

## **Deep Sea Conservation Coalition intervention**

### **Agenda Item 12: Report of the Chair of the Legal and Technical Commission on the work of the Commission at its twenty-fourth session**

**19 July 2018**

We would like to thank the Chair of the LTC for the 2 reports. We support the African Group concern regarding the lack of open LTC meetings – they should be open as was called for by the Assembly last year. We also support the various interventions expressing concern over the issues raised by the Chair of the LTC regarding compliance and the environmental performance of several contractors.

As was discussed at the Council meeting in March and previous sessions of the ISA, more detail on the contractors' activities should be provided for transparency sake and to enable the Council to discharge its oversight responsibilities.

We would like to comment on paragraph 13 of the report of the 2<sup>nd</sup> meeting of the LTC/ISBA/24/C/9/Add.1. We were pleased to see that the environmental impact assessments and their associated monitoring plans, submitted by the German Federal Institute for Geosciences and Natural Resources and GSR, respectively, to test mining components have been made public on the ISA website and that the German and Belgium governments have agreed to hold public consultations on the EIAs. The Contractors, sponsoring states and the ISA are to be commended for doing this.

We note in paragraph 13 that a review by the Secretariat is projected to be finalized by end - September 2018. We understood from ISBA/24/LTC/7 that a review by 2 (I believe) external consultants would be completed in time for the 2<sup>nd</sup> session of the LTC. We also note that paragraph 13 states that "the Commission agreed that a working group would continue the review process intersessionally to ensure the completeness, accuracy and statistical reliability of both [EIA] submissions".

Firstly, we would appreciate a more clarity on the process: Have the expert reviews been completed and have they or will they be made public? When will the LTC complete its review of the EIAs and monitoring plans? And will the LTC and Secretariat take into consideration any public comments on the EIAs received by the governments of Belgium or Germany? And will the ISA establish a public comment period and do the same with any comments received? We believe the ISA should do this.

Secondly, the review needs to be a substantive review, not simply a review of completeness, accuracy and statistical reliability. A review is needed to assess environmental effects and recommend mitigation measures. If amendment of the recommendations is needed to do this, then this should be done.

These are important steps regarding transparency and stakeholder participation in the work of the ISA. The LTC has recognized that equipment and component testing will be useful in developing a clearer picture of the likely environmental impacts of mining in the Area in the LTC's Guidelines for contractors ISBA/19/LTC/8. Moreover, close review of the EIAs and monitoring plans is needed to ensure that the testing itself does not itself result in significant adverse environmental impacts.

The reviews of the EIAs should be subject to substantive independent and procedural review.

We would note the regulations for the exploration of polymetallic nodules ISBA/19/C/17 Regulation 31.4 states that the LTC "shall develop and implement procedures for determining, on the basis of the best available scientific and technical information

including information provided pursuant to regulation 18 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.”

To conclude, a determination, based on the LTC review needs to be made. At present it seems that the LTC approach to this issue has been limited to a reviewing role. Again, we think important procedures need to be put into place, and it is not clear to us that this has been done. We also are of the view that the task of approving or disapproving the testing, monitoring plan and/or any mitigation measures required should logically sit with Council. This is the first time that the ISA is considering will be permitting testing of mining equipment and it is important the ISA adhere to clear and transparent procedures properly.

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