



Intervention on item 14 of the Agenda
Report of the Chair of the Legal and Technical Commission on the work of the
Commission at the first part of its twenty-eighth session
40 delivered on 31.03.2023 by Patricia Esquete

Thank you, Mr President

The Deep-Ocean Stewardship Initiative wishes to thank and commend the Chair of the Legal and Technical Commission on the work of the Commission.

DOSI supports the creation of an intersessional expert group to lead the development of Standards and Guidelines for the establishment of Environmental Threshold Values and identification of potential environmental impacts of deep-sea mining operations. DOSI nonetheless wishes to express its concern that the current Terms of References are inadequate and will not result in meaningful, scientifically valid thresholds within the proposed time frame.

The development of valid thresholds requires the ability to detect and monitor changes in the marine environment across space and time, as well as understanding of:

- ecosystems and ecological processes,
- the cascading effects of change in the marine environment,
- cumulative and synergistic impacts; and
- uncertainties in the metrics or indicators used.

Thresholds must also be cognisant of regulatory and policy objectives, priorities and requirements, including societal expectations regarding the level of harm to marine ecosystems that is acceptable in pursuit of economic and other benefits.

To account for such diverse considerations, an expert working group requires diverse expertise. As already indicated by other delegations (Netherlands, CR, Spain...), such expertise cannot be provided by just ten experts per group. We urge the LTC to draft Terms of Reference that outline the expertise required and increase the number of experts per subgroup accordingly.

Further, as noted by other delegations (Netherlands, Spain...) the three proposed subgroups are insufficient to address the full range of environmental variables and potential impacts of mining activities. For example, additional subgroups would be required to address habitat loss, or biological aspects such as biodiversity or ecosystem connectivity. Further subgroups may be identified in the process of establishing environmental threshold values.

Finally, the assessment of available baseline environmental data is a necessary prerequisite for the effective application of the precautionary approach or principle. Such an assessment identifies scientific gaps and uncertainties to inform the work of the subgroups. Following such

an assessment, the LTC and the Council may decide that it is necessary to gather further data, which will likely require more time than what is proposed in the current Terms of Reference.

In the event that a decision needs to be taken in the absence of sufficient scientific data to define the threshold values, it will be necessary to define “natural background conditions” as conservative thresholds to assess any future environmental impacts, in line with the precautionary approach or principle. That is, for example, to define the natural particle concentration in the water column, the natural sedimentation rate on the seafloor, or natural sound levels across the marine environment. All these thresholds will be informed by baseline environmental data, currently being collected by Contractors.

An inadequate or erroneous assessment of impacts would hinder the effective protection of the marine environment. So in concluding, DOSI wishes to emphasize a simple message: establishing scientifically invalid thresholds would be worse than establishing no thresholds at all.

As always, DOSI stands ready to assist and we can provide a list of experts for consideration as nominees for the various subgroups.

Thank you.