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Community

SPC-EU EDF10 Deep Sea Minerals Project Proceedings of the Nauru National Stakeholder Consultation on Deep Sea Minerals Workshop Parliament Buildings, Yaren District, Nauru 5 October 2011



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SOPAC WORKSHOP REPORT (PR101)

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The Project would also like to thank Ms Christiana Denitage and Mr Tini Duburiya for their assistance and support prior to and during the workshop.

EXECUTIVE SUMMARY

The Nauru National Deep Sea Minerals Stakeholder Consultation Workshop was hosted by the SPC-EU EDF10 Deep Sea Minerals (DSM) Project in Nauru on the 5th of October 2011. The workshop was jointly organised by the DSM Project and the Ministry of Foreign Affairs and Trade (MFAT) and was officially opened by the Minister for Commerce, Industry and Environment. Present at the workshop were representatives from various government agencies, the private sector, non-government organizations (NGOs) and academic institutions.

The main objectives of this workshop are to present the DSM project to stakeholders, discuss the priority areas and concerns of in-country stakeholders in relation to deep sea minerals development within and beyond Nauru's EEZ, and collectively identify mechanisms by which they can be addressed. Furthermore, it also provided a great opportunity to discuss related issues such as the development of appropriate legal, fiscal and environmental frameworks, improve human and technical capacity and ensure effective environmental monitoring systems.

A number of oral presentations were delivered during the workshop by the DSM Project team, the Department of Justice and Border Control, and the Ministry of Foreign Affairs and Trade (MFAT) presenting on behalf of Nauru Ocean Resources Inc (NORI). Each presentation was followed by questions and comments from workshop participants. A notable point of discussion was a number of issues relating to Nauru's sponsorship of Nauru Ocean Resources Inc. (NORI) to explore in the Area.

The formation of the National Offshore Minerals Committee (NOMC) also raised much interest among participants as the NOMC will spearhead the DSM Project activities in Nauru and provide appropriate advice on any DSM related issues to the Government and the DSM Project team. It was agreed that the establishment of the NOMC had to be endorsed by the DFAT as the responsible ministry and a work plan for the committee will be developed by the DSM Project team in consultation with DFAT.

In the discussion session, participants were divided into two groups: a policy group to discuss policy and general DSM issues, a technical group to discuss technical and as well as general issues. Each group was provided with a set of relevant discussion points to guide and facilitate discussions. At the conclusion of discussion, the two groups were able to produce a number of outcomes that will provide the necessary guidance for the implementation of the DSM Project activities in Nauru.

1. INTRODUCTION

The perceived poor deep sea minerals potential within the EEZ of Nauru is based on unfavourable geological setting and the information on seabed mineral occurrence within the EEZ of neighbouring countries. This has resulted in the lack of interest from marine scientific groups and exploration companies to assess the country's offshore mineral potential. With the lack of baseline deep seabed minerals data for its EEZ, Nauru has made a paradigm shift and pursued an alternative mechanism to participate in this new industry. Consequently, Nauru has decided to support a locally registered commercial partner to explore the international seabed area ("the Area"). This has led Nauru Ocean Resources Inc (NORI) to submit an exploration application to the International Seabed Authority (ISA) with Nauru as the sponsoring state. Subsequently the exploration licence was granted to NORI in July 2011.

The implementation of the DSM Project was considered important and timely for Nauru to provide the relevant assistance and guidance that will enable the country to effectively participate in deep sea minerals exploration and mining. The national Nauru Deep Sea Minerals Stakeholder Consultation Workshop was held at the Government Building conference room on Wednesday, 5th October 2011. This national workshop was hosted by the DSM Project in collaboration with the MFAT.

It was crucial to bring together key in-country stakeholders such as representatives of relevant government agencies and NGOs and to present the DSM Project to them, discuss various issues relating to deep sea minerals and mining, and how Nauru can effectively participate in, and benefit from, this new industry.

1.1 Objectives of the Workshop

The objectives of the national stakeholder consultation workshop were to:

- Identify key in-country stakeholders and present the DSM project.
- Determine the needs and priorities of Nauru in terms of policy and legislation development, capacity building and other deep sea mineral related issues.
- Discuss collaboration mechanisms with key stakeholders (e.g. government agencies and NGOs) to form a steering committee that will be responsible for spearheading project activities in Nauru.
- Identify and inform all stakeholders of the technical in-country contact person for the DSM Project.
- Determine stakeholder concerns on offshore minerals exploration and mining.
- Ensure that stakeholders complete the prepared questionnaire to assist the DSM Project staff to better understand the situation in Nauru.

1.2 List of Participants

Refer to Attachment 3.



Far Right: Hon. Minister Dominic Tabuna with Nauru workshop participants.

2. RECORD OF THE WORKSHOP PROCEEDINGS

The Nauru National Stakeholder Consultation Workshop on deep sea minerals was held at one of the conference rooms at the Parliament Building in Yaren District, Nauru, on the 5th of October 2011.

2.1 Summary of Proceedings – Workshop Programme

The Workshop programme tabulated below; and the summary of proceedings follows:

Time	Activity	Presenter
10:30 – 11:00 am	<p>Official Welcome</p> <p>Responding Remarks</p> <p>Introduction</p> <p>Prayer</p> <p>[Group Photo for workshop Participants]</p>	<p>Hon. Dominic Tabuna, MP (Minister for Commerce, Industry and Environment)</p> <p>Mr Akuila Tawake (DSM Project Team Leader – SPC)</p> <p>All Participants</p> <p>Mr Manfred Depaune (President – NIANGO)</p>
11:00 – 11:15	Morning Tea	
11:15 – 2:00 pm	<p>Overview of the SPC-EU EDF10 Deep Sea Minerals (DSM) Project</p> <p>Deep Sea Minerals (DSM) Project Inaugural Regional Workshop; Objectives and Outcomes</p> <p>Deep Sea Minerals and Mining in Pacific Islands Region</p> <p>Deep Sea Minerals in Nauru; policies, gaps, requirements; needs and priorities</p>	<p>Mr Akuila Tawake (SPC)</p> <p>Ms Vira Atalifo (DSM Project Assistant – SPC)</p> <p>Akuila Tawake (SPC)</p> <p>Dave Lambourne (Secretary – Ministry of Justice)</p>
2:00 – 2:40 pm	Lunch	
2:40 – 3:30	<p>NORI Activities in Nauru</p> <p>Stakeholder Discussions</p> <p>Participants will be split into 2 groups (policy and technical) and will be required to discuss on the issues listed below :</p>	Mike Aroi (Acting Secretary – MFAT)
3:30 – 4:20	<p>Group 1: Policy Issues</p> <ul style="list-style-type: none"> • Development of Offshore Minerals Policy and Legislation, and Regulation • Appropriate Fiscal Regime policies for deep sea mining • Environmental Management and Monitoring Frameworks/guidelines for deep sea exploration and mining • Offshore Mining Legal Instruments in relation to existing National policies, and Regional and International Conventions (e.g. Noumea convention and UNCLOS) • Development of Marine Scientific Research Policy <p>Group 2: Technical Issues</p> <ul style="list-style-type: none"> • Determine current institutional capacity and 	

	<p>identify priority areas for capacity building</p> <ul style="list-style-type: none"> • Opportunities for Capacity Building (e.g. attachment in offshore exploration and mining) • Environmental Monitoring and Management for Deep Sea Exploration and Mining • Technical and Technological Challenges of Deep Sea Mining and Recommendations • Stakeholder Partnership (e.g. Government-Private sector-SPC-NGO partnership) <p>General Issues</p> <ul style="list-style-type: none"> • Benefits and Adverse Impacts of Offshore Exploration and Mining • Formation of the National Offshore Committee (NOMC) • Nomination of the DSM Project focal points • Any additional DSM Issues 	Participants
4:20 – 4:35	Afternoon Tea	
4:35 – 5:35	Wrap up discussions and team leaders to present on individual team reports	Participants

After every presentation, participants were encouraged to pose questions to the presenter and comment on any DSM related issue. Pressing issues are noted for further discussion in the last discussion session of the workshop.

2.2 Opening Address

The workshop opening address was delivered by Honorable Dominic Tabuna, Minister for Commerce, Industry and Environment. The Minister acknowledged everyone that was present at the workshop and commented on the timely visit of the SPC-EU Deep Sea Minerals Project team to Nauru. The DSM Project is significant for Nauru due to the government sponsorship of Nauru Ocean Resources Inc (NORI), an exploration company that has recently been granted exploration licences in “the Area”.

He stated the importance of the workshop in discussing the process of developing appropriate legislation to govern Nauru’s deep sea mineral interests within and beyond national jurisdiction. Additionally, the Government of Nauru is looking forward to the outcomes of the workshop to provide the necessary guidance in the development of national offshore minerals policy and legislation as well as other DSM related issues.

Nauru needed guidance in this new industry; on how to effectively participate in deep sea mining and fulfill its national and international obligation. As a sponsoring state, Nauru was required to honour its commitment to NORI and the ISA.



The Honorable Minister Dominic Tabuna delivering the opening address at the workshop.

2.3 SPC Responding Remarks

Mr Akuila Tawake, DSM Project Team Leader thanked the Minister for his time and effort in delivering the opening address at the workshop. He also acknowledged the presence of representatives of various stakeholders including government agencies, Non-Governmental Organizations, Private Sector and local communities. The financial assistance of the European Union which enabled the SOPAC Division to implement the Deep Sea Minerals Project was also acknowledged.

Mr Tawake stated that the rise in metal prices triggered by sustained increasing global demand for metals have provided the impetus for renewed interest on deep sea minerals in the Pacific Islands region. He said that recent discoveries of high grade mineral deposits within the waters of Papua New Guinea (PNG) and Tonga coupled with previously surveyed seabed mineral potential in the Cook Islands, Fiji and Kiribati have triggered the interest of commercial exploration/mining companies to explore for polymetallic mineral deposits in the Pacific region.

In recognition of deep sea mineral resources potential within the region, the SOPAC Division in collaboration with donors convened a workshop in Madang (PNG) in February 1999 to develop an enabling platform for the sustainable management of DSM resources. Countries with interest in DSM in the region attended and collectively developed 'The Madang Guidelines' as a basis to develop effective policy and legislation to govern offshore mineral exploration and development.

In response to the Minister's statement over the sponsorship of NORI (Nauru registered company) to explore "the Area", Mr Tawake congratulated Nauru for embarking on this initiative that represents a shift from the traditional approach of developing limited resources that exist within the country's EEZ to an alternative way of effectively participating in this new industry.

With the implementation of the DSM Project, SPC is expected to play a coordination role to ensure that donor resources are effectively utilised. He highlighted the importance of collaborating with relevant agencies in Nauru in implementing project activities and funding will be channeled through existing government structure(s) to ensure accountability and transparency. The project will be assisting 15 P-ACP states in responding to the needs and priorities of each participating country in relation deep sea minerals issues.

2.4 Presentation Summaries and Discussions

All presentations that were delivered during the workshop are made available in the Data CD attached to this report. The summary of presentations coupled with questions raised by the participants following every presentation and the subsequent discussions are recorded below.

Presentation 1 – Overview of the SPC-EU EDF10 Deep Sea Minerals Project

Presenter: Akuila Tawake (DSM Project Team Leader)

Summary of Presentation

This presentation highlighted some of the background information on the goals of the SPC-EU Deep Sea Minerals Project, the reasons the project is taking a regional approach, the funding and implementation period and the four key result areas, which the Project will deliver against. The key areas are discussed in detail together with the implementation calendar for the duration of the Project, which is four years until 2014. The DSM Project beneficiaries, its implementing partners and the expected outputs and outcomes were discussed as well.

Discussion

- *History of Mining in Nauru and Capacity Building opportunities*

Nauru is renowned for its history with phosphate mining; however, there are still no specialised local professionals such as a mining engineer and a geologist working in the mining industry. With its new found interest in deep sea mining and exploration, it is only reasonable that capacity building opportunities for Nauru nationals is considered from the start so the local people can be more involved with this new industry. NORI has been licensed to carry out mineral exploration in “the Area” for a number of years, and during the licence period, Nauru should utilise this opportunity and make appropriate arrangements with NORI to train selected Nauruans onboard its exploration vessel. There is also a need to seek funding to support local students for further studies in the areas of marine geology, mining engineering, environmental management to name a few.

Given that the DSM Project will be supporting 15 P-ACP States, and in order to avoid spreading its resources too thinly, the Project will liaise very closely with each participating country to identify their needs and priorities pertaining to deep sea minerals and mining. In terms of capacity building, the Project will be supporting short-term technical training, training workshops, and other capacity building initiatives.

- *Budget Allocation for Nauru*

Based on the Project document, there is no specific budget allocation for Nauru or for any other participating country. Funding will be based on the needs and priorities of each country and identified activities have to fall under one of the four Key Result Areas of the Project. The DSM needs and priorities for Nauru were largely raised, discussed and

agreed during this workshop. The DSM Project would channel its resources and assistance in implementing the identified tasks.

The NOMC is formed to provide an advisory forum for the DSM Project and the State and will be tasked to facilitate the process of developing national offshore minerals policy, legislation and other related DSM activities in-country. Project funds are available to support the implementation of project activities (TOR attached as Attachment 1) by the Committee. To ensure Project activities are implemented in-country, Committee members who are present would be given a seating allowance for each meeting. The Committee will be working in close consultation with the DSM Project Team based at the SOPAC Division in Suva, Fiji, to ensure the effective implementation of Project activities.

- *Exploration for Nauru*

A reasonable amount of seabed minerals data within national jurisdictions of P-ACP States is available at the SOPAC Division with the exception of Nauru and Timor Leste. So based on unfavourable geological setting and the survey results of neighbouring countries, Nauru's seabed minerals potential is presumed to be poor. As a result, Nauru's deep sea minerals interest lies outside of its national jurisdiction. The area of interest is referred to as the Clarion-Clipperton Fracture Zone (CCFZ), which is a manganese nodules rich area located between Mexico and the Line Islands of Kiribati in the central-eastern part of the Pacific Ocean.

Presentation 2: DSM Projects' Inaugural Workshop Outline and Outcomes

Presenter: Vira Atalifo (DSM Project Assistant)

Summary of Presentation

This presentation introduced the objectives and the specific purposes of the workshop. The DSM Project is keen on communication and visibility and had press releases prepared and issued to media outlets in the region. This led to expression of interest from various stakeholders in attending the workshop and created a platform where key stakeholders can come together and discuss issues relating to DSM in their respective countries. Amongst the stakeholders invited were experts in the field of deep sea mining who were expected to provide guidance and advice during discussions. The DSM Project also held its first Steering Committee meeting and the outlines of the outcomes were also discussed. The outcomes of that regional workshop are important in identifying the needs and priorities of P-ACP states and in discussing relevant deep sea mineral issues in the region.

Discussion

- *Stakeholder Concern*

There were major concerns raised from stakeholders over the likely adverse impacts of deep sea mining. Given the fact that deep sea mining is yet to be conducted anywhere in the world and given Nauru's dreadful history on terrestrial mining, Nauru's ability to regulate DSM activities in "the Area" was questioned. In responding to concerns raised, the Project will assist the Government of Nauru in developing appropriate DSM policies and legislation that will strongly emphasise environmental protection and management to ensure the protection of fisheries and other living marine resources. Stakeholders were also reassured that the current agreement with NORI only covers seabed minerals

exploration and not mining. Participants were reminded that the exploration process leading up to mining is expensive and can be time consuming.

- *Deep Sea Minerals Project Workshop promotes mining*

A question was raised by a NGO representative in relation to the objectives of the DSM Project's inaugural workshop that was held in Nadi, Fiji, in June 2011; on whether the workshop was an effort by the DSM Project to promote mining in the Pacific? It was clarified that the objectives of the workshop were highlighted in this presentation. At the invitation of the Project, stakeholders throughout the region and experts from around the world attended the workshop to present and discuss a broad range of issues related to deep sea minerals and mining. Participants with various background and specialties were in attendance including environmentalists, geologists, lawyers, researchers, engineers, economists, and academics. This regional workshop was considered an enabling platform whereby stakeholders and experts were able to discuss various challenges and opportunities as well as specific needs and priorities of each country, and collectively agree on a number of broad outcomes that will guide the DSM Project in assisting P-ACP States.

Presentation 3: Technical Issues of DSM Exploration and Mining

Presenter: Akuila Tawake (DSM Project Team Leader)

Presentation Summary

The presentation introduced the different types of mining in the Pacific highlighting the fact that deep sea mining is a new frontier in mineral development. The trend of marine mineral exploration occurred from the 60's to the 90's which showed the potential of Manganese Nodules (MN), Sea-floor Massive Sulphides (SMS) and Cobalt-rich crusts (CRC) in the region. From 1985 to 2005, Japan (JICA) coupled with SOPAC Secretariat then conducted surveys within the waters of PNG, Solomon Islands, Vanuatu, Fiji, Tonga, Samoa, Niue, Cook Islands, Kiribati, Tuvalu, FSM and Marshall Islands. Mining companies that are currently involved in offshore exploration in the region include Nautilus Minerals (exploring in PNG and Tonga), Neptune Minerals (previously explored in NZ), Korea Ocean Research and Development Institute (KORDI), and Blue-water Metals. He also described how, where and at what depth deep sea minerals occur and the mineral contents inside MN, CRC and SMS. Nautilus Minerals recently developed technology designed for mining of SMS deposits to increase economic viability. The benefits of offshore mining were also discussed together with the differences between terrestrial and marine mining.

Discussion

- *Clarification on the impacts of deep sea mining*

A table comparing deep sea mining with terrestrial mining was presented. Further clarification was requested on how the impacts of seabed mining were arrived at since it was yet to commence anywhere in the world. Mr Tawake clarified that various studies on deep sea minerals and mining have been ongoing for many years and most of the impacted highlighted are based on the results of those studies, however some need to be qualified during the actual mining operations. Additionally, there are always unknowns associated with mining whether it was terrestrial or deep seabed.

Presentation 4: Policy Gaps and Issues

Presenter: David Lambourne (Secretary – Ministry of Justice)

Presentation Summary (No PowerPoint available)

At some point terrestrial resources are going to be exhausted, and it is important for PICs who are small and landlocked to explore into resources that are owned by everyone or often referred to as *commons of the whole*.

The International Seabed Authority (ISA) oversees the seabed resources within international waters therefore also manages and controls the activities of countries or vessels operating in this area. For countries like Nauru where the mineral potential within their EEZ is unknown, interest is therefore extended into this Area. The ISA developed principles of setting aside areas of the seabed within the 'Clarion-Clipperton Fracture Zone (CCFZ)', known to be rich in DSM for developing countries for exploration and exploitation. The issue is that developing countries do not have the resources or expertise to explore the seabed minerals within the CCFZ. In Nauru's case this is the sole reason for the sponsorship of NORI to explore the area on their behalf. The exploration phase compared to survey and assessment is more invasive but essential to determine the mineral potential in that area.

The significant challenge for PICs is to fulfill their sponsorship obligations in ensuring that legal instruments and frameworks are in place to govern the activities of mining entities and sustainably manage and protect the resources within this area. Failure in doing so resulting in harmful adverse impacts on the marine environment may cause severe liabilities on the sponsoring state. The current challenge for Nauru is how to develop the appropriate legislation and demonstrate abilities to supervise NORI's activities in the Area during exploration. As such, Nauru will be seeking the advice and assistance of the DSM Project in drafting and developing its national framework for offshore exploration and mining which currently is a matter of high priority.

Discussion

- *NORI to co-fund legislative activities.*

While seeking assistance from NORI in terms of capacity building for policy and legislation development, education and training would be considered; it was however, advisable that Nauru work in collaboration with independent agencies such as the SPC through the DSM Project to develop relevant policy and legislation and other partners rather than mining companies. Stakeholders have to be mindful of the fact that mining companies usually do not have the funds to splurge during the exploration stage since they only get a return on their investment at the mining stage.

Regarding concerns over NORI's activities in the Area, Nauru is in the process of developing appropriate policy and legislations to regulate the activities of NORI. This is one of the conditions of the exploration licence being granted by the International Seabed Authority (ISA). The ISA can revoke the licence if Nauru and NORI fail to comply with the licence conditions. Nauru intended to draw on experiences of countries such as Germany and Cook Islands on DSM policy and legislation drafting. The government will also be working closely with the DSM Project seeking assistance on drafting instructions and other DSM activities that will benefit Nauru.

- *Extension of the DSM Project assistance to the private sector.*

The Project's assistance would be channeled through Nauru's Ministry of Foreign Affairs and Trade and candidates will be selected for capacity building purposes. The call to extend assistance to the private sector for opportunities in capacity building should be discussed internally between the private sector and Ministry of Foreign Affairs and Trade (MFAT) as the responsible ministry for in-country DSM activities.

- *A legal framework for NORI.*

Presently, there is no legislation in place to regulate NORI's activities in "the Area". With the ITLOS decision, the development of legislation to govern NORI and any future Nauru sponsored entities is now a matter of high priority. The Department of Justice will be working very closely with the DSM Project to develop this new legislation.

- *Stakeholder concerns over NORI.*

Concerns were raised over NORI's information sheet which stated that NORI is owned and controlled by Nauruan nationals and have no affiliation with any outside entity. Some participants have sought clarification on this statement as well as the identity of company Directors that were not mentioned on the information sheet. Mr Lambourne clarified that NORI's Board of Directors included two government ministers and they have been appointed in their capacity as citizens of Nauru and not as Cabinet Ministers. Further clarification was sought on the ownership of the 'Nauru Education and Training Foundation' and the 'Nauru Health and Environment Foundation', the two foundations toward which benefits from exploration/mining would be distributed. With the absence of a representative of NORI during the workshop, the relevant government agency has been requested to seek clarification on these concerns with NORI. It was strongly suggested that all these grievances be recorded and taken into consideration during drafting of policy and legislation to ensure that the state and the people are protected.

Presentation 5: Nauru Ocean Resources Inc.

Presenter: Mike Aroi (Secretary – Foreign Affairs)

Presentation Summary

The presentation highlighted the principles in which NORI operates in line with e.g. the United Nations Global Compact, Millennium Development Goals and IFC Performance Standards on Social and Environmental Sustainability to name a few. Nauru renowned for its history in phosphate mining which depleted its resources, left 80% of its land uninhabitable with no fertile land for agriculture, reliant on foreign aid and with limited opportunities struggles economically. Deep Sea exploration and mining is perceived to be an opportunity for Nauru to redeem itself and NORI assures to provide Nauru with long-term opportunities for a sustainable future. With no commercially prospective minerals within its EEZ, NORI was sponsored in 2008 for exploration in the Area. The benefits of DSM will be distributed to education, health, training and environmental rehabilitation programmes in Nauru.

NORI is expected to benefit not only Nauru but other PICs. NORI will also be conducting an EIA which can be a platform for other PICs to build their own. The presentation also covered the increase in demand for metals in the global market and how compared to terrestrial mining, DSM was anticipated to have fewer unfavorable occurrences.

Discussion

- *Signage of the agreement/contract with NORI.*

It was confirmed that a contract was signed between the Nauru government and NORI. Some of the participants were curious to view the content of the contract agreement however none of the government officials present could confirm ever having seen this agreement. The contract was believed to have been prepared in 2008 and Mr Aroi revealed that as a standard government procedure such a document would be channeled through relevant government agencies; however, the government may decide to withhold certain information from the public. Mr Aroi also confirmed that he did not sign the contract agreement on behalf of Nauru. The granting of the exploration licence to NORI was signed between the ISA and NORI and Mr Aroi was only present at the signing ceremony as a witness on behalf of Nauru as the sponsoring state.

2.5 Working Group Outcomes

Participants were divided into two groups; a technical and a policy working group for the discussion sessions. The technical working group was tasked to discuss technical DSM issues such as capacity building, environmental management and technological challenges whilst the policy working group was mandated to discuss the state of national DSM legal instruments and the necessary requirements to put in place relevant national policy, legislation and regulations.

2.5.1 Group 1: Policy Working Group

- ***Development of Offshore Minerals Policy, Legislation and Regulation.*** This development is essential for Nauru as stated by the Secretary of Justice; it is a matter of high priority for the State. Discussion amongst stakeholders was that there is a need for more public awareness of DSM exploration and mining and to conduct national consultations to ensure the participation of all key stakeholders in the development of Nauru's national DSM legal instruments. Also the development of the offshore minerals policy and legislation should be prepared in consultation with regional or international partners who have the resources and the know how in the field of DSM. The review of the 'Nauru Fisheries Marine Resources Authority' (NFMRA) mandate is essential to include the environmental monitoring of deep sea mineral exploration and mining. There is also a need to form a parliament steering committee on DSM to ensure issues relating to this new industry are discussed and dealt with at a higher level.
- ***Appropriate Fiscal Regime policies for deep sea mining.*** Nauru lacks the relevant capacity and the technical expertise for the development of an appropriate country-specific fiscal regime. Capacity building in the form of technical assistance will be needed for Nauru to develop and implement sound fiscal regime for its offshore mining industry. Accountability and transparency principles should be included in the national framework as well as in contract agreements.
- ***Guidelines for deep sea minerals exploration and mining.*** To protect Nauru from any environmental impacts that may arise from offshore exploration and mining, an Environmental Impact Assessment (EIA) is called for during the exploration stage and before mining commences. Nauru was highlighted as an example whereby years of phosphate mining is not governed by any legislation and there are no qualified experts in

the relevant mining fields' in-country. The formation of a *National Environmental Commission* is therefore recommended for Nauru by this group. This Commission should be mandated to develop and implement sound environmental policies and ensure best environmental practices in all types of developments.

- ***Development of Marine Scientific Research Policy.*** A policy for marine scientific research is necessary to ensure that countries benefit from the research carried out within their respective national jurisdiction. While it is fundamental that Nauru should participate in such studies, appropriate legal instruments should be in place to ensure the interests of the State and its people are protected. The policy must capture the application of the Precautionary Approach that includes best environmental practice and the engagement of registered qualified experts in environmental audits. Additionally, the policy must ensure that the State retains intellectual property ownership of the research data and information. After the completion of each study, a copy of the report and research data must be delivered to the host country.



Christiana presenting on behalf of the Policy Working Group as stakeholders looks on.

2.5.2 Group 2: Technical Group Discussion Session

- ***Current Institutional capacity and priority areas for capacity building.*** Key government agencies that have been suggested to work together in regulating Nauru's offshore minerals industry are: Commerce, Industries and Environment (CIE); Justice; Finance; and Fisheries. While the participation of these government agencies is crucial, they are by far lacking in the relevant expertise, skills and resources to manage Nauru's offshore mining industry efficiently. Suggested priority areas for capacity building are:
 - Environmental Monitoring and Management
 - Technology and Technical training

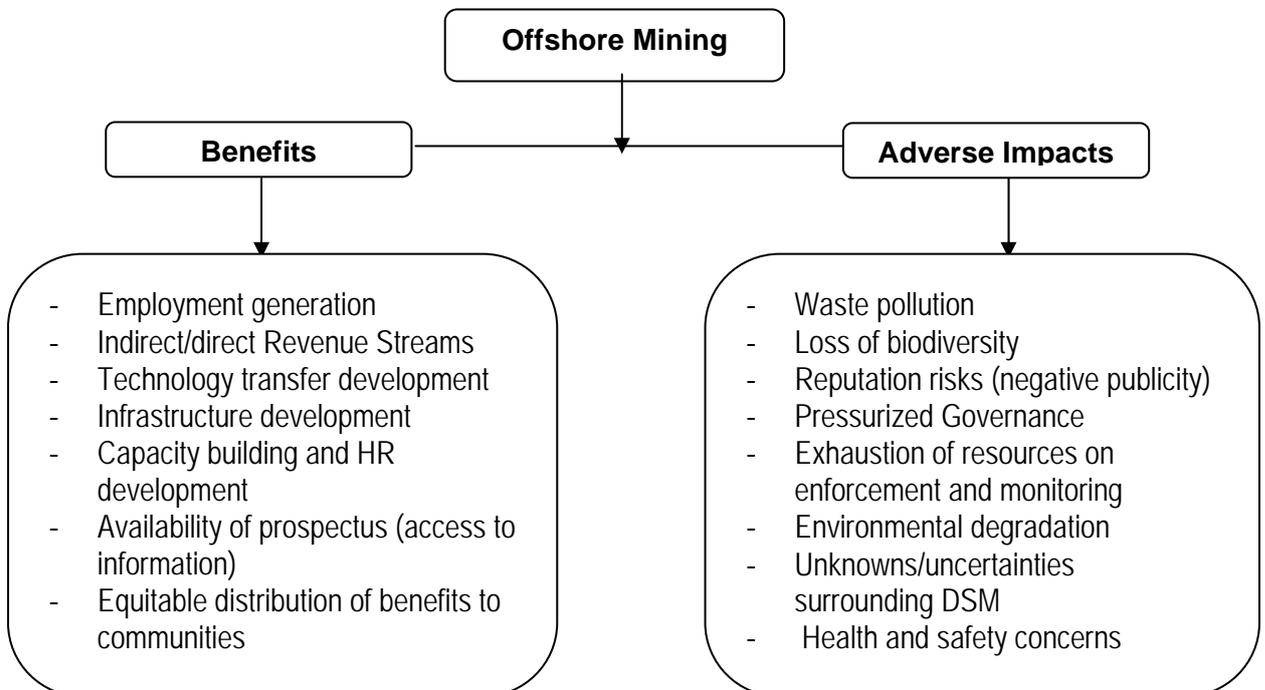
- Taxation and Legislation development
 - Professional and technical development
- ***Opportunities for Capacity Building.*** Relevant institutions such as the 'Society for Accredited Marine Surveyors' (SAMS) and the SOPAC Division through the DSM Project are being suggested for short-term attachments and training of selected candidates from Nauru. Anticipated support and assistance for Nauru nationals to participate in capacity building opportunities of such is sought from the DSM Project. As part of its capacity building component, sponsorship for short-term training on DSM related activities and hands-on training on vessels are some of the capacity building opportunities that the SPC-EU DSM Project can assist in. The life span of the DSM Project is only for a period of four years and in order to avoid spreading its resources too thinly across the 15 participating countries; short-term training and attachments are recommended.
 - ***Environmental Monitoring and Management for Deep Sea Exploration and Mining.*** An EIA process is yet again recommended for the purpose of assessing potential environmental impacts of seabed minerals exploration and mining. This phase is considered essential prior to the commencing of any mining activity so to avoid or minimize the adverse impacts on the environment and associated ecosystems. It is also important to develop appropriate and effective monitoring and enforcement instruments based on site-specific impacts during the exploration process. The regulatory process coupled with environmental monitoring and mitigation need to be monitored and evaluated.
 - ***Technical and Technological Challenges of Deep Sea Mining and Recommendations.*** Nauru lacks the relevant resources and skills considered necessary for the effective management of its offshore mining industry. Assistance from proponents and the DSM Project in the form of building capacity and the development of infrastructure or support facilities need to be secured to facilitate the establishment of Nauru's offshore mining industry. Mineral explorations alone usually have longer gestation periods hence if Nauru participates in offshore mining, it is hoped that the country would have sufficient manpower and resources developed over the years to support the industry.
 - ***Stakeholder Partnership.*** Strategic partnership between stakeholders (e.g. Government-Private sector-SPC-NGO partnership) is strongly supported to add value and encourage data and information sharing between parties. Working in collaboration with partners is crucial in this new industry in ensuring that Nauru and its people effectively participate and benefit over the long term.



Akuila making a point during discussion session with the Technical Working Group.

2.5.3 Groups 1 & 2: General Issues

- **Benefits and Adverse Impacts of Offshore Exploration and Mining.**



- **Formation of the National Offshore Minerals Committee (NOMC).** The Secretariat for the NOMC should be the implementing ministry which is the Department of Foreign Affairs and Trade (DFAT) hence Mr Mike Aroi as the Secretary for DFAT and focal point of the DSM Project would be taking the leading role in the implementation of NOMC in-

country activities. A legal focal point is suggested for the DSM Project in Nauru to work in collaboration with the DSM Projects' Legal Adviser. Ms Barina Waqa as a representative of the Department of Justice and Border Control at the workshop was nominated for this role, however this arrangement will have to be finalized between the two departments involved (i.e. MFAT and DJBC). A seating allowance will be provided at every meeting to all selected members of the NOMC. The agreed agencies for the NOMC in Nauru are:

- Ministry of Foreign Affairs and Trade (MFAT)
- Nauru Rehabilitation Corporation (NRC)
- National Fisheries and Marine Resources Authority (NFMRA)
- Ministry of Finance and Sustainable Development (FSD)
- Ministry of Commerce, Industry and Environment (CIE)
- University of the South Pacific (USP)
- Department of Justice and Border Control (DJBC)
- Nauru Island Association of NGOs (NIANGO)

As the implementing ministry in Nauru, MFAT is expected to formally write to all the selected agencies above for their representation in the NOMC. The attendance of only one candidate is needed from each agency and individuals who attended the workshop will be recommended as most suitable candidates for the committee. The DSM Project team is expected to draft a work plan with budget for the NOMC and send it to all participants for their comments.

ATTACHMENT 1:

Nauru National Offshore Minerals Committee TOR

Terms of Reference

1. BACKGROUND

The SPC-EU Deep Sea Minerals Project recommends the establishment of a National Offshore Mining Committee ('NOMC'); and is able to offer funding for technical and policy advisory assistance to support the NOMC in-country activities.

2. MEMBERSHIP

The NOMC will be broad ranging in its composition, and inclusive of:

- potentially affected communities
- government officials
- non-state actors (NSA)
- national technical experts

Where possible the NOMC should aim to represent different genders, ages, and ethnicities or other relevant background characteristics, to reflect national demographics.

3. SCOPE

The NOMC will:

- provide a forum for informed discussions about marine mineral exploration and mining;
- spearhead and assist the development of national offshore minerals policy, legislation and regulation as well as other deep sea minerals related activities that are within the scope of the DSM Project; and
- provide an accessible means for local communities and interest groups to raise concerns and queries, and to learn more about the opportunities and challenges that will be brought about by deep sea minerals exploration and mining.

4. OBJECTIVE

The aim of establishing the NOMC is to facilitate decision-making in relation to the implementation of in-country deep sea minerals activities.

The creation of a cross-agency, multi-disciplinary and participatory committee like the NOMC should ensure that the Government has at its disposal all relevant information for policy and operational decisions; and should enhance public knowledge, understanding and awareness. This should increase the likelihood that policies and decisions related to deep sea minerals will be implemented with public consent and commitment. The NOMC may also serve to encourage trust and avoid conflicts, and to meet national legal, policy, and good governance requirements.

5. RESOURCES AVAILABLE

Agreed costs of forming and operating the NOMC will be covered by the SPC-EU Deep Sea Minerals Project.

The NOMC will work in collaboration with the SPC-EU Deep Sea Minerals Project Technical Assistance Team (TAT) (i.e. Team Leader, Legal Advisor, Project Assistant) to ensure effective and timely implementation of Project activities. Depending on circumstances and priorities, relevant experts can be contracted to assist the NOMC.

6. SUGGESTED NOMC ACTIVITIES AND RESPONSIBILITIES

- Convene quarterly meetings per year and develop an annual plan of work.
- Develop a national offshore minerals policy.
- Advise upon the drafting of national offshore minerals legislation.
- Make recommendations for other State decisions regarding deep seabed mineral exploration and exploitation.
- Identify opportunities and suitable candidates for capacity building opportunities; and assess the effectiveness of capacity-building initiatives.
- Work with the SPC-EU Deep Sea Minerals Project, identifying particular activities useful in the local context, or particular national support needs with which the Project can assist.
- Facilitate and mediate discussion and consultation between (i) key stakeholders, affected communities and the general public, and (ii) mining companies and/or relevant Government agencies.
- Raise awareness and disseminate accurate information about offshore marine minerals exploration and mining issues.
- Prepare regular (e.g. quarterly) progress reports/updates and submit them to TAT.
- Represent the country, and provide updates of NOMC activities, at national, regional and international meetings/workshops.

7. FINANCIAL PROCEDURES

Reasonable and agreed costs incurred as a result of the NOMC in-country activities will be covered by the SPC-EU Deep Sea Minerals Project. The funds can be drawn down in advance from SPC, and acquitted for subsequently.

Upon written confirmation of bank account details, electronic transfer of funds will be made directly to the Department of Foreign Affairs and Trade (DFAT) and will be managed by the DSM Project focal point in Nauru, Mr Mike Aroi. The SPC-EU DSM Project contact for funding requests, and acquittals, is Vira Atalifo, on vira@sopac.org/[viraa@spc.int](mailto:vira@sopac.org).

An estimate of the annual allocation of agreed costs that will be funded by the SPC-EU DSM Project is set out below, for guidance. The initial transfer of funds required for the seating allowance and any other reasonable costs of holding the inaugural meeting of the NOMC will be transferred immediately upon request.

At that meeting, the NOMC should prepare a provisional budget for the first year's activities of the NOMC, including invoices/quotations for its impending activities after the first meeting. Once this has been submitted to, and agreed by, the SPC-EU DSM Project, the funds for those activities can then also be drawn down.

Any expenditure over the total allocation contained in the agreed budget, or on activities that are not contained in the agreed budget and were not otherwise agreed in advance with the SPC-EU DSM Project, will not be funded by the SPC-EU DSM Project.

All expenditure made will have to be acquitted for by Mr Aroi before the NOMC's next meeting, and before any subsequent request for funding can be approved. SOPAC will release funds based on satisfactory work done, work plan and progress report. The acquittal must demonstrate how the funds have been spent, and attach original receipts, invoices or other evidence that will meet auditing standards.

The NOMC should provide the SPC-EU DSM Project a quarterly progress report that includes the details of activities that had been carried out in the last quarter, and a work plan with budget for the next 3 months.

SUMMARY OF NOMC ACTIVITIES AND BUDGET

	Activity	Provisional Budget
		AUD\$
1	<i>Annual Seating Allowance (\$50 x 8 members x 4 meetings)</i>	1,600
2	<i>Raise Awareness Programs and Public Displays (approx. 3 annually)</i>	800
3	<i>Development of National frameworks for DSM and follow-up on legislation drafting</i>	1,000
4	<i>Other proposed activities to be approved in advance by SPC-EU DSM Project</i>	1,000
	TOTAL	<u>AU\$ 4,400</u>

ATTACHMENT 2:

Record of One-on-One Meetings with Stakeholders

Introduction

In addition to the National Stakeholder Workshop, a preliminary series of courtesy calls and consultation visits were arranged through DFAT for the team to make initial correspondence with key stakeholders and formally invite them to the workshop. This section provides brief sequential record of these meetings.

1. Ministry of Health, Justice and Border Control

Date: 10:40; Monday, 3rd October 2011

Location: Office of the Minister

Participant: Hon. Matthew Batsiua M.P

Issues Raised/Comments

A general introduction and outline of the project was delivered by Mr Tawake highlighting the key result areas of the DSM Project. The Project offers not only technical assistance to P-ACP states but most importantly will be developing a 'Regional Regulatory and Legislative Framework' and assisting countries to adopt this structure and develop their national deep sea minerals policy and legislation.

- The Minister stated that CIE will also be taking a very important role in drafting policy and legislation of DSM and may require the assistance of the DSM Project in this development.

2. Ministry for Commerce, Industry and Environment

Date: 13:00; Monday, 3rd October 2011

Location: Office of the Minister

Participant: Hon. Dominic Tabuna MP

Issues Raised/Comments

After introductions Mr Tawake briefly explained the purpose of the EU-SPC Deep Sea Minerals Project to Nauru. He also mentioned that Nauru was not part of the recent marine scientific research surveys that were conducted in the region therefore SOPAC currently holds no data on the mineral potential within its EEZ.

- The Minister stated how important it is for Nauru to have the necessary policy and legislation in place for exploration and mining of deep sea minerals. In saying that, he welcomed the assistance from the DSM Project of the SOPAC Division in the development of their national framework for DSM. In cooperation with the DSM Project, they are also ready to work with technical experts to assist them in this process and are interested in learning more about how they can reduce environmental impacts of DSM at the same time create economic returns for their country. He explained that NORI is owned by two foundations – Nauru Education and Training Foundation and Nauru Health and Rehabilitation Foundation. The responsible ministries for NORI in Nauru are the Ministry of Commerce and the Department of Foreign Affairs and Trade. He pointed out that land issues has always been a major problem during phosphate mining and may be one for DSM with landowners extending claims out to the ocean. The Minister highlighted that with 30 years experience in phosphate mining, Nauru still has no Mining

Act in place. With DSM as the new frontier and with the granting to Nauru of the exploration license from ISA, he hoped that this was Nauru's second chance to make it right this time.

3. Ministry for Commerce, Industry and Environment

Date: 13:30; Monday, 3rd October 2011

Location: Office of the Ministry

Participant(s): Bryan Star, Haseldon Buramen, Godwyn Cecil, Richie Halstead and Nodel Nenieya

Issues Raised/Comments

After introductions Mr Tawake stated that one of the reasons of the visit was to identify the needs and priorities of Nauru in which the DSM Project can assist. As an example, he mentioned that PNG has already stated that their need of assistance from the project will be in the areas of capacity building, reviewing of their current DSM Act and legislation, and environmental monitoring. He continued to say that unlike PNG, Nauru's interest lies outside of its EEZ specifically in the CCFZ. Developing countries have access to 'Reserve Areas' in this zone however with their lack of skills and resources, they need to partner with mining companies through sponsorship so these entities would take the leading role in exploration. In partnership, governments are not in any risk of losing financially if exploration fails however may be held accountable if activities of mining companies cause adverse impacts on the marine environment.

- Mr Star enquired as to how to monitor and manage an Area that is not within your jurisdiction. Mr Tawake responded that in PNG's case, the ministry stationed an Environmental Officer on the vessel to monitor all activities onboard.
- Mr Star also highlighted that Nauru does not have an Environmental Act however it is important to design an Act specifically for DSM.
- Mr Tawake stated that the RLRf will be finalized by mid 2012 nevertheless both Nauru and Tonga should continue forth with their legislation development because of the conditions of their licence and also because their interests lie in the Area and not within the EEZ.
- Germany stands as the only country in the world that has legislations in place to govern DSM in the Area. With that being said, Germany's legislation can be used as a guideline when drafting Nauru's national framework.

4. Department of Justice and Border Control

Date: 14:00; Monday, 3rd October 2011

Location: Office of the Secretary

Participant: David Lambourne

Issues Raised/Comments

Mr Lambourne indicated that the ISA is pushing for a proper regulatory framework in the International Seabed Area. He continued to say that NORI has no intentions of working within the EEZ of Nauru therefore Nauru will be looking into legislation outside its EEZ. He also firmly stated that Nauru will be legislating and while NORI may possibly conform at arm's length, they will have to comply with legislation and not regulate or compromise decisions of the Nauru State. NORI will also have to provide data from exploration otherwise they will not be complying with the licence agreement.

- Mr Lambourne was strongly in agreement to work in collaboration with the DSM Project and other partners in the development of its legislation in the Area. He highlighted that the department will be seeking the assistance of the DSM Project to provide drafting instructions for the development of their legislation.

5. Department of Transport, Telecommunications and ICT

Date: 14:30; Monday, 3rd October 2011

Location: Office of the Director

Participant: Melaney Bill (Director of Civil Aviation)

Issues Raised/Comments

Ms Bill extended her apologies for her other colleague from the transport department who could not make it to the meeting. Mr Tawake described the roles of the DSM Project and its purpose in Nauru. He stated that the Department of Transport may play an important role once exploration commences in Nauru hence the reason of the Project's visit to the department. Mr Tawake continued to describe that a big part of the initial establishment of SOPAC was owing to the fact that the region depicted high potential for seabed minerals and seabed fuel and it was unfortunate that Nauru was not involved in the MSR surveys conducted in the region for the status of the seabed minerals within its EEZ.

- Ms Bill indicated that if her memory served her right, there was a ship called *Shakustov* which worked within the EEZ of Nauru in the past. The purpose and activities of the vessel are unknown.

6. Development Planning and Policy Division

Date: 15:00; Monday, 3rd October 2011

Location: Office at the Division

Participant(s): Taiatu Ataata and Samuel Grundler

Issues Raised/Comments

The officials were keen on the activities of the DSM Project and the current events of DSM in the region. Mr Tawake briefly introduced the DSM Project and indicated that marine scientific research in the region continued for a period of 40 years. The research showed widespread abundance of seabed minerals in the region. Tonga currently has active exploration within its national waters although have also shown interest towards the Area. Exploration commenced in PNG in 2005 and with the recent issuing of a mining licence from the ISA, mining is expected to follow through in 2014. The mining company Nautilus Minerals is presently developing the relevant technology to extract the minerals from the seabed. Infrastructure and technology have substantial costs attached therefore as the development division for Nauru, it is important that the department is made aware of the role they may be expected to play once exploration commences.

7. Department of Foreign Affairs and Trade

Date: 15:30; Monday, 3rd October 2011

Location: Office at the Department

Participant: Lockley Denuga (President of Nauru Business Sector Org.)

Issues Raised/Comments

After introductions Mr Tawake stated the reason for the DSM Project's visit to Nauru and how it can assist the people in developing appropriate and sound policy and legislation to regulate DSM in Nauru. Some of the policies to be considered when drafting includes:

- UNCLOS
- Noumea Convention
- Exploration Regulation
- and Convention on Biodiversity (CBD)
- Mr Denuga was interested to know if capacity building opportunities offered by the DSM Project can be extended to the private sector. Mr Tawake responded that the DSM Project will be assisting Nauru through DFAT which in the case of building capacity will be selecting suitable nationals from Nauru hence the matter is internal and should be dealt directly with DFAT. Mr Denuga stated that the private sector should also be involved in issues relating to landowners and also play an active role in environmental monitoring.
- Mr Denuga also expressed concerns over mining as drilling on the seabed may open the 'Ring of Fire' and cause adverse and disastrous outcomes.

8. Department of Foreign Affairs and Trade

Date: 16:00; Monday, 3rd October 2011

Location: Office at the Department

Participant(s): Ms Nerida-Ann Hubert, Mrs Julie Olsson, Manfred Depaune (Greenpeace & NIANGO)

Issues Raised/Comments

Following introductions Mr Tawake briefly outlined the responsibilities of the DSM Project and objectives of its consultation in Nauru. He continued that one of the conditions of the licence granted by ISA for exploration was for Nauru to develop sound policy, legislation and regulations to govern the activities of NORI in the area.

- Concerns were expressed over how the EITI lacks in its scope to ensure not only confirmation of receipt but also how the royalty is spend or fairly distributed by the government towards the affairs of the country and its people.
- Concerns were also expressed by the participants over the liability that is likely to fall on the state if NORI's activities generate adverse environmental harm to the marine ecosystem. Mr Tawake will raise this issue with Mike Lodge of the ISA (Legal Counsel) to acquire his feedback on the matter.
- Current complaints of phosphate mining in Nauru on the environment and health impacts of DSM activities ought to be strongly considered when drafting legislation for DSM as some of these issues overlap.
- Mining Watch, Minerals Policy Institute, Greenpeace, WWF and IUCN are considered watch dogs for mining in general hence invitations for their presence at meetings and workshops relating to DSM are strongly recommended.

9. Nauru Fisheries and Marine Resources Authority

Date: 16:30; Monday, 3rd October 2011

Location: Office at the Department

Participant(s): Mr Camlus Reiyetsi and Mr Terry Amram

Issues Raised/Comments

Mr Amram was grateful for the invitation as offshore activities may impact on the fisheries resources of Nauru. He continued to say that the Fisheries Department not only manages the living but also the non-living resources within the EEZ of Nauru.

- Mr Tawake followed with a brief introduction of the DSM Project and indicated that while the Fisheries department does play an important role in DSM, he should highlight the fact that Nauru's interest lies only in the Area, specifically the CCFZ and has no interest whatsoever in the minerals within its EEZ as there is currently no data available from SOPAC on the mineral potential within its national waters.

10. NORI Office in Nauru

Date: 17:00; Monday, 3rd October 2011

Location: Office of NORI

Participant: Mr Reagan Moses

Issues Raised/Comments

Mr Moses stated that they represent NORI and is NORI's registered office in Nauru. Mr Tawake briefly explained the DSM Project and mentioned that the visit was a courtesy call to formally invite their presence to the DSM Project's stakeholder consultation workshop in Nauru.

11. Department of Foreign Affairs and Trade

Date: 11:00; Monday, 8th October 2011

Location: Office of DFAT

Participant(s): Hon. Shadlog Bernicke MP and Hon. Godfrey Thoma MP

Issues Raised/Comments

Mr Tawake introduced the DSM Project and explained the four key components in which it will be delivering against. He stated that the role of the project is independent from NORI and Nautilus as concerns were raised previously on this subject, however he emphasized that it will be in everyone's best interest if good networking is built between state and mining company to ensure that all parties agree on the way forward for DSM in Nauru. In regards to the agreement and financial component of the contract signed between NORI and Nauru, further information and clarifications can only be sought from the state or NORI's registered office in Nauru. Mr Tawake mentioned that only when there is great potential after exploration will mining companies consider mining. There are a number of key areas identified during the workshop but the current priority for Nauru is to develop its national policy, legislation and regulations to regulate NORI's activities in the Area. This is one of the conditions of the licence granted by ISA and they can choose to revoke it if Nauru fails to comply with its standards.

- Both members were pleased with the clarifications made in the sense that the connection of the DSM Project with NORI and mining companies in general is purely for capacity building purposes and for the benefit of the PICs. Their concern was how the financial component will be managed between state and component and if the conditions of the contract signed by Nauru can be made available for viewing. A financial body was created during their time of phosphate mining and through bad investment, they declared bankruptcy hence the body was demolished. They are keen on transparency to ensure that past mistakes are not repeated.

ATTACHMENT 3:**List of Participants**

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