; (2) representativeness; (3) connectivity; (4) replicated ecological features; and, (5) adequate and viable sites. Convention on Biological Diversity (CBD), 2008. COP 9 Decision IX/20, Marine and Coastal Biodiversity, paras. 14,18. At <http://www.cbd.int/decision/cop/?id=11663>.

Regional workshops have taken place for the North-East Atlantic, the South Pacific, the Caribbean and mid-Atlantic, the Southern Indian Ocean and the Eastern Tropical and Temperate Pacific. After review by the CBD's SBSTTA (Subsidiary Body on Scientific, Technical and Technological Advice), the results of the workshops will be submitted to the CBD Conference of the Parties (COP) for consideration. The findings will be distributed to relevant international bodies, including RFMOs, as well the UNGA. COP 10 Decision XI/17, para. 6. At <http://www.cbd.int/decisions/cop/?m=cop-10>.

²¹ FAO, International Guidelines for the Management of Deep-Sea Fisheries in the High Seas (2009) at <http://www.fao.org/docrep/011/i0816t/i0816t00.htm>.

²² A dispute is defined as any dispute, disagreement, controversy or claim arising out of or relating to this Agreement, or the interpretation or performance of provisions of this Agreement or the breach, termination or validity thereof, that the parties are unable to resolve by mutual agreement within a reasonable time, other than any dispute that is a question of the interpretation of Part XI and the Annexes relating thereto of the UNCLOS with respect to activities in the Area

²³ A dispute is defined as any dispute, disagreement, controversy or claim arising out of or relating to this Agreement, or the interpretation or performance of provisions of this Agreement or the breach, termination or validity thereof, that the parties are unable to resolve by mutual agreement within a reasonable time, other than any dispute that is a question of the interpretation of Part XI and the Annexes relating thereto of the UNCLOS with respect to activities in the Area

²⁴ See Proposal for a joint venture operation with the Enterprise ISBA/19/C4 (20 March 2013, Annex.

²⁵ Deep Ocean Stewardship Initiative (DOSI), Advancing Environmental Planning and Management of Deep Seabed Mining. Brief to the Legal and Technical Commission of the International Seabed Authority 7 June 2013.

²⁶ Chisinau Declaration. Adopted at the fourth meeting of the Parties held from 29 June to 1 July 2011, Chisinau. At <http://www.unece.org/env/pp/mop4.html>.

²⁷ Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, Decision 11/4, Promoting the Application of the Principles of the Aarhus Convention in International Forums, adopted at the second meeting of the Parties held in Almaty, Kazakhstan, on 25-27 May 2005. (Almaty Guidelines), para. 30.

²⁸ Almaty Guidelines, para. 31.

²⁹ Almaty Guidelines, para 19.

³⁰ Almaty Guidelines, para. 29.

³¹ Almaty Guidelines, para. 34.

³² Decision I/1 Rules of Procedure. ECE/MP.PP/2/Add.2 (2 April 2004). At <http://www.unece.org/fileadmin/DAM/env/pp/documents/mop1/ece.mp.pp.2.add.2.e.pdf>

³³ This brief is offered in this spirit, and without prejudice to the positions of the DSCC and its member organizations.