Transparency in the darkest deep

Transparency is prescribed for a wide variety of contemporary isues, including but not limited to, curing corruption, facilitating good governance, and promoting corporate social responsibility. As documented over the past thirty or more years of academic research, the effects of resource booms, particularly in the developing world, can lead to unexpected and unwanted economic, social, and environmental outcomes. However, many of these risks can be ameliorated by careful consideration of governance issues, beginning with transparency. This will be particularly important for the nascent deep-sea mining industry that may disproportionally affect the developing world.

Kiritbati, a small island state in the central Pacific. Image courtesy A. Swaddling, SPC.

Deep-sea mining in developing nations

Whilst deep-sea mining (DSM) activities in areas beyond national jurisdiction are mainly driven by developed states, within national jurisdictions DSM licensing is frequently conducted by developing nations, with the support of companies from abroad. This raises critical capacity issues. Most of these developing countries have very small land mass, populations and administrations. In this light, it makes sense to consider the risks involved for developing countries that are blessed with deep-sea mineral resources (such as the Pacific Small Island Developing States like Kiribati, pictured), many of whom are engaging with developed world interests to assist them in DSM. However, to date most attention has been on the seabed beyond national jurisdictions, the mineral resources of which are known legally as "the common heritage of mankind." Accessing scientific environmental data in particular has been an issue[1].

Transparency in the ISA

In 1994, with the ratification of UNCLOS and the Part XI Agreement[2], the International Seabed Authority (ISA) was established to issue contracts for seabed mining in the area beyond national jurisdiction. Since the early days of the ISA, there have been questions related to the transparency of its Legal and Technical Commission (LTC), which reviews applications to explore and mine deep-sea minerals[3]. The LTC meetings are held behind closed doors in order to protect the perceived proprietary nature of the environmental, scientific, and corporate information under discussion. Recently, discussions have begun about how to improve transparency in the organs of the ISA[4].

Transparency pitfalls

While transparency in natural resource governance has already amply proven its worth and forms a central pillar of recommended resource management[5], there are pitfalls that should be considered and avoided. These include:

- **The quantity of information**, which should focus on relevant issues, and not be overwhelming in length;
- **Quality of information**, which should be complete, accurate, and verified;
- **Accessibility and comparability** of information, to allow for comparisons with other reports, and data sets should be available in a common machine-readable format;
- **Balancing privacy / intellectual property with the public's right to know**, the area managed by the ISA is the "common heritage of mankind" and information should therefore be as open as possible;
- **The effect of transparency on decision-making** (when to go public), a balance will need to be struck on all sides to prevent distrust;
- **Regulation or recourse to justice**, regulation, reporting on infractions, and a judicial process are necessary to ensure oversight and compliance.

Designing an effective deep-sea mining transparency standard

The development of transparency standards is not a blank slate, and there is much that can be learnt from the experiences of land-based mining and petroleum extraction. Furthermore, the existence of the ISA offers a unique opportunity to develop an internationally accepted standard before DSM operations commence. Once developed, the standard could be adopted by states who wish to licence mining activities within their own EEZs. A DSM transparency standard should aim to distribute obligations across the range of actors, including but not limited to governments, with a minimum of complication, so that it could be adopted by even the smallest states.

In conclusion, many of the risks associated with resource extraction can be ameliorated by careful consideration of governance issues. While transparency alone cannot stop the numerous possibilities of harm that a resource boom can bring, it is a necessary first step towards accountability and, ultimately, better resource governance. The development of an international, multi-dimensional DSM transparency standard would provide a basis upon which to establish good practices for business, investors, the environment, states and their peoples. However, doing so will require a clear-eyed assessment of possible shortcomings, allowing for implementation to be realistic and fit for purpose.

References

[1] Seascape Consultants Ltd (2014) Review of Implementation of the Environmental Management Plan for the Clarion-Clipperton Zone. Report to the International Seabed Authority, 20 May 2014. 20pp.

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[3] Wood, M.C. (1999) International Seabed Authority: the first four years. Max Planck Yearbook of United Nations Law: 3.

[4] ISA (2015) Developing a Regulatory Framework for Mineral Exploitation in the Area. Report to Members of the Authority and all stakeholders. https://www.isa.org.jm/files/documents/EN/Survey/Report-2015.pdf

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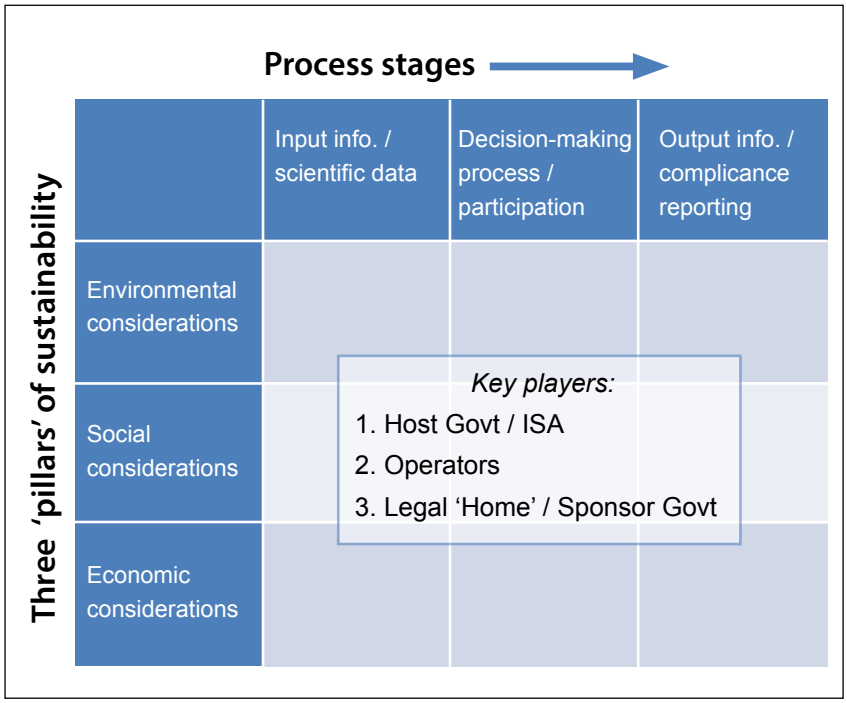

Above left: A possible 3x3x3 matrix to conceptualise transparency across the full range of deep-sea mining decision-making. Above right: polymetallic nodules in the central Pacific are a key target for future deep-sea mining activities (image courtesy GEOMAR/ROV Kiel6000). Bottom right: The Mid-Atlantic Ridge hosts potential seafloor massive sulphide deposits, generated by hydrothermal systems such as this one at Snake Pit vent field (image courtesy Ifremer/Victor 6000, Bicose cruise 2014).

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