

Greenpeace and DSCC intervention - OSPAR

Thank you Mr President. This intervention is on behalf of Greenpeace and the Deep Sea Conservation Coalition.

We are deeply concerned at the stance that the ISA Secretariat has taken in its communications with, and about, the OSPAR Commission, in particular in seeming to argue **against** the ability of OSPAR to take steps under its own mandate to protect species and habitats against harm by deep sea mining within the OSPAR maritime area, and in challenging the provisions of BBNJ and international cooperation in the development of the North Atlantic Current and Evlanov Sea-basin (NACES) marine protected area. This highlights the problems the ISA Secretariat has with regional cooperation bodies. A more cooperative attitude is needed. The ISA does not exist in isolation; if it fails to try to integrate constructively in other international processes taking place around it, it seems likely to lead to conflict, or uninformed and outdated decision-making.

We saw the same issue with the Convention on Migratory Species of Wild Animals recently. The ISA Secretariat sent a **highly contentious** memorandum to the CMS Secretariat at the recent CoP14 meeting in Samarkand, Uzbekistan, in effect contesting scientific evidence on the effects of deep sea mining on migratory species. In the end the COP14 urged Parties not to engage in, or support, deep-seabed mineral exploitation activities until sufficient and robust scientific information has been obtained to ensure that deep-seabed mineral exploitation activities do not cause harmful effects to migratory species, their prey and their ecosystems.

OSPAR's group of Jurists/-Linguists advised that OSPAR has the legal competence to work on deep sea mining issues in the OSPAR maritime area, which includes areas both outside and within national jurisdiction. Yet the ISA Secretariat responded to the advice, saying in essence that OSPAR would **not** need to impose any deep sea mining measures as the ISA would be capable of doing that through the future mining code and other decisions. OSPAR Heads of Delegation (HoD) decided to stand by the J/L advice and decided that no further written communication on this issue was currently needed with the ISA.

The Secretary-General's note repeatedly refers to the ISA's 'exclusive mandate in the Area'. We also heard this term used in the Council discussion last week about protest at-sea. We want to caution that accuracy is needed in identifying what is exclusive about the ISA's mandate. What the ISA **has** an exclusive mandate for, is to issue contracts for activities in the Area. It does not have an exclusive mandate for controlling States' activities **nor** for setting environmental protection.. It is not appropriate for the Secretary-General to seek to extend the specific mandate given by UNCLOS, least of all where the intention seems to be to prevent environmentally protective measures. If the ISA Secretariat is acting in this way with OSPAR, what is to be expected when the BBNJ agreement shall be implemented?

We note that nothing under the Law of the Sea prevents a State from adopting more stringent national regulations to protect the marine environment. In fact Article 208 of UNCLOS provides that laws, regulations and measures shall be no less effective than international rules, standards and recommended practices and procedures. This is specifically acknowledged in the preamble to the OSPAR Convention which states that Contracting States recognise that it may be desirable to adopt, on the regional level,

more stringent measures with respect to the prevention and elimination of pollution of the marine environment or with respect to the protection of the marine environment

Both the ISA and OSPAR have the responsibility to ensure there are no harmful effects on the marine environment - in terms of Article 145 of UNCLOS - and Article 197 requires cooperation on a regional basis.

Under the BBNJ agreement the need for cooperation between ISA and OSPAR, including with respect to Area Based Management Tools, is clear. The ISA and member States must cooperate, including under Article 8 of the BBNJ Agreement, including promoting the objectives of the BBNJ Agreement when participating in decision-making under the ISA.

This is particularly so with respect to the NACES marine protected area which was extended to include the seabed in June 2023.

In closing, we call on the ISA, its Secretariat and Member States to work cooperatively with OSPAR and its contracting Parties to protect the marine environment, including with respect to marine protected areas.