



SECOND PART OF THE 27TH SESSION OF THE COUNCIL OF THE INTERNATIONAL SEABED AUTHORITY (Part Three)

DECLARATION BY THE DELEGATION OF THE KINGDOM OF SPAIN.

Working Group on environmental aspects

*Permanent Representative Diego Bermejo Romero de Terreros*

Madam President,

This Working Group has the task of developing the environmental standards, regulations and procedures that will regulate underwater mining in the International Zone of the Seabed. As I already indicated in my statement yesterday, it is a huge responsibility because the Council must act on behalf of, and for the benefit of humanity. And it must, therefore, take into account the concern that exists at the national and international level for the protection of the marine environment, which is much greater than when Part XI of the Convention was negotiated in the 1970s or the 1994 Agreement in the 90s.

The 1994 Agreement reinforced the environmental aspects of the international legal regime that were developed by this Authority in the Exploration Regulations, incorporating new principles, such as the precautionary principle or criterion.

The Exploration Regulations indicate that *"in order to ensure the effective protection of the marine environment against the harmful effects that may arise from activities in the Area"*, that is, to give effect to article 145, *"the Authority and the sponsoring States shall apply the precautionary approach, set forth in principle 15 of the Rio Declaration*. It also states that *"the Contractor shall take the necessary measures to prevent, reduce and control pollution of the marine environment and other risks to it arising from its activities in the Area to the extent reasonably possible, applying a precautionary approach."*

The Seabed Disputes Chamber referred to this criterion, indicating that "among the most important direct obligations that fall on the sponsoring States is the obligation to apply the precautionary criterion." And that "it was to be expected that the Authority would repeat or develop this approach when regulating exploitation activities."

Which is what we are doing in this working group, developing the precautionary approach, together with other environmental principles.

The Chamber further indicated that the precautionary approach is also an integral part of the general due diligence obligation of sponsoring States which requires them to take all appropriate measures to prevent harm that may result from the activities of the



contractors they sponsor. In addition, the precautionary criterion is a contractual obligation of the sponsored contractors, whose compliance rests with the sponsoring State to guarantee.

Finally, the Chamber also noted that "the precautionary approach has been incorporated into a growing number of international treaties and other instruments" and that in its opinion "this has started a trend to make this approach part of customary international law."

In other words, in our opinion, if the precautionary criterion should be applied during exploration activities and will be applied in exploitation activities, it would be absurd to think that it does not oblige us in the transition phase.

Madam President,

Esteemed delegates,

If we previously stated that we should slow down the transition to the exploitation phase until we had approved "an adequate legal regime that guarantees that serious and irreversible damage will not be caused to the marine environment", that is to say, what we have called a "precautionary pause", now we are going one step further. We are convinced that "authorizing or initiating exploitation activities without having this regime would be a breach of the precautionary principle or criterion that we all are obligated to apply.

Thank you very much.