

Intervention by the Deep Sea Conservation Coalition

Item 10: Eighth Meeting of the Informal Working Group on the Protection and Preservation of the Marine Environment. Topic for discussion: Environmental Monitoring/Environmental Management and Monitoring Plan.

24 July 2024

DR 50 - Environmental Management and Monitoring Plan (EMMP)

Thank you Madam Facilitator

This intervention is being delivered on behalf of DSCC, Oceans North, Greenpeace, WWF, Sustainable Ocean Alliance and Environmental Justice Foundation

Draft Regulation 50 and Annex VII cannot yet be developed properly until there is enough scientific information to do so for any of the three types of mining (nodules, cobalt-rich crusts and hydrothermal vents). Scientific studies have found it would take at least a decade to several decades and likely longer, to acquire the necessary information to have a sufficient understanding of the risk of harm to species, ecosystems and the marine environment and whether harm or damage to the flora and fauna of the marine environment can be prevented.

It was clear from the EIAs that were subject to comment periods in May and June, as well as previous EIAs for testing mining equipment, that adequate environmental baselines were not available, and therefore the monitoring plans to assess impacts and compare to the predicted impacts in the Environmental Impact Statements were inadequate.

A clear example of the extent to which much more needs to be known before an EMMP can be developed is the publication in May 2023 concerning the radioactivity of polymetallic nodules in the CCZ, yet Annex VII for example does not mention radioactivity. An even more recent example is the publication this week in Nature Geoscience that polymetallic nodules create oxygen - based on research conducted over the past decade.

And yet this function has only just been recognized but its implications for ecosystem function are not yet known. If an EMMP had been approved as part of a plan of work in the last decade or is approved before the ecosystem implications of this are not yet fully understood, it would have been, or will be, done in ignorance of this important finding.

This is particularly important to meeting the obligations in Article 145 because the Convention provides in article 153(6) that a contract has security of tenure and the contract shall not be revised, suspended or terminated except in accordance with Annex III, articles 18 and 19. And article 19 provides that any contract entered into in accordance with article 153, paragraph 3, may be revised only with the consent of the parties, which means the contractor has to agree as well as the ISA.

So we question whether new environmental information or ongoing damage can result in a review of the contract. It would seem that under the current settings, new environmental information or ongoing damage cannot result in a review of the contract. Nor under draft regulation 57 can the ISA even propose a Material Change.

We remind delegates of the discussion yesterday on DR 107 paragraph 5: as Costa Rica pointed out, if amendments to the regulations are not applied to existing contracts, those

contracts will be in force for 30 years or even 50 or 60 years with renewals, yet decades of scientific information will not be applied to modify those contracts. In addition, scientists have indicated that the deleterious impacts of mining, particularly for mining of polymetallic nodules in the Clarion Clipperton Zone, may persist for thousands or millions of years.

To conclude, if we do not have a comprehensive baseline understanding of the species and ecosystems in areas before mining is allowed, it will be impossible to effectively assess their vulnerability to the impacts of deep-sea mining and the risk of harm to the marine environment, nor to determine through a monitoring plan whether and how marine species and the environment have been impacted.

In extreme cases, as delegations we hope are well aware, scientists have warned of the risk of species extinctions from deep-sea mining, in some cases before the species have even yet been discovered or described. Can an EMMP or EMS monitor for the biological extinction of species if their existence is not even known in the first place or the functional extinction of a species if it has not yet been described and its role in the ecosystem is not recognized or understood? These are fundamental questions of concern to many NGOs as well as to many in society as a whole.

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