

IASS-Blogpost

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Projekt: Environmental Standards for Deep Seabed Mining

[Dachzeile]

Seabed Mining: Negotiating the Fate of the Common Heritage of Humankind

From 21 March to 1 April 2021 governments will continue negotiations of international regulations for deep seabed at the International Seabed Authority (ISA). Scientists from IASS will attend the 27th Session of the ISA Council as part of research on environmental standards for deep seabed mining.

The negotiations over mining the deep ocean floor for minerals, such as copper and cobalt, have entered into a new phase. With Nauru having pulled the so-called two year trigger in June 2021, the International Seabed Authority (ISA), the global regulator set up by the United Nations Convention on the Law of the Sea, is now tasked to finalise its regulations by mid-2023 that will likely allow seabed mining to start in earnest. The ISA regulates all mineral mining on the seabed underneath the high seas, in areas beyond national jurisdiction.

Poised to contribute to mineral supply chains but also entailing serious environmental risks, seabed mining continues to be highly controversial. The environmental impacts of seabed mining are likely to include loss of biodiversity and other long-lasting and irreversible effects. A key challenge is the lack of scientific knowledge about the deep ocean, making it difficult to predict exactly the extend of the damaging effects of seabed mining, such as the extinction of marine species. The lack of data is particularly pressing, given that mining technology remains untested and the ISA has not yet adequately regulated test mining.

Major companies have started to reject seabed minerals because of the uncertain but potentially serious environmental impacts. Scientists are calling for a pause on seabed mining until the impacts are better understood and the claims by mining companies that seabed minerals might contribute to a green economy have been assessed for their sincerity and logic. In addition to environmental risks, numerous ethical concerns remain around seabed mining, including for Pacific Island states and general concerns around access to mining technologies.

Over the past years, IASS has contributed several research projects and discussions around seabed mining, including past projects on test mining and environmental safeguards as well as the current project on environmental standards for seabed mining. These have led to numerous scientific publications on legal and governance related challenges. Through these projects, funded and commissioned by the German Federal Environment Agency (UBA), IASS has also

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provided scientific, legal, and policy advice to the German delegation to the ISA on questions of environmental governance for deep seabed mining. This involved co-developing and organising various national and international workshops and meetings on the subject. Our project team also made detailed submissions on a number of ISA draft documents. These submissions can help to inform states' negotiations of the future mining regulations, which will continue at the ISA Council meeting from 21 March to 1 April 2022, online and at the ISA headquarters in Kingston, Jamaica.

One key issue on the agenda of the Council meeting will be the discussion of the standards and guidelines for environmental management of seabed mining. So far, the ISA has not formulated specific goals, objectives, and targets for environmental protection. These are necessary in order to determine whether a mining operator is meeting their environmental objectives. Similarly, robust environmental baselines are still lacking which are a prerequisite for being able to predict and assess the likely environmental impacts of test mining and commercial-scale mining. At its March 2022 meeting, ISA member States and Observers will discuss draft environmental regulations to address these issues.

Another item on the agenda is the financial terms of future mining contracts. Because the international seabed and all minerals on it are legally classified as the common heritage of humankind, a portion of the profits from mining will have to be shared with the international community at large. However, it remains unclear how much and through what means such benefit sharing will occur. IASS has contributed thought leadership in this space in an effort to ensure truly equitable sharing of benefits.

The work of the ISA continues to fall short of modern expectations around transparency, public participation and good governance, with many negotiations occurring behind closed doors and without public records. A first step towards addressing this gap was the ISA's first draft of a Communication and Stakeholder Engagement Strategy in late 2020. However, numerous stakeholder submissions criticized the draft for failing to increase participation and transparency. These stakeholder submissions have not yet been published by the ISA and work on the Strategy appears to have been stalled. It remains to be seen whether progress can be achieved on this topic in 2022.

Another burning question that has not yet been considered sufficiently by the ISA is the legal and institutional interplay with other international organisations and agreements, in particular the future legally-binding instrument for the conservation and sustainable use of marine biological diversity beyond national jurisdiction (BBNJ). Since 2018 the UN negotiations of this so called "High Seas Treaty" are taking place in parallel to the development of the ISA regulatory code. Even though negative impacts on deep ocean biodiversity can be expected from deep sea mining, no formal linkages or collaborative mechanisms have been considered yet.

All in all, the ISA has a busy year ahead with three meetings scheduled, one each for March, July, and November. And also other key ocean policy processes outside the ISA, including the 2022 UN Ocean Conference in Lisbon as well as the German G7 Presidency provide suitable venues to discuss the consequences of future deep sea mining for ocean sustainability. Several Observers from research organisations, civil society, etc will actively participate in the negotiations. It remains to be seen how the serious global tensions caused by Russia's invasion of Ukraine and the Covid19 related restrictions in meeting participation might impact discussions at the ISA. Now more than ever, public scrutiny of the negotiations is important to ensure best environmental practice, social equity, and the precautionary approach are being upheld.