



# *Civil Society Forum of Tonga*

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Hon. Rev, Prime Minister's Office  
Nuku'alofa, Tongatapu  
Tonga

8<sup>th</sup> June 2020

Dear Hon. Prime Minister,

## **RE: Tonga's Deep-Seabed Mining Status**

The International World Ocean Day, marked on the 8<sup>th</sup> of June 2020 with the theme '*Innovation for Sustainable Oceans*'. In Tonga, Government Ministries such as the Environment Department in partnership with youths and Local community groups mobilised their community members to do green clean up campaigns around coastal areas as token to mark World Ocean Day. This has demonstrated the aspirations of our young people for a healthy Ocean for them and their children.

This year is significant because we are celebrating the critical role that the Ocean played in sustaining our Pacific society for many years with the rest of the World during a time where we are closing down borders for the safety of our people from the Corona Virus pandemic. Our Civil Society community in Tonga had taken time to reflect on the theme of the World Ocean Day in the context of COVID19 and the issue of Deep Sea Mining stands out as something of great concerns to the health of our Ocean and our people that we need to have a national conversation about status of Deep Sea Mining (DSM) in Tonga.

To mark the International World Ocean Day, on behalf of Civil Society Organisations, Community-Based Organisations and Faith-Based Organisations alongside the local communities, we are very concerned on the future of unsustainable development direction taken by your Government on our ocean specifically on Deep Seabed Mining, and we call on Government on the following:

1. Review the Seabed Minerals Act 2014 to ensure that its relevant to the fast-changing nature of the Deep-Sea Mining industry so it can protect the best interest of our people from corporate interest of companies. The review to include finalising the pending regulations to the Act through public consultation process.
2. Call for Government to review its 'Sponsoring State' to TOML with ISA and call for national public consultations for to inform the public on the status of the Deep-Sea Mining given the changes and financial situations of Companies that we sponsored and awarded with exploration license in the international waters.
3. Call for a 10-year moratorium, standing together with our Regional Leaders as our obligation to the future of our children. Given the two-review exercise recommended, Government should be in a position to declare a call for a 10-year moratorium both in Tonga's territorial waters and the international waters.

***These are the basis of our concerns:***

- (A) The relevancy of the current legislation to embrace the fast-changing nature of the Deep-Sea Mining Industry.

The two areas of DSM in Tonga are regulated by the Seabed Minerals Act 2014:

1. Exploration in the Deep Sea in Tonga's territorial waters (EEZ)
2. Exploration in the 'Area' international waters beyond Tonga's EEZ and jurisdiction.

The Government had given licenses to the following companies to explore in Tonga's territorial waters – Nautilus Minerals of Canada, Bluewater Minerals of Australia and a South Korean government-funded agency the Korea Ocean Research and Development Institute (KORDI). It will be interesting to see ***when was the last time the Government review the financial status of these companies*** and if there are provision in the Act to enforce such an exercise. Nautilus Minerals has been going through a challenging financial reform and at the verge of bankruptcy following the failure of its Solwara 1 project venture in PNG. Nautilus Minerals office in Tonga has closed.

Tonga Offshore Mining Limited (TOML) a 100% subsidiary of Nautilus Minerals was registered in Tonga as a Tongan registered company. It applied to the International Seabed Authority (ISA) for exploration license for exploration in the international water "the Area" in 2008 and was required to provide more information before it was finally approved in 2011. This is a significant concern because the contractual arrangement means that Tonga sponsor TOML to be contracted to ISA to explore the international waters 'the Area'. Tonga becomes the 'Sponsoring State' and TOML as the 'Sponsored Contractor'. Another interesting observation that these arrangements took place 3 years prior to the enactment of the Seabed Minerals Act 2014. Recent information posted on the Deep Green website and reported by the Matangi Tonga on 23 April 2020, reported Deep Green Metals Inc. acquisition of Tonga Offshore Mining Limited (TOML), giving the company exploration rights to a 74,713 km<sup>2</sup> block of CCZ seabed that contains an inferred resource of 756 million wet tones of polymetallic nodules. This new arrangement is in place while TOML holds an exploration contract granted by the International Seabed Authority (ISA) and sponsored by the Kingdom of Tonga. The question that needs to be raised – ***the obligation of the Government of Tonga (State) as sponsoring State to an unclear, lack of transparency and unaccountable processes of acquisition that put Tonga and its citizens in a highly risky position*** should legal financial compensation claim by any party of sponsoring State. The application process of TOML to ISA went through a long vetting process and demonstration of good due diligent of TOML as a Company then of which the acquisition of Deep Green is blurred whether Deep Green had gone through the same vetting process with ISA and how does that transferred to Tonga as Sponsoring State to a process without due diligent.

- (B) Calling for a 10-year moratorium

We are urging Government under your direction to join the call of moratorium on seabed mining at the Pacific Island Leaders Forum in Tuvalu on the decade of science until 2030. As the deep sea remains understudied and poorly understood, there are many gaps in our understanding of its biodiversity and ecosystems. This makes it difficult to thoroughly assess the potential impacts of deep-sea mining and to put in place adequate safeguards to protect the marine environment.

The livelihood of a billion people in the world is based on the ocean including over 90% of the Pacific People. The Ocean is our home and this is the essence of sustainable development.

This is our Cultural identity and traditions and we need to conserve through ocean conservation. The biodiversity of our ecosystem is vital for sustaining life inside and outside of the water. The Ocean captures high quantities of carbon dioxide brings solutions to climate change but most importantly, it provides sources of nutrition for our people.

The Ocean is our future and our refuge. The cornerstone of our economic development through fisheries and tourism. Our ancestors have provided guardianship with traditional resource management system that have kept our heritage healthy to continually sustain us spiritually, physically and economically.

- (C) Calling for national public consultations for the Government to inform the public on the status of the Deep-Sea Mining given the changes and financial situations of Companies that we sponsored and awarded with exploration license.

Tonga as sponsor States has financial obligations in the contractual arrangement between TOML and ISA. We strongly feel that the current legislations with no regulations do little to protect our rights to a healthy ocean, our roles as guardians of the environment that defines our culture and traditions, which is the foundation of our Tongan sovereign right; God and Tonga (ocean) are our inheritance.

We are deeply concerned of the legality, the process and procedures used by Government to transfer the rights and ownership of the Government sponsor to Tonga Offshore Mining Limited (Owned by bankrupted Nautilus) to Deep Green. Is Deep Green just seeing through the remining time on the 15 years contract signed by Tonga and the International Seabed Authority?

It is the responsibility of the Government of Tonga to safeguard our home and subsequently our culture and traditions. Therefore, we implore Government to rethink our sponsorship from the prospective damages in the 'area' and ecosystem that we may become liable for during extractions when it begins.

We foresee our future generations lost should we allow deep sea mining in our area and remain steadfast on the call for a moratorium on Experimental Seabed Mining (ESM). The moratorium would allow us to seek more knowledge on the basis of this experiment and to what extent this experiment will affect the lives of our fellow Tongans. There is a need for further dialogue and national forum on the prospective wealth versus irreversible damages to our heritage: our ocean. Furthermore, we welcome the opportunity to come and present our position to you when you are available.

We respectfully submitted on behalf of all our members

  
Siotame Drew Havea  
Chairperson

CC: Lord Ma'afu, Minister of Lands & Natural Resources.