



ITEM 10: Draft Regulation 13 “Assessment of applications”

Deep Sea Conservation Coalition intervention

25 March 2024

On behalf of the DSCC, Environmental Justice Foundation, Oceans North, The Ocean Foundation, WWF

We would like to make several observations on both DR13 and DR13 Alt:

Firstly, we would observe that the term “serious harm”, which occurs in what appears to be bracketed text in DR13.3(b), is inconsistent with Article 145.

Secondly, we are concerned about the limiting qualifier of “intense” fishing activity” in DR13 para 4.b(RN3 iii) and in DR13 Alt paragraph 8(RN3 iii).

While we appreciate that this term is used in article 147(2)(b) of the Convention, it is our firm view that any fishing activity that could potentially be impacted should be identified. For example, an impact on tuna stocks or salmon populations on the high seas could affect fishing activity in coastal areas important to local communities or indigenous peoples, not just “intense” fishing activity in the high seas.

We would note that the 1995 UN Fish Stocks Agreement obliges States to avoid adverse impacts on artisanal and subsistence fishers, indigenous people and women fishworkers, as well as to recognize the vulnerability of developing States dependent on fisheries for meeting the nutritional requirements of their populations. [in Articles 5 & 24]

The UN Fish Stocks Agreement also requires States to assess the impacts of human activities and environmental factors on species belonging to the same ecosystem; and recognizes the need to ensure the conservation of associated and dependent species, protect habitats of special concern and protect biodiversity in the marine environment. [in Articles 5 & 6]

If this Draft Regulation only addressed impacts on so-called “intense” fishing activity in areas where seabed mining might take place, the ISA could seriously undermine the aforementioned provisions of the UN Fish Stocks Agreement, the implementing agreement for Articles 63.2 and 64 of the Convention, and the measures taken to implement the Agreement. It could also subvert measures established under Articles 65-67 of the Convention for the conservation of anadromous species important to indigenous peoples and local communities in the North Pacific.

To this end, a new criterion is needed that would require consideration of whether fisheries, food security or human health would be adversely affected by the environmental impacts of deep-sea mining, wherever those impacts may occur.

Mr. President, distinguished delegates, the question of protecting fisheries is of course inherently tied to the biodiversity crisis and the knock-on impacts of that crisis on carbon cycling and sequestration. As we begin to feel the effects of such phenomena ever more acutely in the ocean, the prevention of biodiversity loss and the preservation of carbon cycling and sequestration functions must be a primary consideration for decision-makers at the ISA. Draft regulation 13, para

4(RN6 vi) lists the impacts that the “activity will not cause”. We are concerned to see, however, that the protection of “biological diversity and integrity of marine species, ecosystems and processes” is relegated to para 5(e) in DR13 and para 9(d)(RN5 v) in DR13alt, under which the Commission is required only to ‘take such factors into account’. In our view, the prevention of biodiversity loss and safeguarding the integrity of marine processes, including carbon cycling and sequestration, are fundamental in our crumbling Earth system, and the activity of deep-sea mining must not be permitted if it compromises these processes.

In this regard, there is a real risk that the ISA could also undermine the UN Framework Convention on Climate Change, the Convention on Biological Diversity, the Convention on Migratory Species, the United Nations Declaration on the Rights of Indigenous Peoples and other related treaties and agreements. The discussions here must recognize the wider efforts States are engaged in to protect the oceans, halt and reverse biodiversity loss, restore ecosystems, address climate change and provide a livable planet for future generations.

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