

1 December 2020

Rear Admiral (Retd.) Md Khurshed Alam  
President of the Council of the International Seabed Authority  
Kingston  
Jamaica

Via email to: [Council2020@isa.org.jm](mailto:Council2020@isa.org.jm)

Dear President Alam,

We are writing in response to your letter of 27 November 2020 concerning the application for approval of a plan of work for exploration of polymetallic nodules submitted by Blue Minerals Jamaica Ltd. We thank you for your invitation to Observers to submit written statements by 4 December 2020. We do wish to note that your letter was not in fact sent to Observers so it is entirely possible that other Observers are unaware of it. At the time of writing, it was not on the website at <https://www.isa.org.jm/node/19713>.

The Deep Sea Conservation Coalition wishes to make the following four observations on this matter. We refer to ISBA/26/LTC/4, "The Application for approval of a plan of work for exploration for polymetallic nodules by Blue Minerals Jamaica Limited" of 17 June 2020.

## 1. Procedural matters

DSCC submits that the silence procedure was described in the President's letters of [21 September 2020](#) and [19 November 2020](#) as being used matters of a procedural nature and the organization of work. The approval of a contract is clearly a substantive matter, which is not time sensitive, With the greatest respect to Jamaica and its aspirations, members will not have the requisite information on which to make the decision. Nor will they easily be able to confer prior to the decision being taken.

## 2. Transparency matters

It seems impossible for the Council review the financial and technical capacity of the applicant without knowing more about it. Little is known about the applicant, Blue Minerals Jamaica, its financial or its technical expertise. The application, [ISBA/26/LTC/4](#), is a just-over one page long Executive Summary. The LTC report [ISBA/26/C/22](#) of 6 August 2020 noted with respect to technical capability that "a shareholder and operational partner of the applicant was a multinational enterprise engaged for more than 35 years in carrying out challenging marine projects in the offshore oil and gas industry and currently engaged in the deep seabed mining sector." (para. 25) That multinational is not identified. The report noted with respect to financial capability only that "the applicant, being a newly established entity, submitted a pro forma balance sheet certified by its designated representative, in accordance with regulation 12, paragraph 6." No other financial information is provided. Council members need to know the financial and technical capability of the applicant. The LTC report states that the applicant provided information related to its financial and

technical capabilities to respond to any incident or activity that causes serious harm to the marine environment (para. 28) but does not state what those capabilities are except in the most general sense. No environmental impact assessment is to be undertaken, only a “desktop environmental risk assessment” (para. 30).

In summary, Council members do not have sufficient information to make the required decision. The Nodules Regulations [ISBA/19/C/17](#) require in Regulation 12(1) that “Each application for approval of a plan of work for exploration shall contain specific and sufficient information to enable the Council to determine whether the applicant is financially and technically capable of carrying out the proposed plan of work for exploration and of fulfilling its financial obligations to the Authority.”

### **3. Effective control matters**

Regulation 9 provides that the following may apply for approval of plans of work for exploration: “(a) States parties, State enterprises or natural or juridical persons which possess the nationality of States or are effectively controlled by them or their nationals, when sponsored by such States, or any group of the foregoing which meets the requirements of these Regulations. Regulation 10(3)(a) accordingly requires such an application to contain sufficient information to determine the nationality of the applicant or the identity of the State or States by which, or by whose nationals, the applicant is effectively controlled. No such information is disclosed, making it impossible for Council to adequately assess the information.

### **4. Sponsorship Legislation and Administrative measures**

There is no information about Jamaica’s sponsorship law and relevant administrative measures. At least one commentator has said that it would be prudent enquire as to the status of sponsoring state measures and, specifically, how the sponsoring State proposes to address or meet liability for potential damage arising.

[https://www.cigionline.org/sites/default/files/documents/Deep%20Seabed%20Paper%233\\_2.pdf](https://www.cigionline.org/sites/default/files/documents/Deep%20Seabed%20Paper%233_2.pdf)

We would be grateful if you could make this letter available to Council members and non-members and observers.

Yours sincerely,



Sian Owen  
Global Coordinator  
Deep Sea Conservation Coalition