

Greenpeace intervention Monday morning Council – 14 August 2017 23rd Session

Thank you Mr President. We associate ourselves with IUCN, DSCC and the other observer comments.

Our comments focus on (of isba.23.c.12) the 7th question about interested persons and then we will make a few overall observations.

Mr President, this Authority is unique: it is responsible for half the planet, and for the common heritage of mankind. It is therefore important not to prescribe participation in what happens to that half of the planet. We welcome the comments that have been made by many- I can almost say all - supporting transparency, most recently Canada, Chile and New Zealand to name a few.

We welcome Germany's specific observations in this respect, and I think others will join me in my observation that most or close to all delegations used the word stakeholders. We therefore think stakeholders is the word that should be used in the regulations. We suggest that stakeholders should be defined simply in terms of "persons having an interest or concern of any kind in the Area." The definition of Stakeholders should be open-ended due to the Area being both beyond national jurisdictions and due to its status as the common heritage of mankind.

Stakeholders in matters relating to the Area are an open-ended list, and are not restricted to environmental NGOs. We are looking ahead to many decades to come, and we should not be too restrictive in terms of the important matter of public participation.

Mr President, it therefore follows that the proposed definition of Interested Persons in the draft regulations is too narrow. Restricting the criterion of persons who are 'directly affected' is not appropriate to the Area which is subject to the common heritage of mankind, whereby all persons can potentially be 'directly affected'; the criterion of a person "who has relevant information or expertise" is more appropriate to a scientific or technical adviser; it is entirely inappropriate in the context of public participation, where, as with the Aarhus Convention, interest alone is enough.

[1] The proposed definition is as follows: "Interested Person(s)" "means a natural or juristic person or an association of persons that, in the opinion of the Authority, is directly affected by the carrying out of Exploitation Activities in the Area or who has relevant information or expertise."

Mr President, procedural mechanisms are crucial as they are the way the obligations developed in the Regulations are implemented. These will need to include accessible, transparent, and effective procedures, including review procedures, should incorporate transparency provisions, including access to information, public participation, and access to the review procedures. They will need to incorporate at each stage provisions for publication of relevant information, for public review and comment periods, for provision of independent scientific assessment, for hearings where necessary, including using web-based mechanisms, and for accessible review procedures.

Mr President, there is insufficient time to cover all the substantive issues, and many delegates here have already identified some important issues. We welcome the many, many States which have supported protecting the environment, including Mexico, Chile, and Fiji, and New Zealand, and specifically Australia in noting that the goal is in preventing harmful effects. This is consistent with article 145 of the Convention which governs this exercise and which mandates effective protection of the marine environment from harmful effects. We

also join Tonga in calling for attention to be paid to dispute settlement mechanisms and suggest further that effective and accessible dispute settlement mechanisms be explored at many levels. To name one concern, arbitration is expensive and usually confidential and we believe this is incompatible with the common heritage. The European Aarhus and Espoo Conventions offer two possible models which can be explored further. Liability is another matter which needs to be integrated with the regulations.

We join NZ, IUCN, DSCC and WWF in the need to include regional environmental management plans integrated in the regulations and need for protected areas at all levels.

Finally Mr President, we believe that a conversation needs to be held with States, observers, scientists, policy makers and experts and we look forward to participating in that discussion. We welcome Singapore's comments calling for broad participation in this discussion, and we also with Tonga urge that this includes broad participation in workshops held intersessionally. We also join France and welcome its comments urging involvement of NGOs in workshops. We discussed the liability workshop in an earlier intervention.

DSCC of which we are a member will have a side event on Thursday at which some of these matters and other issues will be discussed.

Thank you