

STATEMENT OF BELGIUM REGARDING LTC REPORT ON NORI TESTING (10 11 2022 / HV)

Thank you, President, for giving me the floor, and I would also like to thank the Chair of the LTC for offering clarification on the decision making process within the LTC regarding the review of the Environmental Impact Statement submitted by NORI regarding its plans to carry out testing components of a polymetallic nodule collector system in the NORI Contract Area of the Eastern Clarion-Clipperton Zone.

To start off, let me indeed recall what was written in the Report of the Chair of the LTC on the 15th of July 2022 (ISBA/27/C/16/Add.1) in par. 45 and 47 regarding NORI's Environmental Impact Statement and Environmental Management and Monitoring Plan, and mainly what was missing from it. The Chair of the LTC has mentioned it in his introduction: insufficient detail with regard to the overall sampling design and integrated environmental monitoring specifications, issues with the survey design, the level of benthic sediment plume monitoring, the pelagic sampling of biological impacts of the plume discharge, temporal issues of survey timing and duration, and the extent of noise monitoring. So, in short, although I am not an expert, it seems there were still quite a lot of things needing to be clarified on the 15th of July.

The Council heard nothing of it anymore, was not made aware that additional information was provided by NORI and not made aware either that the LTC, based on the additional information, recommended to move ahead, up until the moment that there was a press release of NORI proudly announcing the beginning of their testing of their components in the beginning of September. Only a week after the press release by NORI, a press release was released by ISA, but even then, there was no publication of the additional documentation submitted by NORI and also no publication of the content of the recommendation proposed by LTC.

This automatically raises a few questions:

- Was is the exact procedure for the LTC to make such recommendations?
- Has that procedure been followed?
- If yes, is the existing procedure the most appropriate one to make such far-reaching recommendations (including working with a silence procedure of 3 days)?
- And was there any specific reason for the LTC not to wait until this Council session of November to present their recommendation to the Council?

While we understand the need for confidentiality regarding some information, a bigger transparency and more open information sharing towards the Council and the wider public would be a good and indeed necessary thing for everyone involved in terms of transparency, clarity and confidence building.

Let me hereby also recall paragraph 14 of Council Decision regarding the LTC reports from 10th of December 2021 (ISBA/26/C/57) which notes the importance of transparency in the environmental management of the Area, and requests the Commission to review recommendations for the guidance of contractors for the assessment of the possible environmental impacts arising from exploration for marine minerals in the Area, **including** the publication of the revised environmental impact statement to be submitted to the Commission. It is my understanding that the same is valid in the context of a EIS before testing components of a polymetallic nodule. The last reviewed Environment Impact Statement and EMMP sent to the Commission in the beginning of August was not made available, and as Germany has just said, this is very regrettable. So we would indeed like to request that the EIS and EMMP be shared with the Council.

In paragraph 21 of the Council decision of the 10th of December regarding the LTC reports, the Commission is being encouraged to hold open meetings, where appropriate, and allow for greater transparency in its work. There will probably be a similar paragraph in the Council decision on the LTC reports this year. It is our view that this transparency has certainly been missing by the end of the procedure to have the Environmental Impact Statement incorporated in the programme of NORI. We support therefore the appeal by Costa Rica to make concrete steps to opening up the meetings of the LTC.

Let's be clear: we are not insinuating that the LTC should not have given the recommendation to NORI to go ahead with the testing of its collector in the Area. We have the highest regard for the hard work, expertise and integrity of the members of LTC. But the truth is, we simply can have no idea whether the recommendation should have been given or not, because we don't have the documents, and that is the problem in itself. Without seeing each other's notes beforehand, Germany already has mentioned it before in its statement, but indeed, the statement of a Chief Justice in London at the beginning of the 20th century is as relevant as ever : 'Justice has not only to be done, but has also to be seen to be done'. The Council should have all the tools in hand to assess whether 'justice has been done', and this is currently not the case.

Finally, Belgium would like to give its full support to the intervention of NL regarding 'naming and shaming' of contractors which do not fulfill their obligations and would like to ensure it gets reflected in the Council decision regarding the LTC reports. Thank you, Mr. President.