

Greenpeace intervention 15 August Assembly

Thank you Mr President, and good afternoon delegates and observers

We associate ourselves with the observations of WWF and DSCC to follow me. And we **dis**associate ourselves from the intervention immediately before mine. We join IUCN in their observations on this matter yesterday. Offsetting deep-seabed biodiversity loss, including by building reef balls in waters under national jurisdiction, is both scientifically and legally indefensible.

Mr President, we welcome your election. I had no idea when I first met you a couple of years ago across the water from beautiful Catembe in Maputo that I would see you in this important position in this Assembly.

Mr President, we welcome the comments of Algeria for the G77, and follow him in also quoting Arvid Pardo, who, in "Freedom for the Seas in the 21st Century", a book holding the proceedings of a workshop Greenpeace held in 1990, which I found in the Satya Nandan library today. Ambassador Pardo said that (and I quote) "...the world needs to avoid the adverse consequences of exploitation of ocean space, including the inevitable consequences deriving from inequalities in technology and access to the open seas. So the world wants to use and exploit but at the same time wants to avoid the consequences of such activities." (end quote) (page 39). That is why it is so important to get the regulations governing half the planet right. In that regard, we welcome the interventions of Canada for CANZ on the need to protect the marine environment in the regulations.

Mr President, in 2014 we made an intervention relating to two gaps in international law relevant to seabed mining in the Area, being, firstly, liability and redress, and secondly, the issue of dumping related to seabed mining. These comments update and renew these calls.

Mr President, the issue of liability and redress needs to be addressed by the time the exploitation regulations are in place, so the matter is one of increasing urgency. DSCC have made a brief on liability available outside the room and on its website www.savethehighseas.org/publications.

Mr President, in its advisory opinion, the Seabed Disputes Chamber of the International Tribunal for the Law of the Sea* recommended that consideration be given to establishing a trust fund in the event an environmental liability gap arises. The Seabed Disputes Chamber suggested ways forward. Principally, they are (1) to negotiate a liability regime and (2) to establish a trust fund.

The problem was described by the Seabed Disputes Chamber, where they ruled that "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."

Arvid Pardo in the same book observed that the use of the common heritage requires a system of management involving all the users, or what we now call stakeholders. He said, and I quote, "everybody participates in management. This view is one of the revolutionary bases of the common heritage concept and must apply not only to the seabed but to open space as a whole." (page 39) We are pleased that delegations, widely support transparency, and we believe that it is past time for that support to be translated by the Authority into action across the board.

We therefore welcome the upcoming workshop on liability and redress be considered as an initial step to address the issue of responsibility and liability, as well as a fund, to address these matters, and call for that workshop to be open to all States and observers. We welcome the comments made by a number of delegations, including Singapore, encouraging and welcoming transparency.

We also call for liability issues to be placed on the agenda for the 24th session.

Mr President, there is one other gap related to the exploitation regulations.

Both the 1972 London Convention^[i] and 1996 London Protocol,^[ii] which together address the disposal of waste at sea, expressly exclude disposal, and in the Protocol, storage, of “wastes or other matter directly arising from, or related to the exploration, exploitation and associated off-shore processing of sea-bed mineral resources” from coverage by the provisions of the Convention and Protocol. This was presumably because it was envisaged that seabed mining waste would be addressed by a future body – and of course now the International Seabed Authority exists. In fact an informal LC/LP subgroup on mining was formed at the LC/LP Scientific Committee last year.

Issues which may arise from seabed mining include the dewatering of mineral ores, potentially polluting the water column, and the dispersal of minerals, sediment and trace elements, deep sea water and species alien to different water depths, the disposal of wastewater, and any other discharges from mining vessels. Also important is the issue of transshipment and avoiding any pollution or accidents from transshipment.

Mr President, this, then, is another gap in international law and regulation which must be filled as the Authority develops the exploitation regulations.

Delegates may wish to take note of London Convention document LC 39/14 of 18 July, on liability under international agreements relevant to the London Protocol.

Mr President, finally, in our earlier comments to this Assembly, we have highlighted the discussions ongoing in the United Nations on the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction, or the so-called BBNJ. We are pleased to join Algeria on behalf of the G77 in welcoming that the Preparatory Committee meeting last month recommended to take a decision, as soon as possible, on the convening of an intergovernmental conference to elaborate the text of an international legally binding instrument under the Convention. We look forward to the IGC to be convened next year, as many delegates proposed.

This welcome development underlines the very serious concerns held by the international community about the conservation of marine biodiversity in areas beyond national jurisdiction.

Thank you Mr President.

^[i] London Convention Art III.1(c).

^[ii] London Protocol Art 1.4.3.

* International Tribunal for the Law of the Sea: Case No. 17: *Responsibilities and obligations of States sponsoring persons and entities with respect to activities in the Area (Request for Advisory Opinion submitted to the Seabed Disputes Chamber)*.

