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## *Current Legal Developments*



# Protest at Sea against Deep Sea Mining Revisited: the *MV Coco* Case

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### Abstract

In a previous publication in *IJMCL*, the author discussed a case of interference by environmental activists with the operations of a deep sea mining contractor in May 2021. While concluding that the actions could be considered unlawful, one of the most important findings was that adequate enforcement and effective remedies are mostly lacking. In November 2023, protest actions by Greenpeace from a Dutch-flagged vessel against deep sea mining activities resulted in media attention and a response by the International Seabed Authority (ISA), and led to a decision by an Amsterdam district court. This article examines the legal issues arising from both the ISA response and the Dutch court decision.

### Keywords

law of the sea – the Area – International Seabed Authority – deep sea mining – protest at sea

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## Introduction

With the exploitation phase of deep sea mining looming, calls for a moratorium have gained more and more support.<sup>1</sup> Several non-governmental organisations (NGOs) are organising rallies and demonstrations to raise the exposure of their campaigns against deep sea mining.<sup>2</sup> Most of these demonstrations take place on land, but some protest activities have been undertaken at sea. In an earlier publication, the author discussed the case of Greenpeace activists disrupting the activities of Belgian deep sea mining company Global Sea Mineral Resources (GSR) – a subsidiary of the renowned dredging firm DEME – in the Pacific Ocean in May 2021.<sup>3</sup> Despite safety notices, activists operating from the Dutch-flagged *Rainbow Warrior* painted slogans on the hull of the Norwegian-flagged *Normand Energy*, chartered by GSR to carry out tests in the Clarion-Clipperton Zone, and attached banners with campaign messages to the umbilical cord of GSR's prototype nodule collector Patania II. Although these actions – consisting of wilfully interfering with deep sea mining activities, disregarding safety notices and causing property damage – could be considered at odds with various principles and provisions of international and national law, persistent problems concerning enforcement and legal remedies have been identified. For example, the principle of exclusive flag State jurisdiction on the high seas may preclude States from taking enforcement action against protest vessels.<sup>4</sup> Existing case law leaves limited margin for

- 1 See, e.g., K McVeigh, 'UK backs suspension of deep-sea mining in environmental U-turn' (*The Guardian*, 30 October 2023) available at <https://www.theguardian.com/environment/2023/oct/30/uk-backs-suspension-of-deep-sea-mining-in-environmental-u-turn>; accessed 27 February 2024; K McVeigh and C Michael, 'Future of deep-sea mining hangs in balance as opposition grows' (*The Guardian*, 8 July 2023) available at <https://www.theguardian.com/environment/2023/jul/08/future-of-deep-sea-mining-hangs-in-balance-as-opposition-grows>; accessed 27 February 2024; The Pew Charitable Trusts, 'Seabed mining moratorium is legally required by U.N. treaty, legal experts find' (20 June 2023) available at <https://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2023/06/seabed-mining-moratorium-is-legally-required-by-un-treaty-legal-experts-find>; accessed 27 February 2024.
- 2 E.g., Reuters, 'Greenpeace stages Pacific Ocean protest against deep-sea mining' (6 April 2021) available at <https://www.reuters.com/article/idUSKBN2BT29J>; accessed 27 February 2024; Euronews, 'Environmental activists protest Norway's move to allow seabed mining exploration' (10 January 2024) available at <https://www.euronews.com/2024/01/10/environmental-activists-protest-norways-move-to-allow-seabed-mining-exploration>; accessed 27 February 2024.
- 3 K Willaert, 'Protest at sea against deep sea mining: Lawfulness, limits and remedies' (2021) 36(4) *International Journal of Marine and Coastal Law* 672–683.
- 4 United Nations Convention on the Law of the Sea (Montego Bay, 10 December 1982, in force 16 November 1994) 1833 *UNTS* 396, Article 92(1) [LOSC].

preventive action or intervention,<sup>5</sup> and it is unclear how the responsibility of the International Seabed Authority (ISA) and its Member States to facilitate reasonable regard by other marine users should in practice be fulfilled.<sup>6</sup> Apart from inconvenient consultations and potential dispute settlement proceedings between the flag States involved, which might not lead to an effective remedy, the previous article noted that deep sea mining contractors also have the option to file a civil claim against persons or organisations interfering with their operations,<sup>7</sup> and this is exactly what happened in the case at hand.

On 30 November 2023, an Amsterdam district court issued a summary judgment in a similar case of protest activities on the high seas against deep sea mining activities, involving the Dutch-flagged vessel *Arctic Sunrise* used by Greenpeace activists and the Danish-flagged mv *Coco* operated by ISA contractor Nauru Ocean Resources Inc (NORI), a wholly-owned subsidiary of the Canadian-based The Metals Company.<sup>8</sup> In this article, the Amsterdam district court decision is evaluated against the background of the relevant international legal rules and principles. In particular, the legal basis and enforceability of the immediate measures taken by the ISA are questioned and the potential impact of the case and the ISA response upon future protest action at sea in respect of deep sea mining is assessed.

### The mv *Coco* Case: Context and Facts

On 22 November 2023, the *Arctic Sunrise* approached the mv *Coco*, which was conducting exploration activities in the NORI contract area in the Clarion-Clipperton Zone.<sup>9</sup> Direct radio communication between the *Arctic Sunrise*

5 Permanent Court of Arbitration, *The Arctic Sunrise Arbitration (Netherlands v. Russia)*, Award on the Merits, 14 August 2015, Case No 2014-02, para 328; ECtHR, *Sergey Kuznetsov v. Russian Federation*, Judgment, 23 January 2009, App. no 10877/04, para 44; European Court of Justice, *Eugen Schmidberger, Internationale Transporte und Planzüge v. Republic of Austria*, Judgment, 12 June 2003, Case C-112/00, para 91; G Plant, 'International law and direct action protests at sea: Twenty years on' (2002) 33 *Netherlands Yearbook of International Law* 75; MC Noto, 'The Arctic Sunrise Arbitration and acts of protest at sea' (2016) 2 *Maritime Safety and Security Law Journal* 47–48.

6 Draft Regulations on Exploitation of Mineral Resources in the Area – Collation of the Texts Prepared for the Third Part of the Twenty-Eight Session, ISA Doc ISBA/28/C/CRP.4 (19 October 2023), Regulation 31(2).

7 Willaert (n 3), at p. 681.

8 Rechtbank Amsterdam, 30 November 2023, C/13/742765 – KG ZA 23-1028, available at <https://uitspraken.rechtspraak.nl/details?id=ECLI:NL:RBAMS:2023:7600>; accessed 27 February 2024.

9 *Ibid.*, para 2.

and *MV Coco* was established and Greenpeace informed NORI of the protest activities and the reasons for the protest. They also stated that they would take all necessary measures to ensure that the action was as safe as possible, and that they did not intend to cause a risk to any vessels, their crew or passing marine traffic, nor would they cause any damage to the *MV Coco* or its equipment. NORI responded with a request to maintain a safe distance of at least 500 metres from the research vessel. Greenpeace activists operating from the *Arctic Sunrise* used kayaks and rubber boats to get into close vicinity of the *MV Coco* and to impede the deployment of research equipment. On one occasion, a kayak capsized due to waves caused by the *MV Coco*'s propellers. Greenpeace activists also attached a banner to a winch cable used to deploy equipment, causing disruption of NORI's exploration activities. NORI concluded that these protest actions were unlawful and endangered lives; they demanded an immediate stop to the disruptive activities and adherence to the requested 500-metre safety zone. Greenpeace maintained that the actions were peaceful and safe; that there was no intent to cause damage to the *MV Coco* or endanger its crew. On 25 November 2023, Greenpeace activists further impeded NORI's exploration efforts by boarding the *MV Coco* and camping on the main crane that is used to deploy and retrieve equipment, stating that they would only leave their position if NORI shut down its activities.

Unlike the earlier Greenpeace protest activities against the *Normand Energy* in 2021, the incident involving the *MV Coco* quickly led to a response by the International Seabed Authority, spurred by notifications of the incidents from NORI to the ISA on 25 and 26 November 2023.<sup>10</sup> After consulting with Greenpeace and NORI and having informed the flag States of the vessels involved, the ISA Secretary-General took note of the facts of the case and decided on 27 November 2023 to promulgate immediate measures of a temporary nature (in effect for 90 days), consisting of a call to the Greenpeace activists to disembark the *MV Coco*, to refrain from interfering with its operations and to maintain a safety distance of at least 500 metres.<sup>11</sup> This largely echoed the

10 Later on 2 December 2023, contractor Tonga Offshore Mining Limited (TOML) notified the ISA Secretary-General that the activities of Greenpeace in the NORI contract area also amounted to an interference with its exploration efforts, as the scientific campaign carried out by NORI is done in partnership with TOML (ISA, 'President and Vice-Presidents of the Council issue statement on recent incidents in NORI-D Contract Area' (Press Release, 15 December 2023) available at <https://www.isa.org.jm/news/president-and-vice-presidents-of-the-council-issue-statement-on-recent-incidents-in-nori-d-contract-area/>; accessed 27 February 2024).

11 ISA Secretary-General, 'Notification of immediate measures of a temporary nature taken in respect of the Contract for Exploration for Polymetallic Nodules between

demands made by NORI. Greenpeace and NORI were also requested to report to the ISA on a daily basis as to the steps taken to ensure compliance with this measure, and the Netherlands, as the flag State of the *Arctic Sunrise*, was urged to consider what measures were warranted under international law and domestic law concerning the conduct of Greenpeace and the *Arctic Sunrise*. In further communications with the Netherlands on 28 and 30 November 2023 and 1 December 2023, the ISA reiterated the call to consider any necessary regulatory steps.<sup>12</sup>

The Secretary-General's call upon the Netherlands to consider taking measures or regulatory steps against Greenpeace was based on Articles 87(2) and 147(3) of the LOSC,<sup>13</sup> which require, respectively, due regard for the interests of other States on the high seas<sup>14</sup> and reasonable regard for activities in the Area.<sup>15</sup> Given the principal obligation of every State to effectively exercise its jurisdiction and control over ships flying its flag,<sup>16</sup> this call was not inappropriate, but it evidently remains up to the Netherlands to assess the situation, evaluate whether the principles of due and reasonable regard are being respected and to decide on any necessary measures as a sovereign State. As the Netherlands is a member of the ISA, some might consider it an implicit duty for the Netherlands to respond to interference with ISA mandated activities in the Area.<sup>17</sup> However, it is ultimately the State that makes the final call, following a

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the International Seabed Authority and Nauru Ocean Resources Inc dated 22 July 2011 pursuant to Regulation 33 of the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area' (27 November 2023) available at [https://www.isa.org.jm/wp-content/uploads/2023/11/Notification\\_ISA\\_SG\\_Measures\\_Reg.33.pdf](https://www.isa.org.jm/wp-content/uploads/2023/11/Notification_ISA_SG_Measures_Reg.33.pdf); accessed 27 February 2024 [ISA SG Notification of Immediate Measures]; ISA, 'The Secretary-General of the ISA takes immediate measures in response to NORI-D Area Incident' (Press Release, 27 November 2023) available at <https://www.isa.org.jm/news/the-secretary-general-of-the-isa-takes-immediate-measures-in-response-to-nori-d-area-incident/>; accessed 27 February 2024.

12 ISA Press Release 15 December 2023 (n 10).

13 ISA SG Notification of Immediate Measures (n 11), para 8(g).

14 LOSC (n 4), Article 87(2).

15 *Ibid.*, Article 147(3).

16 *Ibid.*, Article 94.

17 This view was strengthened by the initial text of a draft regulation on exploitation activities, which stated that '[t]he Authority, in conjunction with member states, shall take measures to ensure that other activities in the marine environment shall be conducted with reasonable regard for the activities of contractors in the Area'. However, this draft paragraph has since been changed and currently reads '[t]o further the due and reasonable regard obligations in Articles 87 and 147 of the Convention, the Secretary-General, in conjunction with member states, shall facilitate early-stage coordination between the contractors and the proponents of the other activities in the marine environment', seemingly reflecting changing State opinions on the matter and imposing less responsibilities

careful examination of the situation and the interests involved. As a result, this approach can hardly be considered as providing for adequate enforcement or effective remedies in situations wherein contractors are impeded from carrying out deep sea mining activities in the Area in accordance with an ISA contract, since there is no guarantee that the flag State will use its powers for the purpose of safeguarding the efficient conduct of deep sea mining operations.

Since the supervision of activities in the Area ultimately resides with the ISA Council,<sup>18</sup> the Secretary-General provided the Council with a report on 4 December 2023 on the immediate measures, stating that these had been insufficient to remedy the situation and calling for NORI to be allowed to continue its activities without undue interference.<sup>19</sup> In a joint statement issued on 15 December 2023, the President and Vice-Presidents of the Council for the twenty-eighth session expressed concern regarding the protest activities of Greenpeace activists on board and in the vicinity of the *MV Coco* that prevented NORI from carrying out its lawful exploration activities in the Area, as well as the serious safety threats associated with such activities.<sup>20</sup> The joint statement urged all parties involved to behave in a constructive and collaborative manner and called upon Greenpeace to refrain from future actions that could disrupt the contractual activities of NORI, in accordance with the precepts of due and reasonable regard. The Council was invited to discuss the incidents in the NORI contract area at its next meeting, and it was stated that the President and Vice-Presidents of the Council would remain attentive to different legal instruments and institutional mechanisms that might contribute to a solution in the matter.

### **Analysis of the *MV Coco* Case and Its Impact on Protest Activities at Sea against Deep Sea Mining**

On the same day that the ISA issued its immediate measures (27 November 2023), NORI filed for an injunction against Greenpeace before an Amsterdam district court.<sup>21</sup> Characterised by four formal claims, the main objective of the interlocutory proceedings was to put a stop to the disruptive actions of the

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on the Member States (Draft Regulations on Exploitation of Mineral Resources in the Area, ISA Doc. ISBA/25/C/WP.1 (25 March 2019), Regulation 31(2); ISBA/28/C/CRP.4 (n 6), Regulation 31(2)).

18 LOSC (n 4), Article 162(2)(a) and (l).

19 ISA Press Release 15 December 2023 (n 10).

20 LOSC (n 4), Articles 87(2), 147(3).

21 Rechtbank Amsterdam (n 8), paras 1, 3.

Greenpeace activists in order to ensure unimpeded exercise of its exploration rights in the contract area. NORI asked that Greenpeace be ordered to stop all protest activities and to have its activists disembark the *MV Coco*, and be prohibited from acts that deface, damage or hinder the *MV Coco* or to be within a 500-metre radius around the ship for a six month period, on penalty of a fine of €50,000 per hour with a maximum of €10,000,000. NORI claimed to have lost approximately €1,000,000 each day that its exploration efforts were impeded and pointed out the lawful nature of its activities, in accordance with the freedom of scientific research on the high seas<sup>22</sup> and its contract (and the exclusive rights and duties associated therewith) granted by the ISA.<sup>23</sup> The court held a hearing on 28 November 2023 and issued a summary judgment on 30 November 2023.

Following a number of considerations regarding the applicable law, the court evaluated the legality of the protest activities against the *MV Coco* and the appropriateness of prohibiting such protests.<sup>24</sup> The court recognised that some of the actions performed by Greenpeace activists led to dangerous situations and impeded the exploration activities of NORI. Nonetheless, the right to protest was confirmed on the basis of Articles 10 and 11 of the European Convention on Human Rights,<sup>25</sup> and the Amsterdam district court stated that potential disruption of NORI's activities does not detract from this right, which can only be subject to limitations that are laid down in legislation and that are necessary in a democratic society to, among others, uphold public security, prevent disorder and illegal acts, protect public health, morality or the rights of others.<sup>26</sup> Acknowledging the controversial nature of the industry concerned, the court went on to stress the great societal importance surrounding deep sea mining and deemed it understandable, given the mission of Greenpeace and its role as public watchdog, that the NGO undertakes protest activities to raise public awareness about the potentially catastrophic and irreversible impact on the marine environment. Given the commercial interests of NORI and its aim to exploit deep seabed resources in the future, the Amsterdam district court also found that NORI's activities cannot be considered independent scientific

22 LOSC (n 4), Article 87(1)(f).

23 Decision of the Council Relating to a Request for Approval of a Plan of Work for Exploration for Polymetallic Nodules Submitted by Nauru Ocean Resources Inc, ISA Doc ISBA/17/C/14 (19 July 2011).

24 Rechtbank Amsterdam (n 8), para 4.

25 Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, 4 November 1950, in force 3 September 1953) 213 UNTS 221, Articles 10–11.

26 Rechtbank Amsterdam (n 8), para 4.7.

research, further strengthening the interest of Greenpeace to campaign against these practices.<sup>27</sup>

The Dutch court did note that the *mv Coco* itself must be considered private property and does not constitute public space.<sup>28</sup> Therefore, NORI does not have to tolerate the presence of the activists on board its vessel, unless Greenpeace had sufficiently compelling interests to that end. Since Greenpeace declared during the hearing that publicity for the campaign against deep sea mining was its main objective, the Amsterdam district court deemed that Greenpeace's interests in the continuation of the already week-long demonstrations were small compared to NORI's responsibility for the safety of the vessel and everyone on board. Given the risks associated with the Greenpeace activists camping on top of the vessel's main crane, NORI's interests in preventing serious accidents outweighed Greenpeace's interests in continuing a protest action that already had got its point across. Furthermore, Greenpeace did not provide any indication on the planned duration of the sit-in and the presence of the Greenpeace activists on board the *mv Coco* impeded the activities of NORI, leading to economic damages due to business interruption. As a result, the Amsterdam district court ordered Greenpeace to instruct the activists to disembark the *mv Coco*, on penalty of a fine of €50,000 per day with a maximum of €500,000.<sup>29</sup>

With regard to the other claims by NORI, however, the Amsterdam district court took a different stance. It stated that within the context of protest activities, a certain degree of interference is unavoidable, and disruptive actions as such (e.g., defacing, damaging or hindering the *mv Coco*) can thus not be prohibited in advance.<sup>30</sup> The demanded cessation of all protest activities concerning the *mv Coco* was deemed to go beyond what was necessary and was therefore rejected.<sup>31</sup> Although the decision was just the result of summary proceedings in a domestic court, it clearly aligns with earlier case law in similar situations,<sup>32</sup> thereby confirming that activists are entitled to exercise their right of peaceful protest at sea and that such a right is only to be denied when unauthorised actions on board another vessel clearly lead to unreasonable interference or unsafe situations.

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<sup>27</sup> *Ibid.*, para 4.8.

<sup>28</sup> *Ibid.*, para 4.9.

<sup>29</sup> *Ibid.*, paras 5.1–5.2.

<sup>30</sup> *Ibid.*, para 4.10.

<sup>31</sup> *Ibid.*, paras 4.11, 5.6.

<sup>32</sup> Cf. *Arctic Sunrise Arbitration* (n 5).



A similar reasoning was followed to deny NORI's claim to prohibit Greenpeace activists from entering a 500-metre safety zone around the *MV Coco*, because this would assume that the protests could be deemed illegal in advance of them happening, absent an assessment of the circumstances in which they took place. The Amsterdam district court explained that actions on the high seas within a 500-metre radius of the *MV Coco* were not necessarily unlawful and dismissed the legal basis of NORI's claim.<sup>33</sup> The measure issued by the ISA Secretary-General and prescribing a safety distance of at least 500 metres – of which Greenpeace claimed to be unaware at the time of the hearing – did not appear to constitute a legally binding and enforceable action. Indeed, the wording used in the notification, which states that the Secretary-General 'calls upon' different parties to perform (or refrain from) certain acts, rather suggests a non-binding request.<sup>34</sup> Perhaps more importantly, the court also raised doubts about the competence of the Secretary-General to impose immediate measures on Greenpeace in accordance with Regulation 33 of the Exploration Regulations, since this underlying legal provision pertains to emergency orders that are 'practical and reasonable in the circumstances to prevent, contain and minimise serious harm or the threat of serious harm to the marine environment'.<sup>35</sup>

This certainly is a valid point. Pending any action by the Council following an 'incident resulting from or caused by a contractor's activities in the Area that has caused, is causing or poses a threat of serious harm to the marine environment',<sup>36</sup> the Secretary-General is in fact competent to take immediate measures of a temporary nature as are practical and reasonable in the circumstances.<sup>37</sup> However, it is highly debatable that the case at hand fits those criteria. Safety issues were the underlying reason for the measures taken,<sup>38</sup> but this is not one of the triggers that can give rise to such immediate measures by the Secretary-General. In an attempt to frame the situation as falling within the Secretary-General's powers, the notification of the measures also mentioned that the circumstances posed a serious threat to the marine environment.<sup>39</sup> However, this argument is not at all substantiated and, therefore, is unconvincing. Although the Amsterdam district court did not elaborate on this point,

33 Rechtbank Amsterdam (n 8), para 4.12.

34 ISA SG Notification of Immediate Measures (n 11), para 8.

35 Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area, ISA Doc. ISBA/19/C/17 (22 July 2013), Regulation 33 [Exploration Regulations].

36 *Ibid.*, Regulation 33(2).

37 *Ibid.*, Regulation 33(3).

38 ISA SG Notification of Immediate Measures (n 11), para 6.

39 *Ibid.*, paras §§6, 8.

another argument that questioned the validity of the immediate measures was their application to third parties, such as Greenpeace, who do not qualify as contractors and so do not appear to be bound by ISA measures. With regard to compliance, the provision on emergency orders indeed only mentions the contractor, further indicating that other actors are not held to adhere to such measures.<sup>40</sup>

Arguably, the requested 500-metre safety zone could be reasonable in cases where it was demonstrated to be necessary to prevent potential threats to the marine environment. However, this is not directly based on binding legal provisions that are indisputably applicable in the situation. Previously, the present author suggested that Article 260 of the LOSC, which enables the creation of safety zones of a reasonable breadth not exceeding 500 metres around scientific research installations, could perhaps be applied to stationary ships that remain in the same location for a reasonable amount of time to conduct scientific research.<sup>41</sup> However, application by analogy of this provision to situations like the *MV Coco* has not yet been endorsed by case law or State practice. According to the Amsterdam district court, the reference made by NORI to Rule 6 of the International Regulations for Preventing Collisions at Sea (COLREGS),<sup>42</sup> containing general principles and guidelines to avoid collisions, does not provide a legal justification for a 500-metre safety radius around the *MV Coco* either. The court took note of Greenpeace's firm intentions and precautionary measures to avoid dangerous situations at sea (e.g., presence of rubber boats around the kayaks, communication with the activists, communication with the master of the *MV Coco*) and decided that imposing a 500-metre safety zone around the *MV Coco*, without any concrete indications of its necessity, would constitute too great an infringement on the right of Greenpeace to perform peaceful protest activities.<sup>43</sup> Nevertheless, it was emphasised that Greenpeace activists ought to respect the applicable laws and regulations, including the COLREGS.

Although the rejection of the 500-metre safety zone and the lack of any further prohibitions on future protest activities, as well as the expressed understanding for the motives of the activists, clearly favoured Greenpeace, the decision of the Amsterdam district court led to both parties claiming victory

40 Exploration Regulations (n 35), Regulation 33(7).

41 Willaert (n 3), at pp. 676–677.

42 Convention on the International Regulations for Preventing Collisions at Sea (London, 20 October 1972, in force 15 July 1977), 1050 UNTS 16, Rule 6.

43 Rechtbank Amsterdam (n 8), para 4.13.

in the case.<sup>44</sup> While stressing the rejection of the majority of NORI's claims, Greenpeace considered the summary judgment 'a massive setback for the deep-sea mining industry' and vowed to 'keep bringing this dangerous industry to public attention'.<sup>45</sup> NORI's parent company The Metals Company, on the other hand, highlighted the court's order *vis-à-vis* Greenpeace activists to disembark the MV *Coco* and expressed its intention to resume its ISA mandated (and legally required) environmental and scientific studies in a safe and responsible way.<sup>46</sup> Upon notification of the court order, the Greenpeace activists promptly disembarked the MV *Coco* on 30 November 2023.<sup>47</sup> Nevertheless, NORI reportedly used water hoses against Greenpeace activists that were still roaming around the MV *Coco*.<sup>48</sup> After attaching a banner with campaign slogans to the hull of the MV *Coco*, Greenpeace ceased protests around the ship on 4 December 2023.<sup>49</sup>

### Conclusion

The MV *Coco* case confirmed a number of findings that were already pointed out in the previous article, but also revealed some novel issues. Activists enjoy a broad right of peaceful protest at sea and there are no ready-made answers in

44 D Gayle, 'Deep sea miners turn water hoses on Greenpeace activists in the Pacific' (*The Guardian*, 2 December 2023) available at <https://www.theguardian.com/environment/2023/dec/02/deep-sea-miners-turn-water-hoses-on-greenpeace-activists-in-the-pacific>; accessed 27 February 2024; M Corder, 'A Dutch court orders Greenpeace activists to leave deep-sea mining ship in the South Pacific' (*AP News*, 30 November 2023) available at <https://apnews.com/article/dutch-court-greenpeace-deep-sea-mining-01956fo1c27633301e3aa3ff6370ca21>; accessed 27 February 2024.

45 Greenpeace, 'Court confirms Greenpeace right to peaceful protest as activists' 200-hour-long protest against deep sea mining in the Pacific continues' (Press Release, 1 December 2023) available at <https://www.greenpeace.org/international/press-release/64037/court-confirms-greenpeace-protest-right-to-peaceful-protest-as-activists-200-hour-long-protest-against-deep-sea-mining-in-the-pacific-continues>; accessed 27 February 2024.

46 The Metals Company, 'Dutch court orders Greenpeace protesters off NORI research vessel, Greenpeace complies' (30 November 2023) available at <https://investors.metals.com/news-releases/news-release-details/dutch-court-orders-greenpeace-protesters-nori-research-vessel>; accessed 27 February 2024.

47 Greenpeace Press Release 1 December 2023 (n 45).

48 Gayle (n 44); Greenpeace, 'Two-week protest at sea against deep sea mining comes to an end with activists undeterred' (Press Release, 6 December 2023) available at <https://www.greenpeace.org/aotearoa/press-release/two-week-protest-at-sea-against-deep-sea-mining-comes-to-an-end-with-activists-undeterred>; accessed 27 February 2024.

49 Greenpeace Press Release 6 December 2023 (n 48); ISA Press Release 15 December 2023 (n 10).

international law to offer relief to contractors whose legally-mandated deep sea mining activities in the Area are impeded. The involvement of the ISA on this occasion is indicative of a more proactive approach to defending the interests of deep sea mining contractors and this may become a feature of similar future disputes. As the present author has previously concluded, the ISA has few legal options at its disposal, so it is not particularly surprising that the promulgated measures were not effective. The readiness to intervene certainly shows that the ISA has realised the urgency and severity of the issue, but the approach taken is characterised by several flaws that affect the legitimacy of the measures. Indeed, adopting the immediate measures based on Regulation 33 of the Exploration Regulations, without further elaboration of the underlying arguments, cannot be considered convincing, as demonstrated by the *prima facie* rejection by the Amsterdam district court in the case at hand.

It remains to be seen whether the ISA will change its approach when dealing with similar situations in the future, but for now its measures will not instil confidence among contractors. This leaves domestic lawsuits as the only viable avenue to achieve a remedy. In this case, the court order to Greenpeace to immediately disembark the MV *Coco* led to a partial mitigation of the interference with NORI rights, but this does not detract from the fact that the international deep seabed regime and the broader law of the sea framework offer little direct relief in these situations. Moreover, the decision shows that civil lawsuits will not always lead to a satisfactory result for deep sea mining contractors, since a wide array of disruptive activities under the banner of protests were not necessarily restrained by a summary judgment.