

SWAKOPMUND MATTERS

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Stakeholder Survey (ISBA/Cons/2015/1)

International Seabed Authority

Kingston

Jamaica

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by e-

4 May 2015

Dear Sir,

REPORT to MEMBERS of the AUTHORITY and ALL STAKEHOLDERS – “Developing a Regulatory Framework for Mineral Exploitation in the Area”

1. In response to your kind invitation as conveyed in your e-mail of 13 March 2015 we as *Swakopmund Matters* would like to address two aspects contained in the Report containing the draft framework.
2. We have previously introduced *Swakopmund Matters* but gladly provide information about *Swakopmund Matters* at the end of this letter.
3. They relate to:
 - a. Public Participation Options and Procedures - see pp. 18 and 47 of the Report.
 - b. Application of the Precautionary Principle – see p. 27 of the Report.
4. Public Participation Options and Procedures

We regard this as an indispensable principle to be embodied in any regulatory framework. It is a non-negotiable principle. Without it any process will be flawed.

We have experienced the crucial role of public participation for any process to be seen and experienced as legitimate and credible.

Many citizens are anxious to know what is happening to the marine environment. They must be enlightened. Information must be disseminated responsibly. It must be done in a constructive way. What is important and relevant must be conveyed on an informed basis and in an unbiased fashion. Thus to help broaden the perspectives of those who may not have access to information about developments affecting their ocean and its environment. To enable them to participate in public debate and to state their views, which they undoubtedly

have, and air their emotions and concerns on their own and in their own terms. It is imperative to create and maintain a well-informed and educated civil society and to supply it regularly with proper information.

The NAMIBIAN Environmental Management Act, 2007 (Act No. 7 of 2007) and its EIA Regulations give due recognition to Interested and Affected Parties (I&AP's). Thereby proponents of projects, such as the marine phosphate ones, must invite them to register and participate in the consideration of environmental clearance certificates. A prerequisite is included that a public consultation process must be conducted. All objections and representations received from I&APs must be considered when assessing the potential effects on the environment. Furthermore, I&APs must have access to and an opportunity to comment on any assessment report before such report is submitted to the Environmental Commissioner. Many I&AP's have found value in what has been conveyed to them and the perspectives provided. In this way they are assured that efforts will be made to afford them the opportunity to express their opinions at all stages of proceedings.

With this in mind a proper strategy must be developed with the aim for procedures to be followed whereby appropriate information, explanations and position papers are conveyed to stakeholders and through them to a wider concerned public and audience. Therefore, a dedicated division in the ISA must be tasked to oversee and implement this strategy.

5. Application of the Precautionary Principle

This principle is of equal importance. Even today, surprisingly little is known about the world's marine ecosystems, their structures, functions and dynamics, inevitably prompting scientists unanimously to advocate a precautionary approach where solid research is lacking.

This "Precautionary Principle" is all-important. It is used when extensive scientific knowledge is lacking on a particular issue with a suspected risk. Further, it has to be applied to the conservation, management and exploitation of resources. It cannot be glossed over.

In October 2012 Jakob von Uexkull, Founder of the World Future Council, voiced concerns about marine phosphate mining and warned:

"The hazards for current and future generations need to be carefully considered by governments. The risks of the projects are incalculable and potentially devastating. Application of the precautionary principle is critical in this instance if we are to protect our oceans".

<http://www.worldfuturecouncil.org/sandpiper-project.html>

Last year the Kingdom of Tonga set a striking example. It became the first country in the world to place in law a means to manage and control seabed mineral activities; not just within its national marine space, but under its sponsorship in international waters. This action highlights the significance placed by Tonga on protection and preservation of its seas. It recognises the need to balance economic development for Tonga against conservation of marine biodiversity.

Professor Mike Petterson, the Director of SPC's Applied Geoscience and Technology Division, which hosts the SPC-EU Deep Sea Minerals Project, congratulated Tonga for its great achievement:

"The Seabed Minerals Act 2014 is not only a world first, but also a world best! With this new law, Tonga establishes a robust and transparent regulatory system, which prioritises good governance of natural resources and environmental management in line with international best practice. With provisions that set a stable and predictable regime, with requirements for the precautionary approach, public consultation and 'free, prior and informed consent', and with the creation of a ring-fenced sovereign wealth fund for seabed mining revenue, through this Act, Tonga has struck a good balance between incentivising the investment that will bring Tonga new income, while protecting the long-term interests of the people of the Kingdom and the health of the oceans".

<http://www.wired.com/2013/06/is-deep-sea-mining-a-good-idea/>

The operative words are "a good balance". The significance of this legislation and the reasoning behind it should not escape all those who have an equally important task in protecting and preserving marine environments and their resources elsewhere in the world.

On 29 October 2014 *Swakopmund Matters* presented a submission to the Decision-making Committee appointed by the Environmental Protection Authority of New Zealand to decide on the Chatham Rock Phosphate marine consent application.

The full submission can be accessed with this web link:

http://www.epa.govt.nz/EEZ/EEZ000006/EEZ000006_16_08_Submission%20by%20SWAKOPMUND%20MATTERS,%20NAMIBIA.pdf

In Annexure A to that submission more attention was devoted to a detailed consideration of that principle. In the Annexure focus was placed specifically on the statement in an official publication of the New Zealand Treasury Department that dealt with the "Precautionary Principle: Origins, Definitions, and Interpretations". It emphasised "restraint on development in the absence of firm evidence that it will do no harm".

Annexure A's web link

is: http://www.epa.govt.nz/EEZ/EEZ000006/EEZ000006_16_09_Annexure_A_Precautionary_Principle.pdf

The bottom line, therefore, remains: **restraint on development in the absence of firm evidence that it will do no harm.**

6. We hereby give express consent to make our contact details and submission publicly available.
7. We do look forward to be contacted by the ISA in future and to remain part of the stakeholder group and are thankful for the opportunity to be part of the stakeholder's group.

With best wishes.

Swakopmund Matters

(For *Swakopmund Matters* the environment of the Namibian coastline and its ocean matters)

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INTRODUCING *SWAKOPMUND MATTERS*

Swakopmund Matters (SM) was formed in August 2011. It was born out of the constitutional imperative in section 95(l) of the Namibian Constitution to maintain “ecosystems, essential ecological processes and biological diversity of Namibia and utilization of living natural resources on a sustainable basis for the benefit of all Namibians, both present and future”. This translated into a desire to adhere to a constitutional responsibility which each Namibian carries and to focus on the coastal environment.

So when the core of SM gathered it was guided by section 21(1)(e) of the Constitution. This provision grants and guarantees every Namibian the inalienable and fundamental freedom that “all persons shall have the right to ... freedom of association, which shall include freedom to form and join associations ...”. This is one of the crucial pillars without which our democracy cannot exist.

Encouragement from not only the upper class and well to do in Swakopmund’s society, but, most importantly, also from the unfortunate, less privilege and disadvantage – especially amongst the youth – who all have emotions and concerns, resulted in SM gaining prominence as a responsible and trusted conveyer of information. Persons in many other parts of Namibia have equally become aware of SM and the information it is sharing. SM is home grown Namibian.

When SM started it was stirred by the negative effects of several marine phosphate mining projects along the Namib coast. SM’s intention was to express serious concerns about the likely negative effects these projects were going to have on the total environment.

Marine and terrestrial activities go hand in hand in any marine phosphate mining. Together they form the whole project. They can’t be separated. They are indivisible. The one depends on the other one – one can’t exist without the other. One of the two can’t be viewed and assessed on its own - in isolation. Both must be dealt with at the same time. One environmental clearance certificate must cover both.

These projects have become the subject of real concern to all those who are anxious about the negative effects to be brought about by such mining in the marine environment of

Namibia and its fishing industry in particular. But also to residents living in the areas where the land based operations will take place.

Swakopmund Matters has concerned itself with just that -- and its overall commitment to the protection of Namibia's coastal and marine environment. It seeks to disseminate information to a wider audience, to inform a concerned public as well as interested and affected parties. Not enough is known about the potential damage of these projects. Thus highlighting the threat marine phosphate mining holds. And to draw attention to the concern for all the negative effects these mining operations would have on the environment - not only the marine ecosystems and their rich fishery resource, but also on land.

These projects will cause as much disaster on land as it is bound to cause to the ocean. The production, storage and transportation by whatever means - including the impact of proposed pipelines - on land will have grave consequences.

The threat that that type of mining poses is not only a concern for local residents, but for all Namibians and many international institutions and citizens. Similar mining projects are also contemplated in Papua New Guinea, New Zealand, Jamaica, South Africa and in the Pacific Ocean.

SM has managed to form important international ties and forge strong working relationships with several leading international authorities on marine-related issues serving as advisors.

Our contacts now total 16,290 on e-mail with 1,410 friends on Face Book. They represent individuals of all walks of life in Namibia, recognised international marine biologists, other scientists, companies, organisations and media – nationally and internationally. Significant are the reputable international institutions in Africa, Europe, the Americas and Australasia with whom we are in direct and regular contact.

Internationally renowned authorities are on record voicing their opposition to phosphate mining in all its aspects. Similarly have international studies and academics drawn attention to the inevitable and irreversible consequences of such an industry. They have done so with substantive arguments and supportive facts and scientific evidence.

We are concerned about harm to be done to Namibia's marine life and consequently its fishing industry when such phosphate mining is allowed in Namibia's coastal waters. We believe that all dedicated to the environment will understand and appreciate our dedication to the marine life of Namibia and its sustainable utilisation.

A basic fact must be faced. One that the owners of these projects refuse to understand or accept: the ocean can't accommodate both a viable fishing industry and a disruptive mining exercise. It is either the one or the other to thrive – not both. To believe otherwise and use that as a lynchpin argument, illustrates the shallowness of the case presented to advance the projects on a near could-not-care-less approach.

The inept understanding of the marine environment is deeply worrying. Equally so the claim by proponents of these projects that they are concerned about sound marine environmental management.

Namibians are perfectly aware of the fact that a well-managed fishing industry represents sustainable utilization of a renewable resource, whereas seabed mining is highly destructive of the entire marine ecosystem. It represents finite exploitation of a non-renewable resource at the expense of the renewable fishing resources which are of cardinal importance to the entire Namibian economy and nation. To allow any of these projects to proceed is to gamble with a national treasure by placing its well-being at risk and the future of all the people it employs in jeopardy.

The Namibian fishing industry directly employs over 13,000 people. It is the second largest contributor to the country's GDP.

Nowhere in the world has such a marine phosphate project ever been undertaken. So must Namibia knowing the negatives associated with this particular type of mining activity turn a blind eye and become a guinea pig by opening up its ocean for highly controversial, disputable and problematic projects. After all, Namibians must determine what is in their interest and not be forced to sacrifice their marine life and healthy fishing industry.

These projects will have serious implications if they were to be allowed without proper and in depth research. A wider audience must become aware of these consequences to the already threatened oceans – and in this case, Namibia's marine life and its fishing industry in particular.

Consequently, the Namibian Cabinet decided on 17 September 2013 to place a moratorium on marine phosphate mining in Namibian coastal waters and that environmental clearances can be granted only after adequate research had been conducted. The Norwegian-based Foundation for Scientific and Industrial Research (SINTEF) and the Institute of Marine Research (IMR) have been contracted to identify the scientific requirements to assess impacts of marine phosphate mining on the ocean environment.

During its deliberations these researchers are aware that this is a new industry with little knowledge or experience regarding impacts on the marine ecosystem from bulk seabed mining for the Namibian phosphate deposits (which are different from marine phosphate deposits in other coastal areas in the world, including those off New Zealand). Concerns that have been raised by Namibian stakeholders are effects on sustainable fisheries, food safety, marine protected areas, and other marine species. And on the unknown long-term impacts this industry may have on the functioning of the marine ecosystem.

The Confederation of Namibian Fishing Associations has declared marine phosphate mining "a serious threat to the marine and land environment, people and to the Namibian fishing industry as well as other sustainable industry".

The Namibian scientific studies are being carried out independently of any industry players: clearly to ensure that all assessments are based purely on science and not influenced by interests from any of the industries dependent on the marine environment. In no way will these institutions allow their studies to be influenced or undermined by comments that are scientifically irrelevant and questionable.

Once the Namibian Government has a sound scientific foundation it will be well-informed for a political decision on the management of the Namibian coastal waters.

SM is firmly of the opinion that these projects will make a mockery of the UN's slogan of

"the oceans are the very foundations of human life".

For *Swakopmund Matters* Namibia's environment is not a disposable resource to be exploited and mined, and discarded. It must be preserved. FOREVER.