

Deep Sea Conservation Coalition

ISA Council

DSCC Intervention 15 July 2019

Report of Financial Workshop

Thank you Madam President and good afternoon delegates

Our comments are related to the environmental liability fund, including the suggestion by some contractors to reduce the environmental liability fund from \$500 million to \$100 million, and also to reimburse part or all of the funds to Contractors as an incentive for environmental performance.

With respect, Madam President, both those suggestions fundamentally misunderstand the purpose of the Fund. The purpose is, as stated, to pay for uncovered damage to the marine environment. The environmental performance of the contractors is entirely separate from the purpose of the Fund, which was stated by the Seabed Disputes Chamber as being where 1) a contractor has caused damage and is unable to meet its liability in full or 2) a sponsoring State failed to meet obligations but the failure not causally linked to the damage. The liability fund, by this measure, needs to stay in place while damage may be possible.

Madam President, even the proposed 1% or \$500 million is, it seems, based on no evidence or science. The Seabed Disputes Chamber said that damage in question would include damage to the Area and its resources constituting the common heritage of mankind, and damage to the marine environment. No work has been done to quantify the value of the deep sea, the natural capital and its ecosystem services, and no work has been done to quantify the damage to those assets which may be done by mining. So that work has yet to be done. We would agree with Costa Rica and Pew that a workshop would be a good start.

Secondly, the fund cannot be funded simply by proceeds of contracts as time goes by, as that necessarily means that there would be inadequate funds for the first years or decades, while damage can be done from day 1. The fund must be fully funded from day 1.

As was noted by the report, draft regulation 55 has various ongoing draws on the fund including for research and training. These costs should be paid by contractors and should not be drawn from the liability fund.

And finally, we join Pew in noting that, earlier drafts had a second fund, to be called a sustainability fund. This has now disappeared, and should be reinstated. This should be analysed in connection with natural capital, ecosystem services and loss of or damage to those important ecosystem services, about which we know very little.

Thank you Madam President