

(a) Written Statement of the Interoceanmetal Joint Organization

inter**ocean**metal
JOINT ORGANIZATION

27 July 2010

Dear Mr. Gautier,

Reference is invited to your letter of 9 June 2010 with regard to the forthcoming Seabed Dispute Chamber proceedings in Case No.17 concerning the Chamber's advisory opinion on "*Responsibilities and Obligations of States Sponsoring Persons and Entities with respect to Activities in the International Seabed Area*".

[text omitted]

(3). However, being an intergovernmental organization directly involved in the activities in the Area under the contract with the Authority the IOM may express its informal views on the issues of the expected advisory opinion in order to facilitate, to the extent possible, the future work of the Seabed Dispute Chamber.

Issue 1. *What are the legal responsibilities and obligations of States Parties to the Convention with respect to their sponsorship?*

In our view, Article 139 and Annex III, article 4, paragraph 4 explicitly deal with this issue and does not require any additional legal opinion on the matter. The legal responsibility entails liability. However a sponsoring State shall not be liable for damage caused by any failure of a contractor sponsored by it to comply with its obligations if the State Party has adopted laws and regulations and taken administrative measures which are, within the framework of its legal system, reasonably appropriate for securing compliance by persons under its jurisdiction.

Issue 2. *What is the extent of liability of a State Party for any failure to comply?*

The issue is not covered in the Convention. The extent of liability can be established only by the State Parties themselves through their negotiations. A proper way is to include it in the Regulations on prospecting and exploration for each type of the resources ("Mining Code") as an addendum. It will secure the interests of all states, since such an addendum should be adopted by consensus in the Council.


Any other instrument to solve the problem, including an advisory opinion, may not have any legal value for States.

Issue 3. *What are the necessary and appropriate measures that a sponsoring State must take in order to fulfill its responsibility?*

The question is put inappropriately. None can tell what the state must do except the state herself. Moreover, the issue is complicated because the Convention refers to "framework of the legal system of a state." Only the State may decide what is appropriate within framework of its legal system .

In our view, a way out of the problem may be found in the procedure of issuing a certificate of sponsorship provided for in the Mining Code, regulation 11. This gives a sponsoring state a possibility to formulate (before issuing a certificate) for future contractors their obligations and their liability as well as appropriate penalties for non compliance.

[text omitted]



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