



Note No. ISA/EOSG/2024/008

The Secretariat of the International Seabed Authority presents its compliments to the President of the Council of the International Seabed Authority. The Secretariat has the honour of transmitting to the President of the Council a letter from the Secretary-General to the President with its enclosure.

The Secretariat of the International Seabed Authority avails itself of this opportunity to renew to the President of the Council of the International Seabed Authority the assurances of its highest consideration.

12 January 2024



H.E. Mr. Juan José González Mijares
President of the 28th Session of the Council of the International Seabed Authority
Permanent Representative of Mexico to the International Seabed Authority

**Second Report on the Immediate Measures of the Secretary-General of the
Authority dated 27 November 2023**

1. Further to my Interim Report to the Council dated 4 December 2023 (the “Interim Report”), this Report provides a further update on the implementation of the interim measures promulgated on 27 November 2023 pursuant to Regulation 33 of the Regulations on Prospecting and Exploration for Polymetallic Nodules. This Report adopts the defined terms of the Interim Report, unless otherwise stated below. An updated chronology of the relevant events is appended to this Report as Annex I.
2. This Report addresses the following matters:
 - a. Section I summarizes the factual developments since 4 December 2023 (the date of the Interim Report);
 - b. Section II addresses the position of the Kingdom of the Netherlands;
 - c. Section III refers the requests of NORI and TOML to the Council for its consideration.

I. Factual developments since 4 December 2023

3. I understand from the reports of NORI and Tonga Offshore Mining Limited (“TOML”) that, on 4 December 2023, Greenpeace continued its obstruction of the activities of the *MV Coco*. I understand that, shortly after the transmission of my Interim Report to the Council, the representatives of Greenpeace ceased to interfere with the operation of NORI’s exploration vessel and communicated to NORI their intention to depart from the Contract Area. As matters stand, it is unclear whether Greenpeace intends to resume its interference with NORI’s and TOML’s (or other contractors’) activities and, if so, when it intends to do so. NORI and TOML have both expressed their concerns, based on communications from Greenpeace to them, that Greenpeace is likely to continue its interference.
4. On 5 December 2023, I provided an oral report to the President and the Vice-Presidents of the Council concerning the events in the NORI-D Contract Area, attending a teleconference, together with representatives of the Office of Legal Affairs. My report provided an update as to the developments following the transmission of the Interim Report to the Council on 4 December 2023.

5. On 7 December 2023, I received information from NORI that NORI and its sponsoring State, Nauru, had been considering further correspondence with the Kingdom of the Netherlands, "*in particular regarding the Netherlands' failure to act*", and that NORI had been in the process of assessing the full impact of the conduct of Greenpeace, consistent with my Immediate Measures of 27 November 2023.
6. On 9 December 2023, TOML reiterated its position on the conduct of Greenpeace to the Secretariat and the Chair of the Legal and Technical Commission, and indicated that "*there has been a significant and substantial impact upon TOML's programme of activities in breach of its rights under its exploration contract with the Authority.*"
7. On 11 December 2023, the President and the Vice-Presidents of the Council held a further session concerning the events in the NORI-D Contract Area, attended by representatives of the Office of Legal Affairs of the Secretariat.
8. On 12 December 2023, TOML wrote to the Kingdom of the Netherlands, with the Secretariat in copy, setting out its grievances suffered as result of the conduct of Greenpeace, requesting the Kingdom of the Netherlands to take "*effective action*" and "*immediate steps*", in particular to desist Greenpeace from future activities that would prevent NORI or TOML to continue their activities in accordance with their respective exploration contracts. TOML also indicated its readiness to hold the Kingdom of the Netherlands accountable for any failure to act. I enclose the letter of TOML as Annex II. I am not aware of any response from the authorities of the Kingdom of the Netherlands to this letter.
9. On 13 December 2023, NORI provided a summary of the preliminary assessment of the consequences of the conduct of Greenpeace on its programme of activities. According to NORI, up until the commencement of Greenpeace's actions on 24 November 2023, NORI's scientific campaign had proceeded as expected. However, as a result of the interference by Greenpeace with the operations of the *MV Coco*, NORI has reportedly been negatively impacted suffering important delays and over expenditures in the implementation of its approved planned of activities for 2023. NORI's scientific campaign came to an end on 15 December 2023. I enclose NORI's report of 13 December 2023 as Annex III. I invite the Council to consider the impact of the events described in NORI's and TOML's correspondence on the rights and interests of the Authority.
10. On the same day, I informed NORI that I had referred the matter of the conduct of Greenpeace to the Council, through the President, and I further invited NORI to provide any additional submissions or information it wishes to bring to the attention of the Council at its earliest convenience. I also confirmed to NORI that in light of the departure of Greenpeace from the Area, I was no longer expecting NORI

to provide further daily updates (consistent with Paragraph 8(d) of the Notification of Immediate Measures).

11. On 15 December 2023, I took note of the Statement of the President and the Vice-Presidents on the recent incidents in NORI-D Contract Area.

II. The position of the Kingdom of the Netherlands

12. On 15 December 2023, the Ministry of Foreign Affairs of the Kingdom of the Netherlands transmitted a *note verbale* to the Secretariat, in response to my previous correspondence dated 26 November 2023, 28 November 2023, 30 November 2023 and 1 December 2023 (the “NL Note Verbale”).

13. In its *note verbale*, the Kingdom of the Netherlands provided a report of the Decision of the Amsterdam District Court of 30 November 2023 (defined in my Interim Report as the Decision). According to this report,

“the District Court upheld the right of peaceful protest, inherent to the freedom of expression and the freedom of assembly, based, in particular, on articles 10 and 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). According to the Court, the fact that the exercise of this right may entail inconvenience or nuisance to the company against which the action is directed does not alter this. The exercise of this right/these freedoms may not be subject to any restrictions other than those provided by law and which are necessary in a democratic society in the interests of (inter alia) national security, public safety, the prevention of disorder or crime, the protection of health or morals and the protection of the rights of others.”

14. Commenting on the Decision, the Kingdom of the Netherlands emphasized that *“some level of nuisance through civilian protest should be tolerated as long as it does not amount to an interference with the exercise of rights of others and due regard must be given to rights of other States, including the right to allow vessels flying their flag to protest.”*

15. Moreover, the Kingdom of the Netherlands has stated that *“[a]s the flag State of the “M/Y Arctic Sunrise”, the Netherlands’ jurisdiction over the vessel includes adjudicatory jurisdiction by its competent courts to determine the limits of the right to protest at sea by reviewing the lawfulness of the protest actions undertaken from the “M/Y Arctic Sunrise” in the vicinity of and on board the “M/V Coco”.”*

16. The Kingdom of the Netherlands has posited that the events described in my Notification of Immediate Measures *“do not qualify as a situation envisaged under”*

Regulation 33, and stated that it “*is not aware of any generally accepted international standards that authorize safety or operating zones of a radius of 500 meters for ships such as the “M/V Coco”.*” The Kingdom of the Netherlands further emphasized that it “*condemns dangerous and unlawful behaviour at sea, and confirms its readiness to deal with unlawful activity undertaken from vessels that are flying the flag of the Netherlands in accordance with applicable domestic and international law.*”

17. In respect the NL Note Verbale, I have the following observations:

- a. First, as explained in the Notification of Immediate Measures, when considering the promulgation of interim measures, the Secretary-General is not expected to, nor is he objectively in a position to, conduct a comprehensive factual investigation due to the inevitable time constraints. Accordingly, the responsibility of the Secretary-General is to ascertain, considering the evidence before him on a strictly *prima facie* basis, *inter alia* whether a *threat* of serious harm to the marine environment may arise absent any immediate measures. The practice of the International Maritime Organization has long recognized the significance of safety zones in the context of the exploration and exploitation of the resources of the seabed, in order to prevent environmental harm from occurring and safety hazards from arising.¹ As explained in my Notification of Immediate Measures, **the Regulations provide for contingency measures in order to maintain a safe distance between exploration vessels and other watercraft, specifically with a view to preventing any threat of serious harm to the marine environment even from arising.** In circumstances where these contingency measures were reportedly disregarded by Greenpeace representatives (which Greenpeace did not deny), and confronted with video and audio recordings corroborating NORI’s allegations, I considered it necessary, reasonable, proportionate and practicable to promulgate immediate measures as a matter of urgency, in order to prevent any threat of serious harm to the marine environment from arising, and to facilitate the swift and efficient resolution of the situation unfolding in the NORI-D Contract Area. It bears recalling that the *MV Coco* is an exploration vessel with equipment to be deployed on the ocean floor and at the time of the facts, it had been in operation in the Clarion-Clipperton Zone for more than five days away from any cost and any assistance, should it be needed. In this sense, there is indeed an intrinsic link

¹ For example, Resolution A.671(16) dated 19 October 1989; more recently endorsed by the 2010 Guidelines for safety zones and safety of navigation around offshore installations and structures, NAV. SN.1/Circ.296.

between the safety of navigation and the prevention of threats of serious harm to the marine environment (as has been recognized in the practice of the International Maritime Organization).²

- b. Second, as the chief administrative officer of the Authority, it is the responsibility of the Secretary-General to protect and act consistently with the rights and interests of the Authority. The conduct of Greenpeace has interfered with planned and approved activities of NORI, pursuant to the Contract between NORI and the Authority. This campaign was intended to gather information and scientific data in accordance with the requirements and recommendations of the Authority, for the benefit of humankind as a whole, *inter alia* to assess the potential impact of eventual exploitation activities on the marine environment. A failure of the Authority promptly to react to the conduct of Greenpeace reported by NORI to the Authority would have obviously been severely detrimental to the rights and interests of the Authority. It bears recalling, in this context, the obligations of the Authority vis-à-vis the contractors in this respect, breach of which may expose the Authority to liability.
- c. Third, as explained in the Notification of Immediate Measures, consistent with the principle of *audietur et altera pars*, before promulgating any immediate measures, I solicited views from Greenpeace. Greenpeace did not deny that a risk of collision between watercraft existed, it merely argued that the “*cause*” of any hazards was not the conduct of Greenpeace. This is consistent with what I understand Greenpeace’s position to have been before the courts of the Kingdom of the Netherlands.
- d. Fourth, I note with concern that the courts of the Netherlands purported to condone “*protests*” on board and in the immediate vicinity of exploration vessels. While the Kingdom of the Netherlands has jurisdiction over the *Arctic Sunrise*, it is not within the jurisdiction of the Kingdom of the Netherlands to authorize any interference with exploration activities of Contractors, let alone to define the circumstances in which any interference with contractors’ rights is permissible (whether on the basis of a “*right to protest*” or otherwise). These matters are squarely within the competence of the Authority, consistent with Article 153(4) of UNCLOS. As such, I consider that a unilateral endorsement of

² IMCO (June 1967) about Torrey Canyon (Council, third extraordinary session, “Conclusions of the Council on measures to be taken in light of the issues raised by the Torrey Canyon”, C/ES.III/5, 8 May 1967, para. 18; See also, Mensah, T, “The international regulation of maritime traffic : IMO approaches” in Brown, E & Churchill, R, *The U.N Convention on the law of the sea : impact and implementation, The Law of the Sea Institute, University of Wales Institute of Science and Technology, Honolulu, 1987, pp.483-489.*

interferences with activities under the control of the Authority, such as the scientific campaign of NORI, encroaches upon the competences conferred on the Authority. This is particularly alarming in circumstances where, as explained in my Interim Report, the Decision appears to have rested on a lack of recognition of the role and responsibilities of the Authority under Part XI of UNCLOS and the 1994 Agreement as well as factual misrepresentations by Greenpeace as to whether Greenpeace had been notified of the Immediate Measures.

- e. Fifth, it is, however, the obligation of flag States under Article 94(3) of UNCLOS to take such measures in respect of ships flying their flag as are necessary to ensure safety at sea. The Kingdom of the Netherlands has not provided any indication that its authorities are conducting or planning to conduct any particular administrative or criminal proceedings in respect of the conduct of the *Arctic Sunrise*, notwithstanding the fact that even the Decision has recognized the safety hazards caused by the conduct of the crew of the *Arctic Sunrise*. I note, however, that the Kingdom of the Netherlands has confirmed to have “*raised*” these matters with Greenpeace and has confirmed that its authorities remain in contact with Greenpeace. I invite the Kingdom of the Netherlands to provide the Authority with any further information it obtains from Greenpeace (or indeed other parties) in respect of matters within the competence of the Authority.
- f. Sixth, in respect of the issue of safe distance, I consider that the Immediate Measures are fully consistent with international best practices (including specifically in relation to the exercise of a right to protest at sea),³ and followed *mutatis mutandis* Article 260 of UNCLOS on the safety zones applicable to research installations. In any event, consistent with Regulation 33, in the emergency circumstances described in my Notification, the Secretary-General is entitled to exercise his discretion in determining the scope of the appropriate measures, pending further action (if any) by the Council.
- g. Lastly, I note that international regulatory practice demonstrates that a radius of 500m is often prescribed as best practice in the case of vessels conducting exploration of natural resources at sea.⁴

³ IMO MSC Resolution MSC.303(87) on assuring safety during demonstrations, protests on confrontations on the high seas.

⁴ See *e.g.* Rule 43 of the Collision Regulations of Canada on Safety Zones Around Exploration or Exploitation Vessels; or Regulation 140 of the Harbors and Navigation Regulations of South Australia

18. I enclose the NL Note Verbale to this Report as Annex IV.

19. I do not have information as to whether the Kingdom of the Netherlands informed the Kingdom of Denmark (i.e., the flag State of the *M/V Coco*), the Republic of Nauru (the sponsoring State of NORI) and / or the Kingdom of Tonga (the sponsoring State of TOML) of its position. I invite the Kingdom of Denmark, the Republic of Nauru and the Kingdom of Tonga to provide their comments, if any, on the position of the Kingdom of the Netherlands, and to share with the Authority any other relevant material at their disposal.

III. Requests of NORI and TOML addressed to the Authority

20. In their correspondence, NORI And TOML have repeatedly requested the Authority to take all further actions available to it to ensure that NORI, and other contractors, can comply with their obligations and exercise their rights under their exploration contracts with the Authority without interference. In accordance with Article 162(a) and (l) of UNCLOS, it is within the prerogative of the Council to consider what further actions, if any, are warranted in the present circumstances, in particular in the light of the rights, obligations and interests of the Authority. I note that, in their Statement dated 15 December 2023, the President and the Vice-Presidents of the Council have invited the Council to address the incidents in the NORI-D contract area during the 29th session of the Authority.

21. The Secretariat remains at the disposal of the Council to contribute to the further assessment of this matter as may be required.

Kingston, 12 January 2023



Michael W. Lodge

Annex I
Chronology

Chronology of events in the NORI-D contract Area since 21 November 2023		
Date / time (Kingston time)	Event / alleged event	Source of information
21 November 2023 <i>(date uncertain as per correspondence)</i>	The Greenpeace International vessel, <i>Arctic Sunrise</i> , arrived in the NORI-D contract area.	NORI letter to ISA SG / LTC of 25 November 2023
22 November 2023 <i>(date uncertain as per correspondence)</i>	The Greenpeace International vessel, <i>Arctic Sunrise</i> , arrived in the NORI-D contract area.	NORI letter to Greenpeace of 22 November 2023 (attached to NORI letter to ISA SG / LTC of 25 November 2023)
22 November 2023	NORI received a formal notification from Greenpeace International of their intention to undertake a peaceful protest of current scientific campaign of NORI in the NORI-D contract area	NORI letter to ISA SG / LTC of 25 November 2023 and its enclosure (email from Sarah Crompton to Gerard Barron and Corey McLachlan of 22 November 2022)
	NORI acknowledges the notification from Greenpeace.	NORI letter to Greenpeace of 22 November 2023
23 November 2023	According to NORI, Greenpeace commences disruptive actions, “deliberately” positioning Greenpeace representatives in dangerous vicinity to the <i>MV Coco</i> and disregarding requests by <i>MV Coco</i> that Greenpeace and the <i>Arctic Sunrise</i> maintain a safe distance.	NORI letter to ISA SG / LTC of 25 November 2023 NORI letter to Greenpeace of 23 November 2023
24 November 2023	According to NORI, disruptive actions of Greenpeace continue.	NORI letter to ISA SG / LTC of 25 November 2023

		NORI letter to Greenpeace of 25 November 2023
25 November 2023 <i>(at some point before 1pm Kingston time)</i>	NORI writes to Greenpeace requesting Greenpeace to cease to interfere with the operations. NORI points out that Greenpeace's conduct over 23 November 2023 and 24 November 2023 resulted in one kayak capsizing, and placing a banner on a cable that was deploying equipment under considerable tension.	NORI letter to Greenpeace of 25 November 2023
25 November 2023 <i>(at some point before 1pm Kingston time)</i>	In response to the letter from NORI of the same day, Greenpeace informs NORI that it will not cease its protest, positing that a protest may be disruptive while still peaceful.	25 November 2023
25 November 2023 13:00 Kingston time	NORI notifies the Secretary-General and the Chair of the Legal and Technical Commission of the ISA of the events unfolding in the NORI-D Contract Area, transmitting <i>inter partes</i> correspondence between NORI and Greenpeace up until this point.	NORI letter to ISA SG / LTC of 25 November 2023
25 November 2023 <i>(later in the day at an unspecified time)</i>	Two Greenpeace representatives board the <i>MV Coco</i> , according to NORI without authorisation from the captain of <i>MV Coco</i> , climbing to the A-frame at the stern of the vessel and installing banners.	NORI letter to ISA SG / LTC of 26 November 2023
25 November 2023 <i>(later in the day at an unspecified time)</i>	Two additional Greenpeace activist join the Greenpeace activists already on board <i>MV Coco</i> , making the total number of Greenpeace activists on board four.	NORI letter to ISA SG / LTC of 26 November 2023

25 November 2023 <i>(later in the day at an unspecified time)</i> OR on 26 November 2023	Two Greenpeace activists leave the <i>MV Coco</i> , leaving two Greenpeace activists on board.	NORI letter to ISA SG / LTC of 26 November 2023
26 November 2023	The <i>Arctic Sunrise</i> reportedly approaches the <i>MV Coco</i> withing 100m despite warnings from the latter to refrain from doing so.	NORI letter to ISA SG / LTC of 26 November 2023
26 November 2023 16:47 Kingston time	NORI provides an update to the Secretary-General and the Chair of the Legal and Technical Commission concerning the events of 25 November 2023 and 26 November 2023.	NORI letter to ISA SG / LTC of 26 November 2023
26 November 2023 17:09 Kingston time	NORI shares an online link to photo recordings and materials that corroborate its allegations concerning the conduct of Greenpeace (<i>see</i> Annex II of the Interim Report).	Email from NORI to the ISA SG at 17:09pm of 26 November 2023
26 November 2023 20:06 Kingston time	The Secretariat issues a note verbale to the Kingdom of the Netherlands, enclosing a letter from the Secretary-General to the Prime Minster of the Netherlands, requesting the Netherlands to consider actions based on NORI's allegations, and transmitting to the Netherlands NORI's correspondence to the Authority. In this correspondence, the Secretary-General points out that the allegations indicate that the rights and interests of the Authority may have been interfered with.	Note verbale from ISA SG to the MFA of the NL, with enclosures of 26 November 2023

26 November 2023 20:28 Kingston time	The Secretary-General sends a letter to Greenpeace, inviting the latter to comment on allegations raised by NORI and on the events unfolding in the NORI-D Contract Area.	Letter from ISA SG to Greenpeace International of 26 November 2023
26 November 2023	According to NORI, Greenpeace fast rescue craft monitors the use of ROV's by the <i>MV Coco</i> .	Letter from NORI to ISA SG dated 28 November 2023
27 November 2023	NORI commences proceedings against Greenpeace (specifically <i>Sichting Greenpeace Council</i> and <i>Stichting Phoenix</i>) before the Amsterdam Court, seeking injunction and restraining orders <i>inter alia</i> to ensure a safety distance and that Greenpeace protesters leave the board.	Decision of the Amsterdam Court of 30 November 2023
27 November 2023	Call between OLA of ISA and the legal representatives of NORI, in which NORI provides an update as to legal steps it plans to take in the Netherlands.	
27 November 2023 11:54 Kingston time	Greenpeace International responds to the Secretary-General. It does not deny the allegations of interference with the operation of <i>MV Coco</i> , but it denies causing any safety risk or threat to the marine environment. No evidence accompanies the letter of Greenpeace.	Letter from the Interim Executive Director of Greenpeace International to ISA SG of 27 November 2023
27 November 2023 16:36 Kingston time	Under a note verbale from the Secretariat to the MFA of the Kingdom of Denmark, the Secretary-General sends a letter to the Minister of Foreign Affairs of the Kingdom of Denmark, as the flag State of the vessel <i>MV Coco</i> , concerning the allegations raised by NORI.	Letter from the ISA SG the Minister of Foreign Affairs of the Kingdom of Denmark of 27 November 2023

27 November 2023 17:44 Kingston time	The Secretary-General writes to NORI, requesting confirmation that notwithstanding the events described in NORI's letters NORI remains able to comply with its contractual obligations owed to the ISA, in particular in respect of the safety of life at sea. The Secretary-General informs NORI that it has contacted the Kingdom of the Netherlands.	Letter from ISA SG to NORI of 27 November 2023
27 November 2023 <i>(between 20:00 and 21:45 Kingston time)</i>	The Secretary-General notifies the President of the Council, the Members of the Council, the Members of the Authority and the Chair of the Legal and Technical Commission of Interim measures adopted.	Note verbal from ISA SG to the respective parties of 27 November 2023
27 November 2023 20:53 Kingston time	The Secretary-General notifies the Chair of the LTC of the Immediate measures	Letter from ISA SG to the Chair of the LTC of 27 November 2023
21:20 Kingston time	The Secretary-General notifies members of the Council of the Immediate measures	Note Verbale ISA/EOSG/2023/311
21:36 Kingston time	The Secretary-General notifies members of the Authority of the Immediate measures	Note Verbale ISA/EOSG/2023/312
21:52 Kingston time	The Secretary-General notifies Observers of the Authority of the Immediate measures	Email forwarding Note Verbale ISA/EOSG/2023/312 (for Members)
27 November 2023 22:13 Kingston time	The Secretary-General notifies Greenpeace International of the Immediate measures	Letter from the ISA SG to Greenpeace International of 27 November 2023
27 November 2023 22:29 Kingston time	The Secretary-General notifies NORI of the Immediate measures	Letter from the ISA SG to NORI of 27 November 2023

<p>27 November 2023 <i>(possibly 28 November 2023 Kingston time in part)</i></p>	<p>According to NORI, additional Greenpeace representatives climb on the A-frame, at some point totalling five Greenpeace representatives on board.</p> <p>According to NORI, two Greenpeace representatives remain directly underneath the ROV launch point for the day, preventing the deployment of the ROV. Greenpeace boats drove their nose into the <i>MV Coco</i>.</p> <p>NORI communicated on 28 November 2023 that, as a result of Greenpeace actions, they are unable to undertake any exploration activities as a result of the conduct of Greenpeace.</p>	<p>Letter from NORI to ISA SG of 28 November 2023</p>
<p>28 November 2023 <i>(“morning” as per NORI correspondence, but unclear what time zone)</i></p>	<p><i>MV Coco</i> communicates the contents of the Interim measures to the <i>Arctic Sunrise</i>. The crew of the <i>Arctic sunrise</i> ignores this.</p>	<p>Letter from NORI to ISA SG of 28 November 2023</p>
<p>28 November 2023 7:23 Kingston time</p>	<p>Greenpeace responds to the Secretary-General, indicating that the position of Greenpeace International is that Immediate measures are “void” and “without legal effect”</p>	<p>Letter from the Interim Executive Director to the ISA SG of 28 November 2023</p>
<p>28 November 2023 8:00 Kingston time</p>	<p>A hearing commences before the Amsterdam Court.</p> <p>During the hearing, Greenpeace argues that it is not aware of the Interim Measures of the Secretary-General of the ISA.</p>	<p>Decision of the Amsterdam Court of 30 November 2023.</p>

<p>28 November 2023 8:49 Kingston time</p>	<p>The Kingdom of Denmark communicates in <i>note verbale</i> that the information from the Secretary-General has been transmitted to competent authorities.</p>	<p><i>Note verbale</i> from the Kingdom of Denmark to the Secretariat of the ISA dated 28 November 2023</p>
<p>28 November 2023 13:13 Kingston time</p>	<p>As per the request of the Chair of the LTC, the Secretariat transmits the Notification of Immediate measures adopted by the Secretary-General to the members of the LTC</p>	<p>Letter from the Secretariat to the Members of the LTC dated 28 November 2023</p>
<p>28 November 2023 19:15 Kingston time</p>	<p>Under note verbale from the Secretariat to the Kingdom of the Netherlands, the Secretary-General provides an update to the Prime Minister of the Netherlands as to the allegations of NORI, the position taken by Greenpeace International, and requests the urgent consideration of this matter. The Secretary-General points out</p>	<p>Note verbale from the Secretariat to the MFA of the Kingdom of the Netherlands of 28 November 2023 and enclosures</p>
<p>28 November 2023 18:37 Kingston time</p>	<p>NORI provides its daily update consistent with the Immediate measures. It reports continued disruptive conduct by Greenpeace International, including positioning Greenpeace representatives and their kayaks “next to and in the way of MV Coco, under the area of deployment of equipment and ROV”.</p>	<p>Letter from NORI to the ISA SG of 28 November 2023</p>
<p>29 November 2023 <i>(various events across the day)</i></p>	<p>NORI reports further disruptive conduct by Greenpeace. According to NORI, one of the Greenpeace protestors attempted to rappel up the rope thrown down from the top of the A-frame in the same manner as described for previous Greenpeace crew changes. In this instance, the individual misjudged the climb and a portion of their body landed in the ocean.</p>	<p>Letter from NORI to the ISA SG of 29 November 2023</p>

	<p>Despite notification from the MV Coco that the MV Coco intends to deploy an ROV, requesting that Greenpeace representatives stay clear of the launch point. Reportedly, Greenpeace repeatedly refused this request and rammed into the port side of <i>MV Coco</i> to remain under the launch point.</p> <p>Allegedly, “<i>Magellan and NCT project management</i>” received confirmation from authorities of Denmark that they may deploy a water hose on 30 November 2023 (presumably that reference meaning local time for <i>MV Coco</i>) to dissuade Greenpeace representatives from staying under the ROV launch point.</p>	
<p>30 November 2023 11:35 Kingston time</p>	<p>The Secretary-General provides further updates to the Kingdom of the Netherlands, noting with concern the failure of the Netherlands to formally respond to previous letters.</p>	<p>Note verbale from the Secretariat to the MFA of the Kingdom of the Netherlands, and enclosures.</p>
<p>30 November 2023 ~11am-12pm Kingston time (presumably)</p>	<p>Bailiff delivers the decision of the Court of Amsterdam to NORI, which partially grants the application of NORI, and orders Greenpeace to instruct its representatives to disembark from the <i>MV Coco</i>. Requests in respect of maintaining a safe distance are not granted.</p>	<p>Decision of the Amsterdam Court of 30 November 2023</p>
<p>1 December 2023</p>	<p>The Secretary-General transmits observations on the Decision of the Amsterdam Court of 30 November 2023 to the Kingdom of Netherlands, and repeatedly urges the Kingdom of the Netherlands to consider what steps may be warranted.</p>	<p>Note verbale from the Secretariat to the MFA of the Kingdom of the Netherlands, and the enclosed letter from the ISA SG to the Prime Minister of the Kingdom of the Netherlands of 1 December 2023</p>
<p>1 December 2023</p>	<p>According to NORI, weather conditions have prevented the <i>Arctic Sunrise</i> from deploying the fast recovery crafts,</p>	<p>Letter from NORI to the ISA SG and the Chair of the Legal and Technical Commission of 2 December 2023</p>

	but manoeuvres of the <i>Arctic Sunrise</i> still prevented NORI from recovering equipment from the control site.	
2 December 2023	Tonga Offshore Mining Limited notifies the Authority that the conduct of Greenpeace also amounts to an interference with its programme of work, as it is in partnership with NORI in respect of the scientific campaign of the latter.	Letter from TOML to the ISA SG and the Chair of the LTC of 2 December 2023
3 December 2023	The Secretary-General reminds NORI that it is imperative to take all lawful steps in order to ensure that the exploration activities may continue in accordance with the programme of activities, and the post-disturbance monitoring in the NORI-D Contract Area continues.	Letter from the ISA SG to NORI of 3 December 2023
4 December 2023	Greenpeace representatives continue their interference, but depart from the NORI-D Contract Area later in the day.	Letters from NORI to the ISA SG and the Chair of the Legal and Technical Commission of 5 December 2023 and 7 December 2023
4 December 2023	The Interim Report of the ISA SG is transmitted to the Council.	Interim Report
5 December 2023	The ISA SG provides an oral report to the President and the Vice-Presidents of the Council	
9 December 2023	TOML reiterates its position on the conduct of Greenpeace to the Authority.	Letter from TOML to the ISA SG and the Chair of the Legal and Technical Commission
12 December 2023	TOML addresses the Kingdom of the Netherlands on its grievances.	Letter from TOML to the Kingdom of the Netherlands, with the ISA Secretariat in copy.

13 December 2023	NORI provides a more detailed account of the impact of the conduct of Greenpeace.	Letter from NORI to the ISA SG and the Chair of the Legal and Technical Commission of 13 December 2023
13 December 2023	The ISA SG informs NORI that further daily updates are not required in respect of the events in the NORI-D Contract Area, in accordance with the Immediate Measures.	Letter from the ISA SG to NORI
15 December 2023	The Kingdom of the Netherlands provides a response to previous letters from the ISA SG.	Note verbale from the Kingdom of the Netherlands to the ISA SG of 15 December 2023
15 December 2023	The President and the Vice-Presidents of the Council issue a statement on the recent events in the NORI-D Contract Area.	Statement of the President and the Vice-Presidents on recent events in the NORI-D Contract Area.

Annex II

Letter from TOML to the Kingdom of the Netherlands dated 12 December 2023

12 December 2023

Jeroen Gutter
Senior Legal Counsel
Ministry of Foreign Affairs
Kingdom of the Netherlands

Kingdom of the Netherlands

Unlawful Activities of Dutch Flagged Vessel, *MV Arctic Sunrise* on the High Seas

Dear Mr. Gutter,

We are writing to you regarding a serious and concerning incident that recently occurred in the Clarion Clipperton Zone (**CCZ**) of the high seas involving the Dutch entity Greenpeace International (**Greenpeace**) and Dutch-flagged vessel, the *MV Arctic Sunrise*.

Greenpeace undertook unsafe and unlawful disruption activities targeted at obstructing the scientific campaign that Nauru Ocean Resources Inc (**NORI**) was and is currently undertaking in the CCZ, in partnership with Tonga Offshore Mining Limited (**TOML**). These unlawful activities have created risks to safety at sea and impacted upon TOML's ability to complete its programme of activities.

TOML is a company incorporated in the Kingdom of Tonga (**Tonga**) and sponsored by Tonga for the purposes of Part XI of the United Nations Convention on the Law of the Sea (**UNCLOS** or the **Convention**). TOML has an approved exploration contract with the International Seabed Authority (the **Authority** or **ISA**), entitling and requiring TOML to undertake certain activities within its contract area in the CCZ, including its programme of activities.

TOML is currently partnering with NORI to fulfil the requirements of TOML's contract, in particular by utilising NORI's current environmental research campaign to recovery and redeploy oceanographic moorings to enable the collection of scientific data relevant to TOML's exploration activities and contract area. The completion of TOML's programme of activities is reliant on NORI successfully completing its campaign of exploration activities within its contract area. As such, TOML has a particular interest in ensuring NORI is able to undertake its mandated activities. The disruption activities of Greenpeace and the *MV Arctic Sunrise* have therefore resulted in TOML suffering loss and being unable to complete its programme of activities.

From 23 November 2023 to 4 December 2023, Greenpeace and the *MV Arctic Sunrise* engaged in a continuous campaign of unlawful and unsafe obstruction and interference of NORI's current exploration activities (see **Annex A** for a summary of the key elements of Greenpeace's unlawful activities). This is also at least the fourth time that we know of where Greenpeace has interfered with and obstructed activities by contractors in the CCZ. Greenpeace's actions have resulted in NORI and TOML being unable to complete their approved programmes of activities. The delays to

TOML's planned activities have already had a significant impact upon TOML, resulting in significant losses that are currently being assessed and quantified.

The adverse impacts upon TOML will also result in harm to Tonga given Tonga's direct interest in realising the benefits of its rights as TOML's Sponsoring State under UNCLOS. Furthermore, the actions of Greenpeace and *MV Arctic Sunrise* caused a direct and significant risk to the safety of life at sea in violation of several international instruments and conventions including, the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (**SUA**), the International Convention for the Safety of Life at Sea (**SOLAS**), and the Convention on the International Regulations for Preventing Collisions (**COLREGs**). The actions also impinge upon the rights of both NORI and TOML and their sponsoring States, Nauru and Tonga. They require the urgent attention of and response by the Netherlands as the relevant flag State under UNCLOS.

We understand that Greenpeace's activities were the subject of a 26 November 2023 notification from the Secretary-General of the ISA to the Kingdom of the Netherlands (the **Netherlands**). Furthermore, on 27 November 2023, the Secretary-General issued immediate measures pursuant to Regulation 33 of the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area, calling upon NORI, Greenpeace, and the Netherlands to take certain actions in response to the unlawful activities of Greenpeace (the **Immediate Measures**). We also understand that the Authority on four separate occasions (26 November 2023, 28 November 2023, 30 November 2023 and 1 December 2023) wrote to the Netherlands urging their assistance and consideration of all necessary regulatory steps to ensure, as the flag State of the *MV Arctic Sunrise*, that Greenpeace and the *MV Arctic Sunrise* comply with the Authority's immediate measures. We understand that the Netherlands failed to respond to any of the Authority's requests.

Notwithstanding these notifications, the unlawful activities of Greenpeace and *MV Arctic Sunrise* continued until 4 December 2023. Further, while we understand that as of the evening of 4 December 2023, Greenpeace's vessel the *MV Arctic Sunrise* departed the NORI-D contract area and headed to port, we remain concerned that it may return and recommence Greenpeace's disruption activities. This would be consistent with Greenpeace's messaging from the *MV Arctic Sunrise* that they intend to continue their unlawful disruption activities until NORI ceases its exploration activities.

As the relevant flag State, the Netherlands is obligated under international law to take all actions available to it to exercise its jurisdiction over the *MV Arctic Sunrise* and Greenpeace and bring their unlawful activities to an end. In particular, the Netherlands is obligated to:

- (a) respect the freedom of the high seas in relation to scientific research under Article 87(f) of UNCLOS as exercised by Tonga by way of its sponsorship of TOML, including the due diligence obligation under Article 94(1) to ensure these activities are not interfered with by Dutch-flagged vessels;
- (b) ensure that Dutch-flagged vessels use the high seas only for "*peaceful purposes*" under Article 88 of UNCLOS;
- (c) "*take such measures...as are necessary to ensure safety at sea*" and to "*take any steps which may be necessary to secure*" the observation of "*generally accepted international regulations, procedures and practices*" regarding

safety at sea by Dutch-flagged vessels under Article 94 of UNCLOS, including the SUA, SOLAS, and the COLREGs;

- (d) “*co-operate to the fullest possible extent in the repression of piracy on the high seas*” under Article 100 of UNCLOS and customary international law;
- (e) “*ensure that activities in the Area...shall be carried out in conformity*” with Part XI and to “*assist the Authority by taking all measures necessary to ensure such compliance*” under Articles 139(1) and 153(4) of UNCLOS;
- (f) take necessary measures “*to ensure the effective protection for the marine environment from harmful effects which may arise from...activities*” under Article 145 of UNCLOS;
- (g) take necessary measures “*to ensure effective protection of human life*” under Article 146 of UNCLOS;
- (h) ensure “*activities in the marine environment [are]...conducted with reasonable regard for activities in the Area*” under Article 147 of UNCLOS;
- (i) ensure the effective participation of developing States, including Tonga, is promoted having due regard to their special interests and needs, under Article 148 of UNCLOS; and
- (j) take heed of and support the implementation of the Immediate Measures issued by the ISA on 27 November 2023, including to “*consider what measures, if any, are warranted pursuant to international law and the laws of the Netherlands concerning the conduct of Greenpeace International and the Arctic Sunrise in the present circumstances*”, under Articles 153(4) and 162(w) of UNCLOS.

As such, TOML implores the Netherlands to provide swift and effective assistance in this matter, take all lawful action available to it to ensure that Greenpeace and the *MV Arctic Sunrise* cease all future unlawful and dangerous activities in relation to exploration activities, and comply with its flag State obligations under international law. These obligations include obligations to:

- (a) exercise the Netherlands’ jurisdiction and control over the *MV Arctic Sunrise*;
- (b) take measures to ensure that the *MV Arctic Sunrise* is ensuring safety at sea; and
- (c) conform to generally accepted international regulations and procedures regarding safety at sea and take necessary steps to secure their observance by the *MV Arctic Sunrise*, including compliance with the Authority’s Immediate Measures.

In particular, TOML requests that the Netherlands takes immediate steps to ensure that Greenpeace and the *MV Arctic Sunrise* desist from all future activities that would prevent NORI and TOML from exercising their rights and obligations under their exploration contracts, including undertaking scientific and environmental research activities. These activities include but are not limited to:

- (a) preventing the launch and recovery of scientific and research equipment from NORI’s vessel the *MV Coco* by positioning kayaks and fast rescue craft (**FRC**) directly beneath launch points;
- (b) entering the 500m safety zone established around the *MV Coco*;

- (c) deliberately initiating collisions between Greenpeace operated FRC and the *MV Coco*; and
- (d) interacting within close proximity to the *MV Coco* without positive communications or controls.

We consider that the failure of the Netherlands to act in response to Greenpeace's unlawful activities, including the disregard of the Immediate Measures issued by the ISA, puts the Netherlands in breach of its legal obligations as the flag State of the *MV Arctic Sunrise* and as a member State of the ISA. Such a breach also raises the issue of liability, including in relation to the losses incurred by TOML and Tonga due to Greenpeace's unlawful activities. In this regard TOML reserves all of its rights, including bringing claims against the Netherlands for its failure to act.

TOML looks forward to the Netherlands' swift and effective action in relation to the matters set out in this letter. We further request your response as a matter of priority given the urgent nature of these matters.

All our rights remain reserved.

Yours sincerely,



Gerard Barron

Cc

Permanent Representative of Tonga to the United Nations, H.E Mr. Vainga Tone
Acting CEO, Ministry of Lands and Resources, Mr. Taaniela Kula
Secretary General, International Seabed Authority, Mr. Michael Lodge

ANNEX A

SUMMARY OF KEY ELEMENTS OF GREENPEACE’S UNLAWFUL AND UNSAFE ACTS

Date	Action/Activity
22 November 2023	Greenpeace publicly announced its stated intention for its activities is to “stop [NORI’s] <i>reckless plan</i> ”, “ <i>stop this industry before it starts</i> ”, and disrupt NORI’s “ <i>attempts at collecting data for the first ever deep sea mining application</i> ”.
23 and 24 November 2023	Greenpeace ignored repeated requests to comply with a 500m safety zone around the <i>MV Coco</i> .
	Greenpeace positioned itself into dangerous positions close to the <i>MV Coco</i> , including using fast rescue crafts, deployed from the <i>MV Artic Sunrise</i> , to come directly alongside the <i>MV Coco</i> and positioning themselves beneath winches used for deploying and recovering scientific equipment (thereby preventing NORI from safely deploying said equipment).
	Greenpeace kayaks, deployed from the <i>MV Artic Sunrise</i> , followed the <i>MV Coco</i> in close proximity, resulting in a kayak capsizing due to motions on the sea surface.
	Greenpeace attached a banner to a winch cable during deployment of equipment and while the cable was under significant tension.
25 November 2023	Greenpeace illegally, and without notification or permission, boarded the <i>MV Coco</i> , climbed on top of the A-Frame at the stern of the vessel and erected banners. This restricted the use of the A-Frame.
	Greenpeace boarded the <i>MV Coco</i> , using ropes and rappelling at height.
	Greenpeace disabled the <i>MV Coco</i> ’s A-Frame by unauthorised activation of the emergency stop and tampered with lighting installed on the A-Frame. The disabled A-Frame was also unstowed, restricting the ability of the <i>MV Coco</i> to undertake safe transits between sites at its usual speed and in its usual manner.
	The <i>MV Arctic Sunrise</i> came within 100m of the <i>MV Coco</i> despite repeated requests to maintain a safe distance.
26 November 2023	Greenpeace personnel remained on the <i>MV Coco</i> ’s A-Frame and prevented the deployment or retrieval of scientific box cores, multi-cores, landers, drifting arrays, and moorings.
	Greenpeace rotated its personnel on the <i>MV Coco</i> without notification or communication to the <i>MV Coco</i> crew and through unsafe techniques involving ropes. These personnel changes resulted in risks to Greenpeace crew from swinging in the centre of the A-Frame due to the heave, pitch and roll of the vessel during their ascent. .
	Greenpeace disregarded requests for their personnel to leave the <i>MV Coco</i> .
	Greenpeace erected tents on the <i>MV Coco</i> ’s A-Frame. Their presence presented a serious risk to their safety, including a risk of the A-Frame dropping uncontrollably if a hydraulic hose failed.

	A Greenpeace fast rescue craft deliberately moved beneath a launch point preventing NORI from launching a remote operating vehicle (ROV) into the sea to conduct its research activities.
27 November 2023	Greenpeace rotated its personnel on the <i>MV Coco</i> without notification or communication to the <i>MV Coco</i> crew and through unsafe techniques involving ropes, in the same manner and with the risks described above.
	A Greenpeace fast rescue craft deliberately moved and remained underneath the ROV launch point and drove its nose into the <i>MV Coco</i> preventing NORI from launching a ROV into the sea to conduct its research activities.
28 November 2023	Greenpeace personnel remained on the <i>MV Coco</i> 's A-Frame and the fast rescue craft continued to obstruct the ROV launch point, as described above and with the same impacts.
	Greenpeace conducted a personnel change on to the <i>MV Coco</i> 's A-Frame. During the personnel change, a Greenpeace member attempt to rappel a rope but misjudged the climb and fell into the water (where sharks had been previously spotted). The Greenpeace member's life jacket inflated and she struggled to get herself out of the water. During attempted assistance by Greenpeace fast rescue craft crew, the Greenpeace member was swinging dangerously into the stern of the vessel.
	Greenpeace ignored the Immediate Measures issued by the Secretary General of the ISA.
	Following a transit, a Greenpeace fast rescue craft dangerously chased and rammed into the <i>MV Coco</i> beneath the launch point throughout the transit.
	A Greenpeace fast rescue craft remained underneath the ROV launch point and drove its nose into the <i>MV Coco</i> preventing NORI from launching a ROV into the sea to conduct its research activities.
	Greenpeace deliberately moved into a water stream underneath the launch point during a test of a water hose system.
29 November 2023	Greenpeace personnel remained on the <i>MV Coco</i> 's A-Frame and the fast rescue craft continued to obstruct the ROV launch point, including by pressing the nose of a fast rescue craft against the <i>MV Coco</i> .
	Greenpeace rotated its personnel from the <i>MV Coco</i> without notification or communication to the <i>MV Coco</i> crew and through unsafe techniques involving ropes. One of Greenpeace's personnel experienced significant swinging when ascending the rope, endangering himself by coming close to hitting the port and starboard side of the A-Frame.
	Greenpeace ignored requests to move its personnel away from <i>MV Coco</i> launch points and to adhere to the 500m safety exclusion zone. The fast rescue craft pressed against the side of the <i>MV Coco</i> , including at a dangerous angle.
30 November 2023	Greenpeace personnel departed the <i>MV Coco</i> at approximately 8:13am, following the order of the District Court of Amsterdam. They did not remove their banners which remained stationed on the A-Frame's platform.

	Greenpeace personnel continue to utilise fast rescue craft to disrupt NORI's attempts to deploy scientific research equipment and ROVs, as described above and with the same impacts.
	Greenpeace personnel deliberately and dangerously forced their vessels into the <i>MV Coco</i> and beneath launch points for scientific equipment.
	Despite the <i>MV Coco</i> notifying Greenpeace it would again be testing water hose systems, Greenpeace continue to disregard the 500m safety exclusion zone and forced their vessel into the side of the <i>MV Coco</i> . This resulted in their being doused by the <i>MV Coco</i> 's water spray system and forced NORI to abort a planned ROV deployment.
	A Greenpeace fast rescue craft approached the <i>MV Coco</i> in an aggressive manner following a transit to a launch station. Two fast rescue crafts then blocked NORI's attempt to launch a multicore by deliberately directing themselves into the water hose system, notwithstanding that this resulted in limited visibility for the driver of a craft.
	A further attempt to deploy the multicore system was obstructed by Greenpeace fast rescue craft manoeuvres under the launch points and into the water hose streams, notwithstanding that this resulted in limited visibility for the driver of a craft.
01 December 2023	Weather conditions were unfavourable for <i>MV Artic Sunrise</i> to deploy fast recovery craft. The <i>MV Artic Sunrise</i> positioned itself over the NORI's control site, preventing recovery of the deployed Eddy Lander at the control site.
02 December 2023	NORI repeatedly requested that Greenpeace respect the 500m safety exclusion zone and inform <i>MV Artic Sunrise</i> of intention to deploy box cores. Greenpeace fast recovery craft prevent the deployment of box cores.
	Greenpeace continued to push the fast recovery craft against the side of the <i>MV Coco</i> at deployment points for scientific equipment. Maintaining this course of action in the heave of the waves poses a serious risk to the safety of the Greenpeace personnel.
	Greenpeace remained committed to actively disrupting NORI's ability to deploy any equipment.
03 December 2023	Two Greenpeace fast recovery craft positioned themselves in range of the stern and port side launch points of the <i>MV Coco</i> . NORI repeatedly requests respect for the 500m safety exclusion zone. <i>MV Artic Sunrise</i> acknowledged receipt of the request but responded that fast recovery craft will remain in their positions to prevent deployment of scientific equipment.
	Despite several attempts across the course of the day by NORI to launch box core equipment, all attempts were prevented due to Greenpeace fast recovery craft positioning and remaining in the launch points.
	At 17:25, fast recovery craft returned to the <i>MV Artic Sunrise</i> . The <i>MV Coco</i> was able to deploy a lander for collection of oxygen flux data on the seafloor due to the absence of Greenpeace fast recovery craft blocking launch points.

04 December 2023	Greenpeace protestors approached <i>MV Coco</i> at 05:39 in a fast recovery craft and positioned themselves on portside of <i>MV Coco</i> to obstruct scientific operations.
	NORI advised <i>MV Artic Sunrise</i> of intent to deploy scientific equipment and requests respect for the 500m safety exclusion zone. <i>MV Artic Sunrise</i> acknowledged receipt of the request but responded that fast recovery craft will remain in their positions to prevent deployment of scientific equipment.
	Fast recovery craft remained strategically positioned and obstructed all attempts to deploy box cores. They continually used the technique of forcing the nose of the fast recovery craft into the <i>MV Coco</i> . Weather conditions were causing continual pitch and heave of the <i>MV Coco</i> .
	At 18:18 the <i>MV Artic Sunrise</i> informed <i>MV Coco</i> that Greenpeace would be leaving and returning to port.

Annex III

Letter from NORI to the Authority dated 13 December 2023

13 December 2023

Mr. Michael Lodge
Secretary-General

Mr. Erasmo A. Lara-Cabrera
Chair, Legal and Technical Commission

International Seabed Authority
14 – 20 Port Royal Street
Kingston, Jamaica

Re: Impact on NORI Work Scope

Dear Secretary-General and Chair,

Please find an interim summary of the impact of the disruption activities conducted by Greenpeace International (“**Greenpeace**”) from 23 November 2023 to 4 December 2023. During this period Greenpeace and the *MV Arctic Sunrise* engaged in a continuous campaign of unlawful and unsafe obstruction and interference of NORI’s current exploration activities.

Please note that the preliminary assessment date (“**Data Date**”) is the 10 December 2023. NORI and TOML will conduct a full assessment at the completion of the scientific campaign in February.

Previous correspondence to you from NORI has documented the activities of Greenpeace, this correspondence will not repeat that.

Campaign 8A planned operations

Campaign 8A base scope was designed to conduct the following scientific activities:

- Multicore
 - Meiofauna; Foraminifera; Nutrients; Alkalinity; Metals; DOC; O₂; Physical; Organic chemistry; Pb₂₁₀; Th₂₃₄; Phytopygments; eDNA; XRD; XRF
- Boxcore
 - Macrofauna; supplementary resource work
- Benthic Chamber Lander (“**BCL**”)
 - Carbon uptake experiments
- Aquatic Eddy Covariance (“**AEC**”) Lander
 - Oxygen fluxes
- Three oceanographic mooring recoveries from NORI-D and planned deployment in TOML-F (long-mooring and reference mooring) and NORI-D (reference mooring)
 - Long mooring
 - Reference #1 mooring
 - Reference #2 mooring
- WBAT Drifting array

- Bioacoustic data from 1000-2000m to discern any pelagic biomass below 1000m. Planned 10-day deployment.

Due to the Greenpeace activities this base scope has been negatively impacted. Below is a high-level summary of impacts:

- Multicore (scope prioritized and expected to be completed)
 - Meiofauna; Foraminifera; Nutrients; Alkalinity; Metals; DOC; O₂; Physical; Organic chemistry; Pb210; Th234; Phytopigments; eDNA; XRD; XRF
- Boxcore (scope compromised and is not expected to be completed)
 - Macrofauna – change in standard operating procedure (“**SOP**”) to increase sample volume and reduce replication. One impact zone dropped.
 - Resource work removed from SOP to allow for full macrofaunal processing.
- Benthic Chamber Lander (“**BCL**”) – (scope removed and will not be completed)
 - Carbon uptake experiments – 48-hour chamber experiments. Experiments compromised due to presence of Greenpeace. This scope has high operational complexity and sensitivity during deployment. Mitigation is additional cores recovered from the multicore to supplement the AEC work below.
- Aquatic Eddy Covariance (“**AEC**”) Lander (scope prioritized and expected to be completed)
 - A Oxygen fluxes
 - Using state-of-the-art eddy covariance oxygen flux measurements combined with oxygen microprofiles, NORI will be able to determine the metabolic activity and thus the carbon remineralization rates of bacteria and fauna inside and outside the tracks 12 months after the collector test.
- Oceanographic Moorings (TOML scope compromised and will not be completed)
 - Three moorings successfully recovered. Owing to operational time required to transit to TOML-F, decision has been made to re-deploy all moorings at NORI-D so that the transit time can be used to continue benthic operations at NORI-D.
- WBAT Drifting array (scope compromised)
 - Successfully deployed. Likely only to recover 8 days operational data.

The following pages contain dashboards that depict the impact of Greenpeace’s actions as of 10 December 2023, noting that activities are planned and forecast to 15 December 2023. Greenpeace’s disruptions have resulted in NORI being unable to complete its approved programme of activities.

The delays to NORI's and TOML's planned activities have already had a significant impact upon NORI and TOML, resulting in significant losses that will be assessed and quantified at the conclusion of the campaign and shared with the Secretary-General and the Commission.

Yours sincerely,

Gerard Barron

Gerard Barron

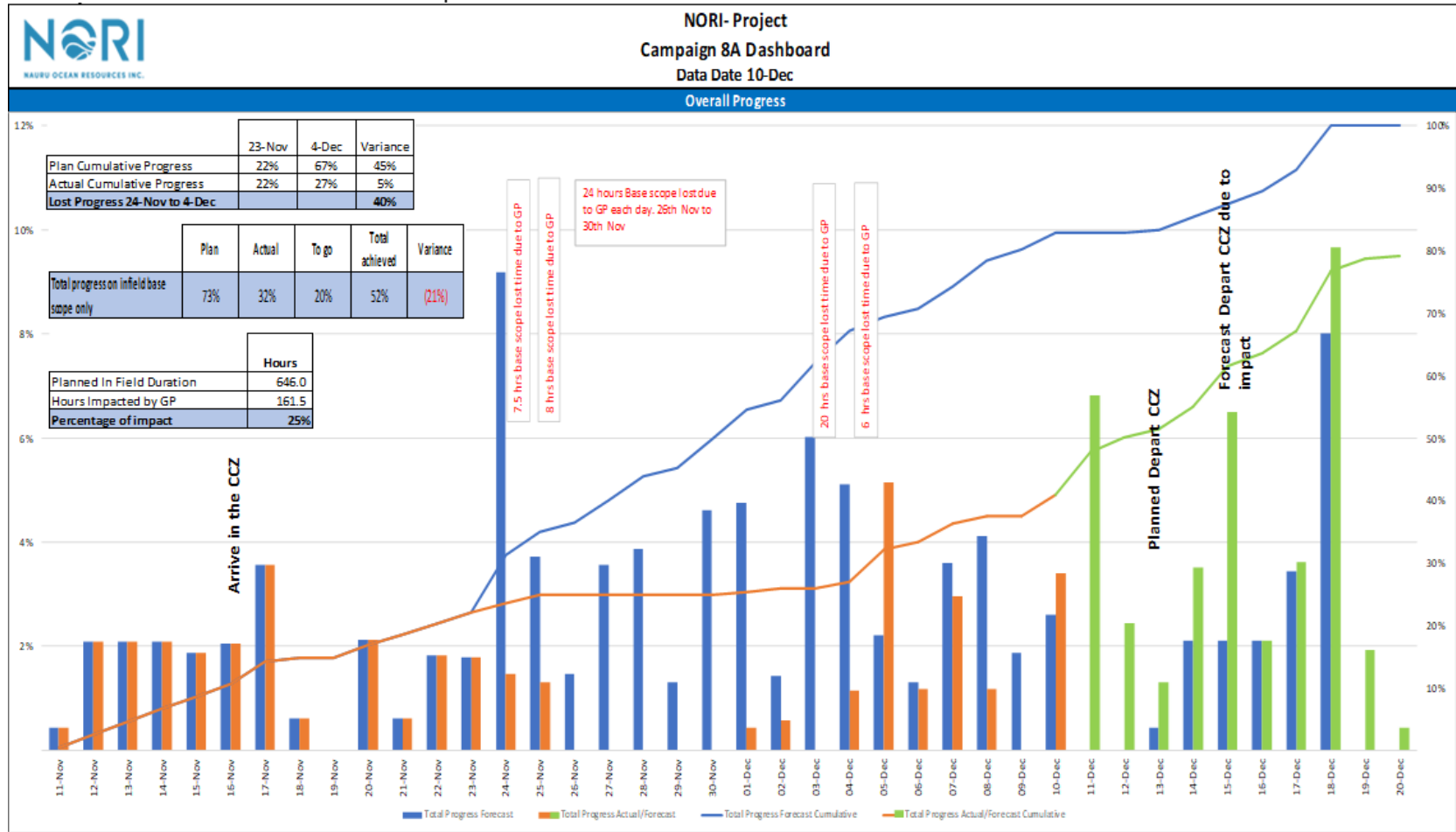
Cc

Permanent Representative of Tonga to the United Nations, H.E. Mr Vainga Tone
Permanent Representative of Nauru to the United Nations, H.E Mrs. Margo Deiye

Overall Impact to 10 December 2023:

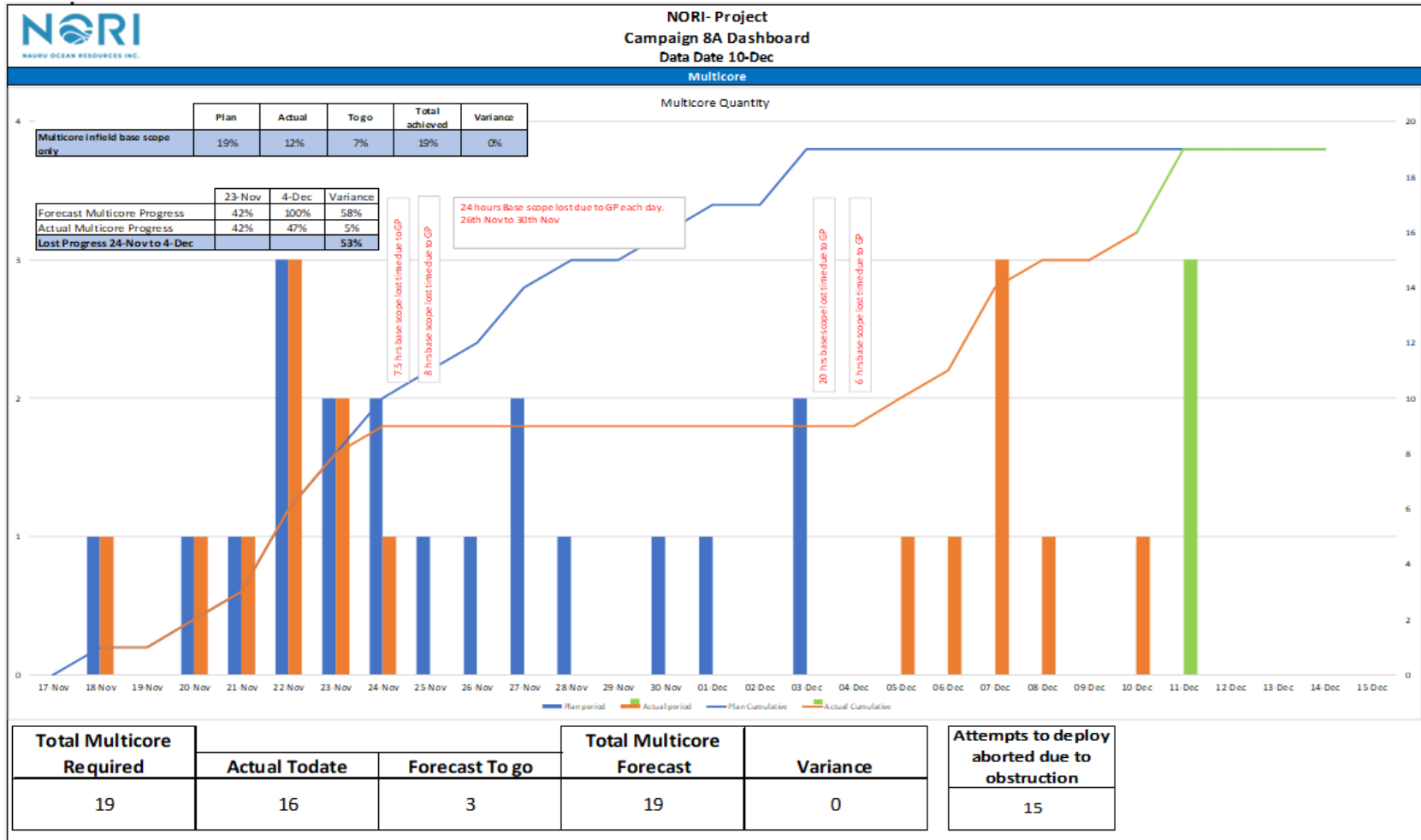
Key notes:

- Up to and including 23 November, NORI was on-track and forecasting to complete all activities (excludes weather)
- From 24 November to 04 December – the time Greenpeace was disrupting NORI activities, only another 5% of progress was achieved – instead of the 45% planned.



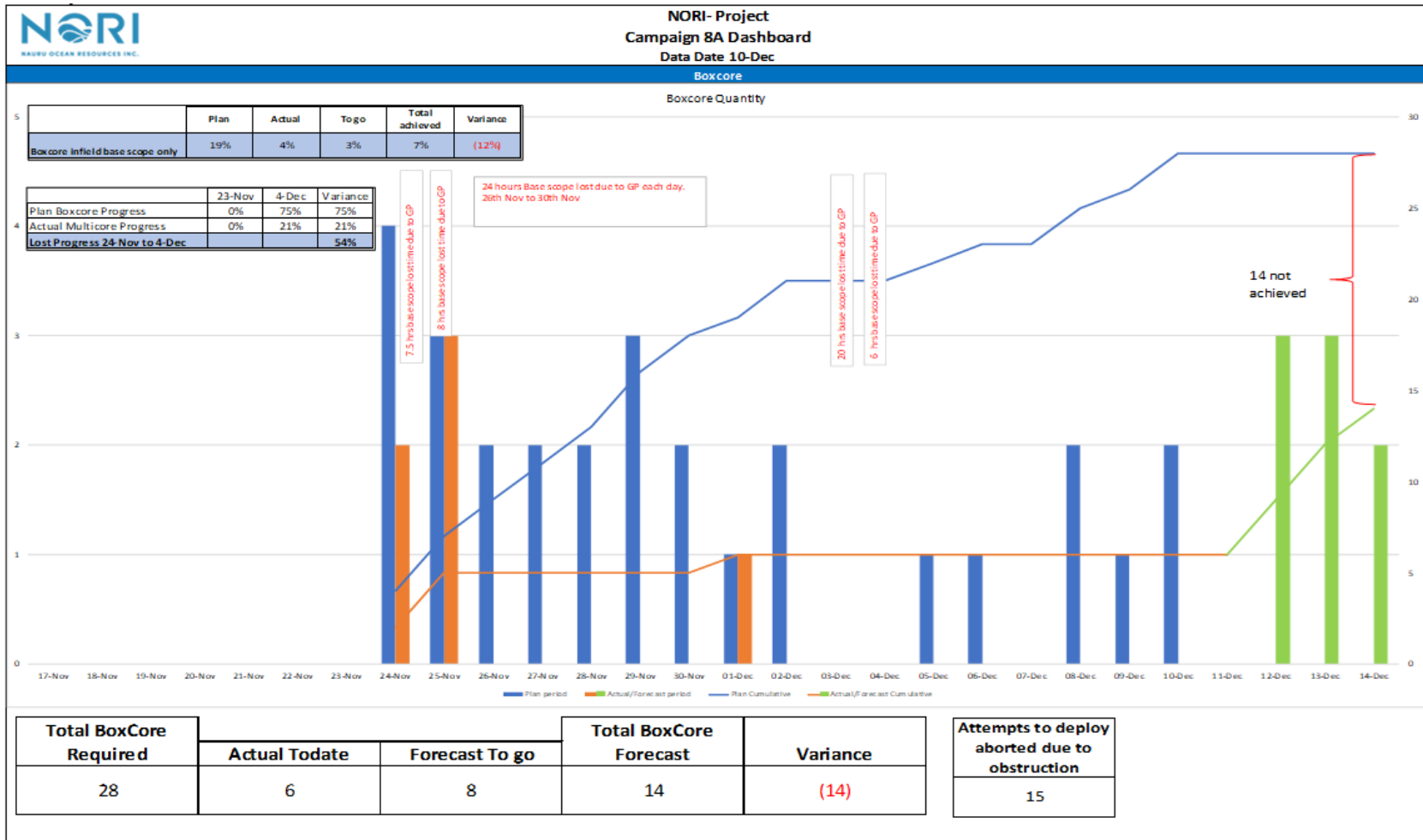
Multicores

NORI is attempting to complete all multicore scope. The graph below shows that only one (1) multicore was achieved during Greenpeace presence in NORI-D.



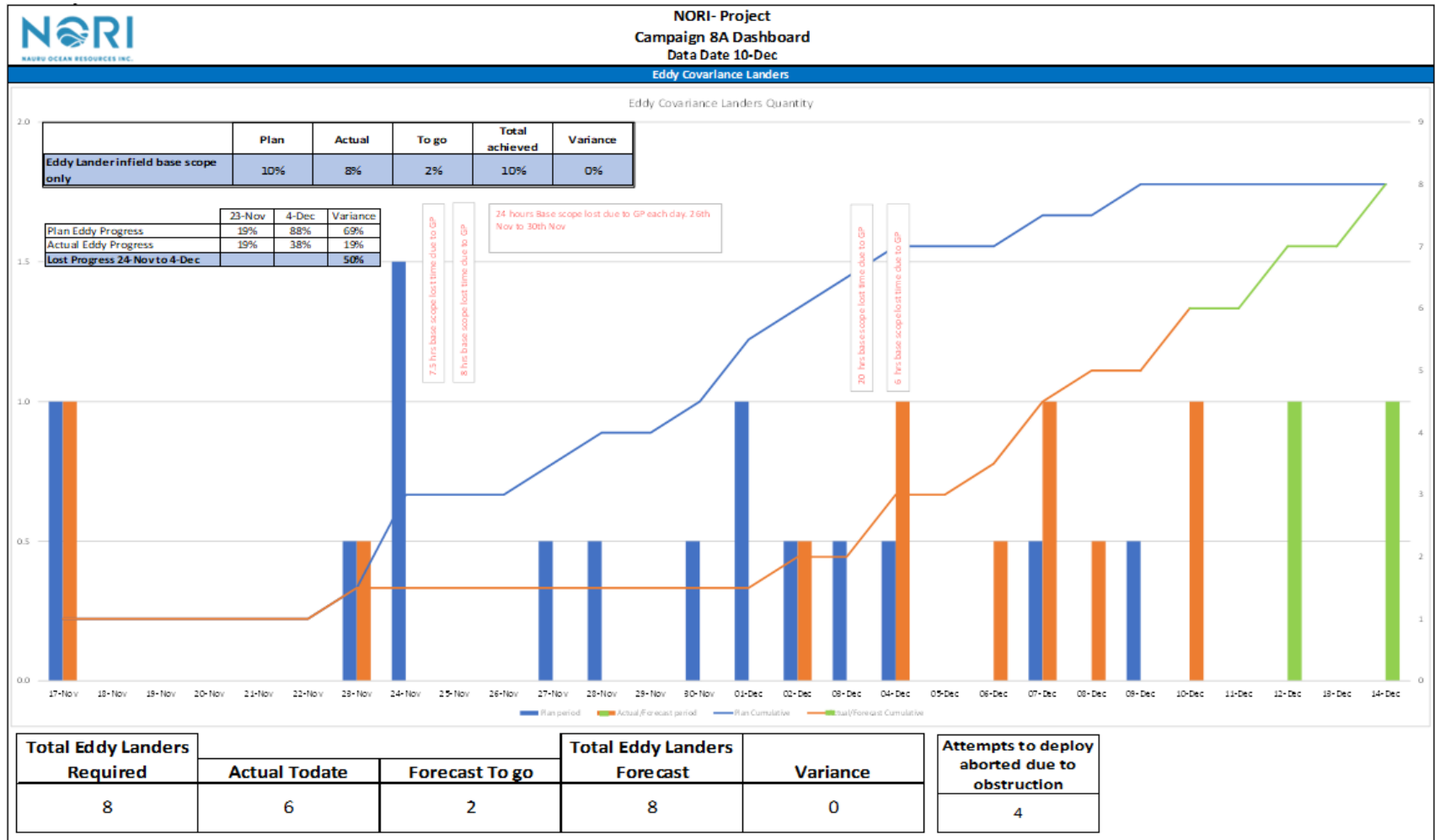
Boxcore

This scope has been compromised. NORI is attempting to complete fourteen of the proposed twenty-eight planned deployments.



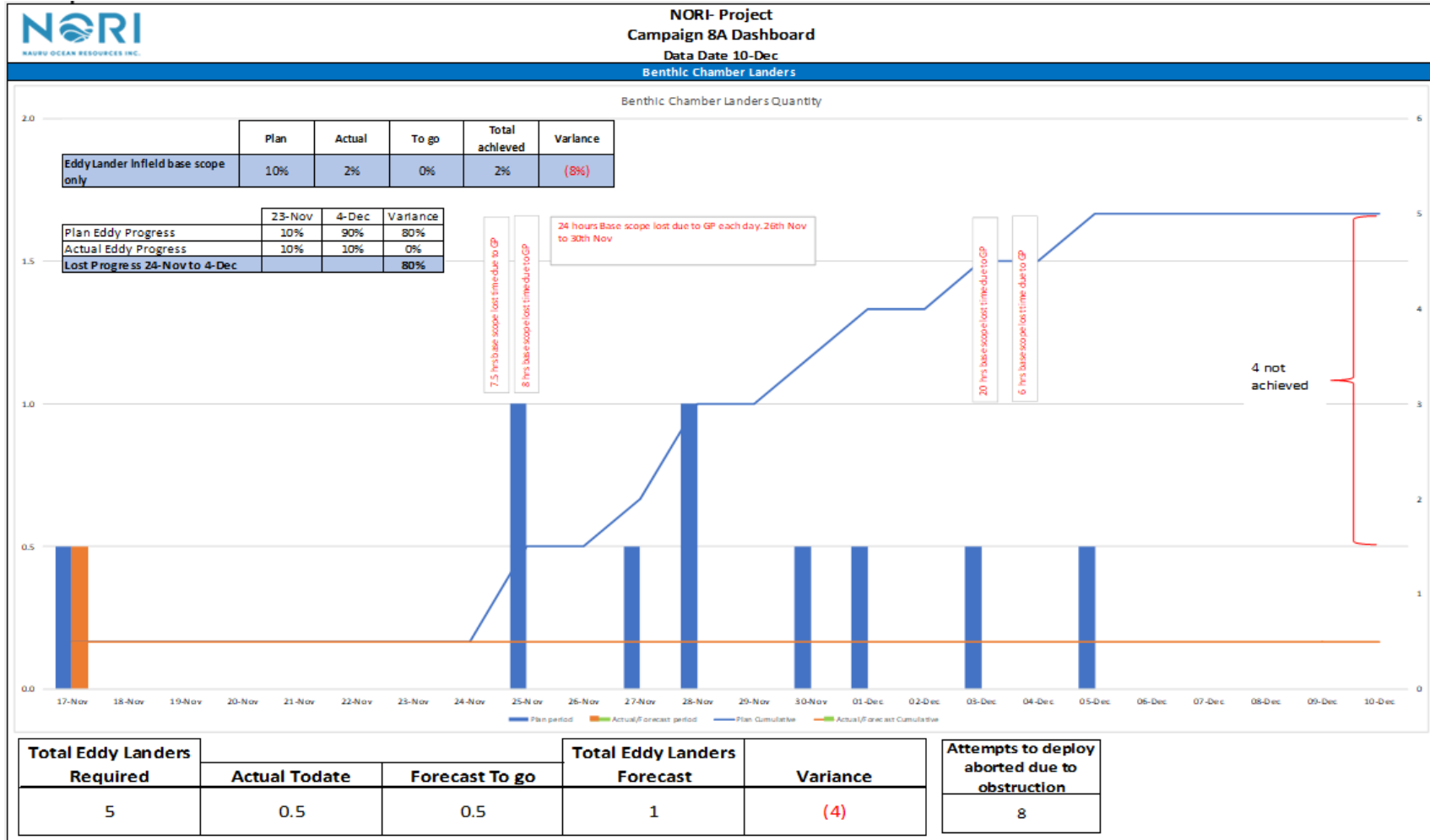
Aquatic Eddy Lander

NORI is forecasting to complete the required deployment of Aquatic Eddy Landers.



Benthic Chamber Lander

Due to the disruption by Greenpeace, this scope has been removed and other scopes prioritised.



Other scopes of work complete:



3 x moorings successfully recovered
Long-term oceanographic monitoring program

3 x mooring planned deployments
1 x mooring redeployment (NORI-D)
2 x mooring deployment (TOML-F)

Owing to operational time required to transit to TOML-F, decision has been made to redeploy all 3 moorings at NORI-D so that the transit time can be used to continue benthic operations at NORI-D.



WBAT Drifting array
Bioacoustic data from 1000-2000m to discern any pelagic biomass below 1000m

Annex IV

***Note verbale* from the Ministry of Foreign Affairs of the Kingdom of the Netherlands to the Secretariat of the International Seabed Authority dated 15 December 2023**



Note verbale

Min-BuZa.2023.20081-42

The Ministry of Foreign Affairs of the Kingdom of the Netherlands presents its compliments to the Secretariat of the International Seabed Authority and has the honour to refer to the Secretariat's Notes No. ISA/EOSG/2023/309, No. ISA/EOSG/2023/313, No. ISA/EOSG/2023/315 and No. ISA/EOSC/2023/317, dated 26 November 2023, 28 November 2023, 30 November 2023 and 1 December 2023 respectively, containing letters from the Secretary-General of the International Seabed Authority to the Prime Minister of the Netherlands, as well as Note No. ISA/EOSG/2023/311, of 27 November 2023, containing the Notification of the Secretary-General of immediate measures of a temporary nature, concerning protest actions by Greenpeace International carried out from the Dutch flagged vessel "M/Y Arctic Sunrise" in the vicinity of and on board the Danish flagged vessel "M/V Coco" operated by Nauru Ocean Resources Inc (NORI) engaged in an exploration campaign in the NORI-D contract area in the Area.

In the letters, as well as in the Notification of immediate measures of a temporary nature, the Secretary General requests the Netherlands, as the flag State of the "M/Y Arctic Sunrise", amongst others, "to consider as a matter of utmost urgency, what measures, if any, are warranted pursuant to international law and the laws of the Netherlands concerning the conduct of Greenpeace and the "M/Y Arctic Sunrise" in the present circumstances". In this respect, the Netherlands wishes to convey the following.

Following receipt of the Secretariat's first Note, ISA/EOSG/2023/309 of 26 November 2023, on 27 November 2023, the Dutch authorities requested Greenpeace International to provide information and clarifications on its activities. On the basis of the information provided by Greenpeace International as well as the information provided by the Secretary-General in his letter(s), it is the understanding of the Netherlands that, on 22 November 2023, Greenpeace International notified NORI of its intention to undertake a peaceful protest at sea against the Danish flagged vessel "M/V Coco" conducting exploration activities under the auspices of the International Seabed Authority in the Clarion-Clipperton Zone. The protest actions took place in the immediate vicinity and on board of the "M/V Coco" with Greenpeace activists sailing around the vessel, boarding the vessel without permission, attaching banners and entrenching themselves on board of the "M/V Coco", thereby hindering NORI in carrying out its activities and navigation of the vessel.

In response to these protest actions, on 27 November 2023, NORI filed summary proceedings in the Amsterdam District Court, seeking to obtain an injunction from the Court against Greenpeace International, amongst others, to cease all possible actions regarding the "M/V Coco" with immediate effect, to order its people to disembark the vessel and not to deface, damage, impede or hinder the activities and navigation of the "M/V Coco" as well as to prohibit Greenpeace International from being within a radius of 500 meters around the "M/V Coco" for a period of six months and from undertaking or facilitating unlawful or nuisance actions there for as long as the "M/V Coco" is in the Clarion Clipperton Zone.

In its Decision of 30 November 2023, the District Court upheld the right of peaceful protest, inherent to the freedom of expression and the freedom of assembly, based, in particular, on articles 10 and 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). According to the Court, the fact that the exercise of this right may entail inconvenience or nuisance to the company against which the action is directed does not alter this. The exercise of this right/these freedoms may not be subject to any restrictions other than those provided by law and which are necessary in a democratic society in the interests of (inter alia) national security, public safety, the prevention of disorder or crime, the protection of health or morals and the protection of the rights of others. In this respect, the Court acknowledges (paragraph 4.6 of its Decision) that the presence of activists of Greenpeace on (top of) the A-frame of "M/V Coco" constitutes a safety hazard and prevents NORI from safely deploying equipment. The Court therefore considers that the responsibility of the owner of the vessel for the safety of those on board outweighs the interest of Greenpeace International to (continue to) protest on board the ship, which has been going on for almost a week and with which Greenpeace has already been able to make its point by generating publicity. For that reason, as well as the fact that the presence of the activists on board the ship has hindered NORI in carrying out its activities and navigation of the vessel, thereby causing loss or damage, the Court ordered Greenpeace International to instruct its activists to leave the vessel with immediate effect.

As regards the claim to obtain an injunction against Greenpeace International to cease all possible actions regarding the "M/V Coco" with immediate effect and not to deface, damage, impede or hinder the activities and navigation of the "M/V Coco", the Court found that by ordering Greenpeace International to withdraw the activists from the ship, the nuisance caused by the protest actions will decrease. According to the Court, some level of nuisance caused by protest actions is inevitable and such actions cannot be prohibited beforehand without a concrete substantiation of what the nuisance consists of. The Court accordingly rejected the request for an injunction to cease all possible actions regarding the "M/V Coco" on the ground that such an order would go much further than what is necessary to achieve its purpose.

Similar considerations led the Court to reject the claim to obtain an injunction to prohibit Greenpeace International from being within a radius of 500 meters around the "M/V Coco" for a period of six months and from undertaking or facilitating unlawful or nuisance actions there for as long as the "M/V Coco" is in the Clarion Clipperton Zone. According to the Court, ordering Greenpeace to remain outside a radius of 500 meters around the "M/V Coco", without there being concrete indications of the necessity of that measure, would constitute a disproportionate infringement of Greenpeace's right to protest, since such a prohibition would relate to future actions by Greenpeace International, which cannot be assumed in advance to be unlawful, because the circumstances under which those possible actions take place are not known. Moreover, the Court found no ground, whether on the basis of the immediate measures of a temporary nature issued by the Secretary-General of the Authority pursuant to Regulation 33 of the Regulations on Prospecting and Exploration for Polymetallic Nodules or the 1972 Convention on the International Regulations for Preventing Collisions at Sea ("COLREGS"), to consider protest actions at sea within a radius of 500 meters around the "M/V Coco" to be unlawful in advance.

Following the Decision of the District Court, the Greenpeace activists disembarked from the "M/V Coco", but continued their protest actions around the vessel. Meanwhile it has been brought to the attention of the Netherlands that Greenpeace International ended its protest actions at sunset on 4 December 2023 and that NORI was notified in the early morning of 5 December, Amsterdam time and that – as a result of the ending of protest actions - the planned "super-urgent appeal" (before the Amsterdam District Court) by NORI was withdrawn.

In the context of the events taking place from 22 November to 4 December 2023, the Netherlands would, with reference to the Award on the Merits of 14 August 2015 in the Arctic Sunrise Arbitration (PCA Case No 2014-02), make the following additional observations.

The lawfulness of protest actions must be considered on a case-by-case basis. Any restrictions on the right to protest peacefully have to be in accordance with the obligations laid down in, inter alia, the International Covenant on Civil and Political Rights and the European Convention on Human Rights as well as related case law. When the right to protest is exercised at sea, this framework is informed by the relevant rules of the law of the sea.

As confirmed in the Arctic Sunrise Award, the right to protest at sea is an internationally lawful use of the sea related to the freedom of navigation. This right is not without limitations. It must be exercised in a peaceful manner, without compromising safety at sea and with due regard for the interests of other States in their exercise of the freedom of the high seas, and with due regard for the rights with respect to activities in the Area under the auspices of the International Seabed Authority in accordance with the United Nations Convention on the Law of the Sea ("UNCLOS"). Measures to protect the interests and rights involved must fulfil the tests of reasonableness, necessity, and proportionality. At the same time, as confirmed in the Arctic Sunrise Award, some level of nuisance through civilian protest should be tolerated as long as it does not amount to an interference with the exercise of rights of others and due regard must be given to rights of other States, including the right to allow vessels flying their flag to protest.

As the flag State of the "M/Y Arctic Sunrise", the Netherlands jurisdiction over the vessel includes adjudicatory jurisdiction by its competent courts to determine the limits of the right to protest at sea by reviewing the lawfulness of the protest actions undertaken from the "M/Y Arctic Sunrise" in the vicinity of and on board the "M/V Coco". As pointed out, in the exercise of its adjudicatory jurisdiction, the Amsterdam District Court determined that safety hazards and the delaying of operations on board the "M/V Coco" outweighed the continued presence of Greenpeace activists on board the vessel, but dismissed, given the facts and the circumstances brought to its attention by the parties, wider limitations on the right to protest, including with respect to maintaining a safety distance from "M/V Coco" of at least 500 metres based on the immediate measures of a temporary nature issued by the Secretary General of the Authority pursuant to Regulation 33 of the Regulations on Prospecting and Exploration for Polymetallic Nodules.

With respect to the immediate measures of a temporary nature taken by the Secretary-General pursuant to Regulation 33 of the Regulations on Prospecting and Exploration for Polymetallic Nodules, the Netherlands recalls that such measures may only be taken in the event of an "incident resulting from or caused by a contractor's activities in the Area that has caused, is causing or poses a threat of serious harm to the marine environment" in order "to prevent, contain and minimize serious harm or threat of serious harm to the marine environment". The Netherlands notes that Secretary General considered these measures warranted "considering the immediate and urgent threat of serious harm to the marine environment and the safety of life at sea, and consistent with the precautionary approach".

On the basis of the facts and circumstances of the events related to the protest actions undertaken from the "M/Y Arctic Sunrise", it is the view of the Netherlands that the events do not qualify as a situation envisaged under that provision. The Netherlands further notes that, if such a situation were to occur, the authority of the Secretary-General to take immediate measures of a temporary nature would be limited "to prevent, contain and minimize serious harm or threat of serious harm to the marine environment". While the Netherlands fully recognises the functions and responsibilities of the Authority, in accordance with UNCLOS, including a responsibility to inform and bring to the attention of the Netherlands as the flag State of the "M/Y Arctic Sunrise" the protest actions against the "M/V Coco", the Netherlands hereby expresses its concern to the approach of the Secretary-General that is not in conformity with Regulation 33.

Furthermore, with respect to the purported requirement of maintaining a safety or operating zone of 500 metres around the vessel "M/V Coco", the Netherlands considers that the "M/V Coco", in light of the nature of the activities carried out by the vessel, operates as and is a ship rather than an installation for which safety zones may be established in accordance with the provisions of UNCLOS, taking into account the provisions of IMO resolution A.671 (16), adopted on 19 October 1989. The Netherlands is not aware of any generally accepted international standards that authorize safety or operating zones of a radius of 500 meters for ships such as the "M/V Coco". The Netherlands is therefore of the view that the requirement of maintaining a safety or operating zone of 500 metres around the "M/V Coco" is in the nature of a request, rather than a mandatory requirement based on the provisions of UNCLOS. Furthermore, any limitations on the right to protest by "M/Y Arctic Sunrise" in the vicinity of the "M/V Coco", including with respect maintaining a safe distance to that vessel, must fulfil the tests reasonableness, necessity and proportionality.

The Netherlands recalls that, notwithstanding the fact that Greenpeace International has ended its protests on 4 December 2023, legal remedies continue to be available to the interested parties in accordance with the laws of the Netherlands (including the possibility for NORI to institute further proceedings on the merits).

The Netherlands attaches great importance to the right to protest at sea, as long as safety of human life at sea is not endangered and relevant international collision avoidance regulations are observed. This view of the Dutch authorities, as expressed, amongst others, in the Joint Statement by the Governments of Australia, the Netherlands, New Zealand, and the United States on Whaling and Safety at Sea of 19 December 2016 and the Joint Statement by the Russian Federation and the Kingdom of the Netherlands on cooperation in the Arctic zone of the Russian Federation and dispute settlement of 15 May 2019, is well-known to non-governmental organizations using vessels that are flying the flag of the Netherlands, including Greenpeace International. The Dutch authorities have raised these matters, including with respect to safety concerns towards the crew of the "M/Y Arctic Sunrise" in kayaks in the immediate vicinity of the "M/V Coco", in its contact with Greenpeace International and will continue to do so also in the aftermath of the events relating to the protest actions of the "M/Y Arctic Sunrise" against the "M/V Coco" in the Clarion Clipperton Zone. The Netherlands condemns dangerous and unlawful behaviour at sea, and confirms its readiness to deal with unlawful activity undertaken from vessels that are flying the flag of the Netherlands in accordance with applicable domestic and international law.

The Ministry of Foreign Affairs of the Kingdom of the Netherlands avails itself of this opportunity to renew to the Secretariat of the International Seabed Authority the assurances of its highest consideration.

The Hague, 15 December 2023



To the Secretariat of the International Seabed Authority

cc. Ministry of General Affairs of the Netherlands