



Open-ended Informal Working Group of the Council in respect of the Development and Negotiation of Financial Terms

21 February 2019

Intervention

Thank you Mr President and good morning delegates

This intervention is from the Deep Sea Conservation Coalition, and follows the discussion we have just had earlier.

It too concerns the environmental costs of deep seabed mining, and we want to discuss this in 2 respects which perhaps digs a little deeper than the earlier discussion.

Firstly, we have the environmental costs, or costs of externalities. We addressed this in earlier sessions in the context of earlier discussions of the MIT model.

Royalties or profit share should include a realistic valuation of the degradation of deep sea ecosystems and biological diversity. While we currently have no idea of what they are, we know they are far from zero. Current discussions have no component for this: the only costs estimate are costs to contractors.

Put simply, what is the value of the affected ocean, including its habitat, ecosystems and biodiversity, and how is this value to be reflected in the financial regime?

Is it to be in the form of a share of royalties or profit to be paid into a sustainability fund, for instance?

This is an important question which needs to be addressed as part of the conversation about financial matters.

Secondly, this is relevant in the context of liability and redress. The liability regime has only begun to be addressed. There are significant outstanding questions. How should the regime permit claims for pure environmental loss? There has been no discussion to date on how will this be quantified.

There is also the question addressed by the Seabed Disputes Chamber. To use the words of the Chamber,

"a gap in liability may occur if, notwithstanding the fact that the sponsoring State has taken all necessary and appropriate measures, the sponsored contractor has caused

damage and is unable to meet its liability in full." " It was further pointed out that a gap in liability may also occur if the sponsoring State failed to meet its obligations but that failure is not causally linked to the damage. "

Therefore, as situations may arise where a contractor does not meet its liability in full while the sponsoring State is not liable under article 139, paragraph 2, of the Convention, the Chamber said that *"the Authority may wish to consider the establishment of a trust fund to compensate for the damage not covered."*

This liability fund has been included in the draft exploitation regulations to date. But the financial aspects have not. How is that to be funded? If the fund is to be fully funded and in existence when any mining starts, how is this to be accomplished? It is clear that the fund must be fully funded to cover any situations which may arise which logically means that it must be fully funded before mining - including test mining - takes place.

Thank you