



Parliamentarians for Global Action
Parlamentarios para la Acción Global
Action Mondiale des Parlementaires
برلمانيون من أجل التحرك العالمي

CAMPAIGN FOR THE PROTECTION OF THE OCEANS & IMPLEMENTATION OF SDG 14

Timeline for Protecting the Deep Seabed:
A Factsheet for Parliamentarians



SUMMARY

The International Seabed Authority (ISA) has initiated negotiations to develop regulations for deep seabed mining (DSM) exploitation and is attempting to adopt them by July 2023, a deadline triggered by Nauru on behalf of a Canadian company that intends to apply for a mining license in the 2nd half of 2023. Members of the scientific community, civil society organizations, fishing industry associations, and politicians [have raised concerns](#) that the risks associated with further damaging the deep-sea outweigh any potential net benefits for humankind. **Many experts urge extreme caution, considering the inevitable and likely irreversible biodiversity loss if deep-sea mining is permitted.**

Deep seabed mining is the process of retrieving mineral deposits from the deep seafloor. **Once the ISA begins issuing contracts for commercial exploitation, it will be nearly impossible to reverse the trajectory of deep seabed mining.** Though commercial mining has not yet begun, the ISA has currently issued 31 exploration licenses. These exploration licenses span some 1.3 million square kilometers of the deep seabed, creating the largest potential set of mining operations in existence, significantly larger than any land operation.

Given the short timeframe by which to develop robust regulations and the lack of scientific knowledge on the impact of DSM, **an increasing number of stakeholders across industries are calling on the ISA to adopt a moratorium on DSM** at least until sufficient scientific research has been conducted to assess whether DSM can be done without damage to this common heritage of humankind, and until the ISA Member States have undertaken organizational reforms to ensure transparency in the ISA's obligation to act on behalf of humankind as a whole versus a selected group.

THE INTERNATIONAL SEABED AUTHORITY (ISA)

The ISA is the autonomous regulatory body that controls deep-sea mining in areas beyond national jurisdiction, established in 1994 by the [United Nations Convention on the Law of the Sea](#) (UNCLOS).

In accordance with article 156 (2) of UNCLOS, all States Parties to UNCLOS are *ipso facto* members of ISA – currently, 167 [Member States](#) and the European Union. These Member States constitute the ISA Assembly.

Through UNCLOS, the ISA is exclusively mandated to manage mineral-related activities in the international seabed area for the benefit of [hu]mankind as a whole.

In doing so, the ISA also has a duty to ensure the effective protection of the marine environment from harmful effects that may arise from these activities and to prevent damage to the flora and fauna of the marine environment (UNCLOS Article 145).

At the ISA, the ISA Council and the Legal and Technical Commission (LTC) hold most of the decision-making authority.

In order for the ISA to issue an exploration license (and potentially future exploitation licenses), an ISA Member State must serve as State sponsor.¹

1 Existing ISA exploration contracts and their sponsoring States are [available here](#).

- **The ISA Council** consists of 36 voting Member States². The Council is one of two principal organs at the ISA that establish the policies and govern the work of the ISA, the other being the Assembly. The Council is the executive organ of the ISA. Half of its membership changes every two years, though largely similar, through a selection from allocated Groups of States within the Council based on fixed criteria. Only the Council can vote on adopting exploitation regulations and approve or disapprove of applications for mining licenses (exploration or exploitation) with the caveats mentioned below.³
- **The Legal and Technical Commission (LTC)** serves as an advisory body to the Council, and consists of 30 members who are elected by the Council for a 5-year term⁴. States Parties nominate candidates for the LTC, endeavoring to ensure candidates reflect relevant qualifications and expertise. The membership of the LTC will change in January 2023. The LTC, although only an advisory body, has considerable power – a recommendation by the LTC to approve an application for a mining license, even by a simple majority vote, is very difficult for the Council to reject. In fact, as few as 2 members of the Council of the ISA on Groups A, B, or C can guarantee that a contractor obtains a mining license even if the other 34 members of the Council vote against the LTC recommendation.
- **The Assembly** comprises all ISA Member States. The Assembly approves policies adopted by the Council. The Assembly can request the Council to reconsider a decision, though the Council is under no obligation to change a decision if the Assembly requests reconsideration. Disproportionate economic benefits would provide little in the way of compensation to either the ISA member countries or as a “benefit to humankind as a whole,” instead producing profits for individual companies or state-owned enterprises and the countries that sponsor them at the ISA.
- Non-States Parties to UNCLOS may be granted Observer status at the ISA. The ISA currently includes 30 Observer States.⁵ Observers may participate in the work and deliberations of the Assembly and Council, but do not have decision-making power.

2 **Current Members of the Council:** Argentina, Australia, Bangladesh, Brazil, Cameroon, Canada, Chile, China, Costa Rica, Czech Republic, Fiji, France, Germany, Ghana, India, Indonesia, Italy, Jamaica, Japan, Lesotho, Mauritius, Mexico, Morocco, Mozambique, Netherlands, Nigeria, Norway, Poland, Republic of Korea, Russian Federation, Sierra Leone, Singapore, South Africa, Tonga, Trinidad and Tobago, Uganda, United Kingdom

3 These allocated Groups: Group A: Major consumers (4 Members); Group B: Major investors (4 Members); Group C: Major exporters (4 Members); Group D: Developing States and special interests (6 Members); Group E: Equitable geographic representation (18 Members)

4 **Current Members of the Legal and Technical Commission (LTC)** represent the following States: Argentina, Australia, Brazil, Cameroon, Chile, China, Egypt, Fiji, France, Germany, India, Jamaica, Japan, Kenya, Mexico, Netherlands, New Zealand, Norway, Pakistan, Philippines, Poland, Portugal, Republic of Korea, Russian Federation, Singapore, South Africa, Spain, Tonga, Uganda, United Kingdom

5 **Current ISA Observer States:** Afghanistan, Andorra, Bhutan, Burundi, Cambodia, Central African Republic, Colombia, Democratic People’s Republic of Korea, El Salvador, Eritrea, Ethiopia, Holy See, Iran (Islamic Republic of), Israel, Kazakhstan, Kyrgyzstan, Libya, Liechtenstein, Peru, Rwanda, San Marino, South Sudan, Syrian Arab Republic, Tajikistan, Turkey, Turkmenistan, United Arab Emirates, United States of America, Uzbekistan, Venezuela

WHAT HAPPENED SO FAR?

**JUN
2021**

In June 2021, Nauru triggered a two-year timeline at the ISA to complete the adoption of the rules, regulations and procedures necessary to facilitate the approval of plans of work for exploitation of the deep seabed – mining licenses. These regulations are required⁶ to benefit [hu]mankind as a whole, and to ensure overall development of all countries, especially developing States.

**SEP
2021**

In September 2021, 37 States and over 530 civil society organizations and indigenous groups voted in favor of Motion 069 at the International Union for Conservation of Nature (IUCN) World Conservation Congress, calling for “protection of deep-ocean ecosystems and biodiversity through a moratorium on seabed mining.”⁷

**DEC
2021**

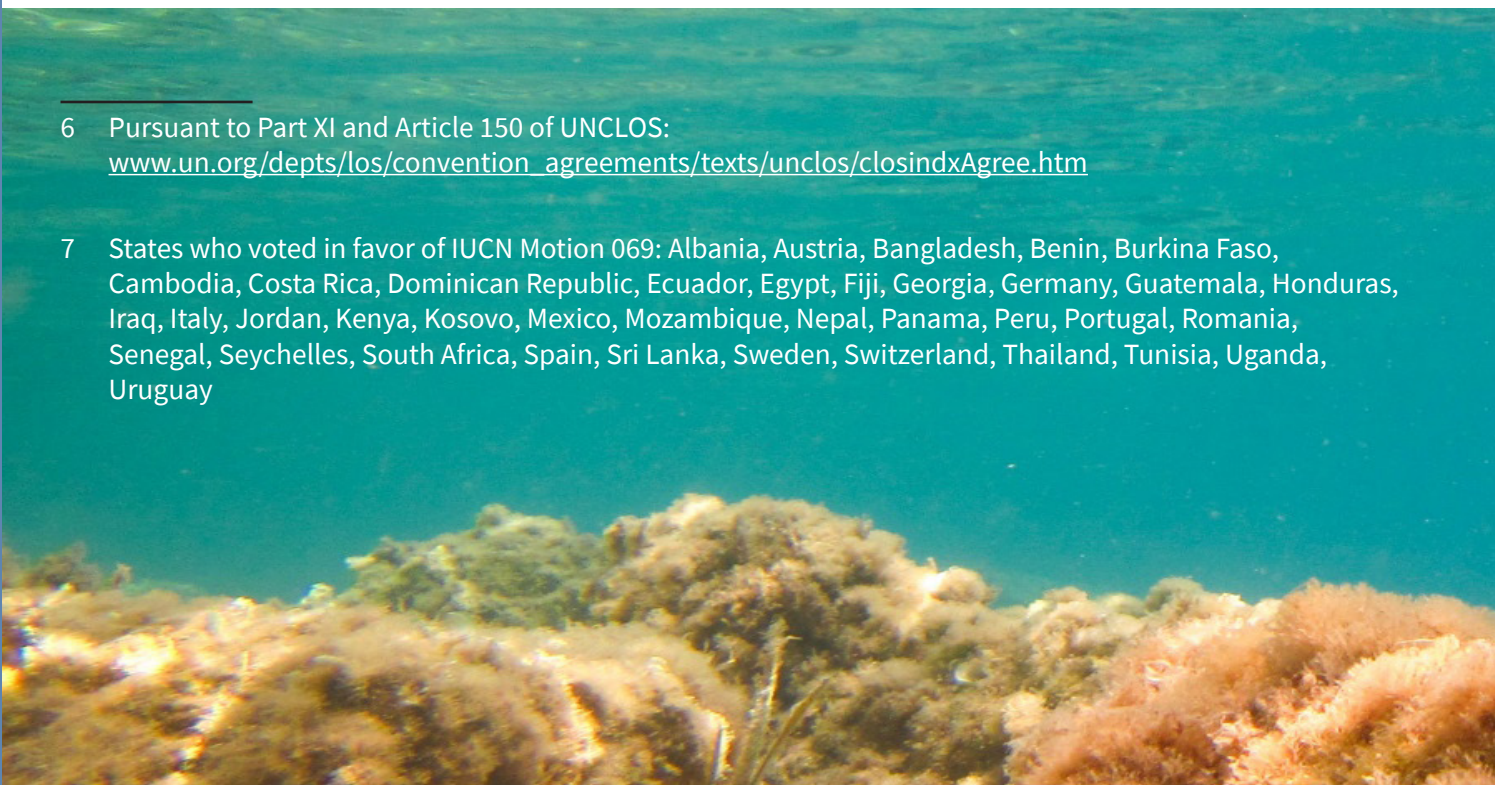
In December 2021, the Council of the ISA adopted a ‘roadmap’ – an enhanced plan of work – for 2022 to attempt to complete and adopt exploitation regulations by July 2023 though not all members of the Council agreed that it would be possible to do so.

**25
FEB**

From 14 March–1 April 2022, Part I of the 27th Session of the ISA took place, continuing the negotiations of the draft regulations for future deep sea mining exploitation licenses from its 25th Session. The LTC presented the Council with its report on progress made thus far. With this, the Council continued its consideration of draft regulations and adopted the agenda for the remainder of the 27th Session.

6 Pursuant to Part XI and Article 150 of UNCLOS:
www.un.org/depts/los/convention_agreements/texts/unclos/closindxAgree.htm

7 States who voted in favor of IUCN Motion 069: Albania, Austria, Bangladesh, Benin, Burkina Faso, Cambodia, Costa Rica, Dominican Republic, Ecuador, Egypt, Fiji, Georgia, Germany, Guatemala, Honduras, Iraq, Italy, Jordan, Kenya, Kosovo, Mexico, Mozambique, Nepal, Panama, Peru, Portugal, Romania, Senegal, Seychelles, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Thailand, Tunisia, Uganda, Uruguay



WHAT HAPPENS NEXT?

Part II of the 27th Session of the ISA will convene from July–August 2022.

**JUL
2022**

4–15 July 2022: The LTC will continue to develop draft regulations for future deep sea mining exploitation licenses.

**JUL
2022**

18–29 July 2022: The Council will convene to assess progress and recommendations made by the LTC and to continue negotiations on draft regulations for exploitation. Importantly, the Council will evaluate progress made on draft regulations thus far to determine options for their discussion.

**AUG
2022**

1–5 August 2022: The Assembly will convene to be informed of the work of the Council and LTC. It will vote on the approval of the ISA budget, based on Council recommendations.

Part III of the 27th Session of the ISA:

**LATE
2022**

31 October–11 November 2022: If determined as necessary by the Council during Part II of the 27th Session, the Council will convene to discuss a “what if” scenario.



THE SCENARIOS

Adoption of exploitation regulations: By July 2023, during the 28th Session of the ISA in 2023, the Council votes in consensus to formally adopt exploitation regulations, which will allow any member State of the ISA to apply for a mining license on behalf of the ‘contractor’ (the State itself, a state-owned enterprises or a private company) they sponsor and thus begin the industry of commercial deep seabed mining.

A

Adopting the regulations requires a consensus of all 36 voting members of the Council.

“What if” scenario: During Part III of the 27th Session of the ISA, the members of the Council will begin discussing how they might respond to applications for mining licenses after July 2023 if they are unable to reach a consensus vote for adopting the exploitation regulations by then.

B

Under the 2-year rule triggered by Nauru⁸, if the ISA does not adopt regulations by July 2023, and a State applies for a license on behalf of a ‘contractor’, the Council of the ISA is required to consider the application and potentially approve on a provisional basis under any provisional rules, regulations and procedures adopted by the Council at that point. Some States have argued that this means the Council must grant a license; others that the Council is not obliged to do so. This will be a critically important debate within the ISA which Assembly members should participate in even though only the members of the Council have the authority to decide on the regulations, whether to adopt the regulations or not, and whether to approve or reject applications for mining licenses.

Formal adoption of a moratorium: The Council votes in consensus to formally adopt a moratorium, which would allow for a precautionary approach and time for the scientific community to develop the research and evidence needed to better assess whether deep seabed mining can be done without damage to this common heritage for humankind.

C

There is no specific timeline on when this vote could take place.

8 Section 1, paragraph 15 of the Annex to the 1994 UNCLOS Part XI Agreement, the first of the ‘implementing agreements’ of UNCLOS

THE ROLE OF PARLIAMENTARIANS

Parliamentarians have a key role to play throughout ISA negotiations.

Question your government on its position regarding a moratorium and the reasoning behind it.

1

- If your country is a Member of the ISA Council, also encouraging transparency, equitability and reform of the ISA decision-making process.
- If your country is a Member of the ISA Assembly, ensuring your country's to call for a moratorium at the meeting of the Assembly of the ISA position is represented in the ISA decision-making process.
- If your country is an Observer State, also calling on the ISA to uphold its obligation to act on behalf of and for the benefit of [hu]mankind as a whole.

Discuss the call for a moratorium on deep seabed mining with fellow parliamentarians to ensure there is awareness and involvement.

2

- In recent months, PGA Members have increasingly seized opportunities to engage fellow parliamentarians. Ms. Marie Toussaint, MEP (France) published a piece on PGA's website, Senator Marilou McPhedran (Canada) raised the issue in Canada's Standing Senate Committee on Fisheries and Oceans, and the Pacific Parliamentarians' Alliance on Deep Sea Mining chaired by Hon. Ralph Regenvanu, MP (Vanuatu) officially launched in April.

Stay informed about potential damages of deep seabed mining.

3

- See the Additional Resources overleaf.

Connect with your local NGOs working on this issue.

4

Contact the PGA Secretariat for technical support and/or resources:

5

- Climate and Oceans Campaigns Program Officer, Ms. Saarah Monawvil, saarah.monawvil@pgaction.org

ADDITIONAL RESOURCES:

- [PGA's Factsheet for Parliamentarians: Protecting the Deep Seabed](#)
- [Report: The Precautionary Principle Applied to Deep Sea Mining](#)
- [President of ISA Council's Briefing Paper concerning the draft regulations and the consideration of phase one draft standards and guidelines, Part I of 27th Session](#)

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ABOUT PGA

Parliamentarians for Global Action (PGA) is the largest non-governmental, multi-party international network of individual legislators with approximately 1,150 members in 135 parliaments around the world that informs and mobilizes parliamentarians to advocate for human rights and the rule of law, sustainability democracy, human security, non-discrimination, and gender equality. This global network of parliamentarians acting in their individual capacity is supported by a PGA National Group structure in parliaments, which creates sustainability and ownership of issues at the national level, and by a Secretariat with relevant expertise. PGA is in general consultative status with the Economic and Social Council of the United Nations with headquarters in New York; its office in The Hague, Netherlands fosters cooperation with The Hague-based International Organizations, including the ICC.

Leyla Nikjou (LL.M), Senior Advisor, Oceans Campaign
leyla.nikjou@pgaction.org

Saarah Monawvil, Program Officer, Oceans Campaign
saarah.monawvil@pgaction.org

Or visit our webpage: www.pgaction.org/ilhr/oceans/