

21 March 2024

Mr. Michael Lodge
Secretary-General
International Seabed Authority
14 – 20 Port Royal Street
Kingston, Jamaica

Re: Further update on the incidents in the NORI-D contract area

Dear Secretary-General,

Nauru Ocean Resources Inc (**NORI**) provides this further update in regard to the obstruction activities undertaken by Greenpeace International (**Greenpeace**) in the NORI-D contract area within the Clarion-Clipperton Zone (the **Incidents**). NORI requests that this letter be circulated to the Council and be made available on the Authority's website.

NORI notes the Second Report on the Immediate Measures of the Secretary-General of the Authority (the **Second Report**), the letter from Greenpeace to the Authority of 21 February 2024 (the **Greenpeace Letter**), the Report of the Secretary-General on Incidents in the NORI-D Contract Area of the Clarion Clipperton Zone (ISBA/29/C/4) (the **Report to the Council**), and the Kingdom of the Netherlands (the **Netherlands**) investigative report into the Incidents dated 27 February 2024 transmitted by Note Verbale dated 14 March 2024 (the **Report**). For completeness, this letter does not comprehensively address every matter, allegation or assertion in those materials. To the extent a matter is not addressed in this letter, NORI reserves its rights and should not be taken to have acquiesced or agreed to any particular characterization of any issue raised.

Right to protest at-sea

NORI acknowledges and supports the rights of individuals to protest. NORI welcomes Greenpeace and others who wish to protest or observe NORI's operations but is gravely concerned by the actions of Greenpeace which have continually placed individuals in unsafe positions and at risk. The location of NORI-D is a five day sail from the nearest port, restricting any emergency response, further increasing the potential risk from unsafe activities.

Greenpeace's mischaracterisation of its protest activities

Greenpeace has repeatedly asserted that its actions involved mere "*peaceful protests*" and were conducted safely and professionally. NORI does not deny – and indeed supports – that Greenpeace has the right to undertake, in the words of the Greenpeace Letter, "*safe and peaceful protest at sea*". However, Greenpeace has misrepresented and underplayed what occurred and failed to note the significant unlawful, non-peaceful and unsafe element of its activities, including that Greenpeace:

- (a) Repeatedly caused on sea collisions between Fast Recovery Craft (**FRCs**) and the *M/V Coco*;
- (b) Deliberately positioned a FRC within a water stream of the *M/V Coco*'s safety water system, resulting in the FRC operator having minimal visibility and potentially endangering the operator and other persons on board the FRC;

- (c) Navigated kayaks into extremely close proximity to the *M/V Coco* and in one instance, resulting in the kayak capsizing;
- (d) Attached a banner to a winch cable which was under significant tension during deployment of equipment to the deep seabed;
- (e) Boarded without notification or permission the *M/V Coco*, scaling the vessel's A-Frame and erecting banners and tents, rendering its operation unsafe;
- (f) Disabled without warning or authorisation the A-Frame by activating its emergency stop and tampering with the A-Frame's lighting, thereby restricting the ability of the *M/V Coco* to undertake normal transits;
- (g) Rotated personnel from the A-Frame without notification or communication to the *M/V Coco* and through unsafe techniques involving ropes that resulted in Greenpeace crew freely swinging in the centre of the A-Frame creating significant risk to their safety. This also resulted in a Greenpeace protestor misjudging their climb and falling into the water, their life jacket inflating and requiring assistance from the Greenpeace FRC;
- (h) Positioned FRC's beneath launch points and against the hull of the *M/V Coco*, at times with loads under tension, placing themselves in the direct line of fire;
- (i) Operating kayaks and a FRC in the vicinity of equipment launch and retrieval points including around wires and cables (including high-voltage cables) connected to equipment in the water, which were under significant tension; and
- (j) Accelerated the *M/V Arctic Sunrise* without advanced warning on a collision course with the *M/V Coco*. At the time, the *M/V Coco* was connected to equipment in the water and being held in place by a dynamic positioning system, restricting the *M/V Coco*'s ability to avoid a life-threatening incident.

We have provided video evidence of Greenpeace's unsafe and non-peaceful activities at the following link: <https://vimeo.com/925947537?share=copy>

NORI also notes that the above examples are not isolated incidents. As noted in your Report to the Council, Greenpeace has undertaken several protest actions against vessels undertaking activities in the Area, including scaling and painting vessels in unsafe circumstances.

Update on the Dutch legal proceedings

Although NORI welcomed the order of the Amsterdam District Court (the **District Court**) for Greenpeace to disembark from the *M/V Coco*, NORI considers that its ruling of 30 November 2023 contained several errors.

In particular, the District Court had limited information on the extent of the impact of Greenpeace's activities, given the urgent nature of NORI's application. As such, it was unable to properly assess the full extent of the impact of Greenpeace's actions and the threat they caused to human life and safety. The District Court also incorrectly characterised the Secretary-General's Immediate Measures and was under the impression that Greenpeace was not aware of their content.

In light of this, NORI is currently seeking an appeal of the District Court's decision with the aim of correcting these and other errors and clarifying the applicable legal framework.

The Netherland's investigation report

NORI acknowledges the Report provided by the Netherlands. However, NORI is concerned that the Report failed to: (i) consider all relevant material, (ii) afford due process to NORI, and (iii) provide adequate reasons for its findings.

NORI is specifically concerned that the investigators do not appear to have had access to the full timeline of events and information regarding the Incidents (for example it appears that no video footage dating after 29 November 2023 was examined). At no point was NORI invited to participate in meetings with Dutch authorities or make submissions. The Report also failed to provide adequate reasons for some of its conclusions and explain what corrective actions if any have been taken by the Netherlands as flag State in relation to the *M/V Arctic Sunrise*, specifically in circumstances whereby the District Court determined certain actions of Greenpeace as unlawful.

NORI notes that it intends to write to and work with the Netherlands to further clarify these matters and offer to meet with the Dutch authorities to discuss their response to the Incidents.

Further measures by the Authority

We note that the Incidents and responses by the Authority and other regulatory authorities have demonstrated a potential gap in the Authority's regulatory regime to protect human life and safety.

In this regard NORI fully supports the proposal by the Republic of the Nauru (**Nauru**) to establish safety zones around vessels undertaking activities in the Area. These vessels are undertaking highly technical operations, often with a direct connection to the deep seabed which limits their manoeuvrability. Given the clear intent of Greenpeace to continue their obstruction activities and disregard requests by such vessels to maintain a safe distance, there is an urgent need for the Authority to clarify the legal regime that applies and provide adequate safeguards to contractors conducting activities in the Area. Nauru's proposal supports the Authority's mandate to protect human life and safety, recognises the right to protest and the rights of contractors.

We also take this opportunity to reiterate our request that the Authority consider and take all further actions available to it to ensure the protection of human life and to ensure that NORI, and other contractors, can comply with our obligations and exercise our rights under our exploration contracts with the Authority without interference. We encourage the Authority to work with the Netherlands and international bodies such as the International Maritime Organization to ensure that Greenpeace is held to account for its actions and not be allowed to obstruct approved exploration activities in the future.

NORI's compliance with its obligations

NORI also again confirms that, irrespective of the obstruction activities of Greenpeace and its unlawful actions, NORI has continued to and will continue to fully comply with all of its obligations under its exploration contract.

Reservation of rights

Given the impact of the Incidents, NORI continues to reserve its rights to seek damages and any further relief from all involved parties, including but not limited to Greenpeace, Stichting Phoenix (the owner of the *M/V Arctic Sunrise*), the Netherlands, and the Authority.

Yours sincerely,

Gerard Barron

Gerard Barron

Cc Nauru Ambassador to the ISA, Margo Deiyee