

Statement by Germany (ISA Council, March 2022)

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Thank you Mr. President!

As I take the floor for the first time, I would like to congratulate you on your election and assure you of the full support of the German delegation for your presidency.

Germany thanks France for the statement made on behalf of the European Union and its Members States. Germany firmly stands behind that Statement and supports the statements made by many others.

We also associate ourselves to the condolences extended to the Republic of Ghana on the passing of former Secretary General Nii Allotey Odunton.

Germany would like to thank the Chair of the LTC for his report. We would also like to thank all members of the LTC for their hard and continuous work, including intersessional activities and late-night remote meetings. And we would like to thank the Facilitator of Fiji for the extensive work done and for providing us with a revised draft, which we regard as a very helpful basis for our work at this session.

Mister President, Members of the Council, Mr. Secretary-General, Ladies and Gentlemen,

We are at a critical juncture in our negotiations. In the mining code, we will determine our approach to administering the Common Heritage of Humankind.

In our view, this concept obliges us to protect, respect and fulfil the interests of all human beings as well as of future generations. It also obliges us to ensure that any future industrial-scale mining

of mineral resources in the area does not have harmful effects on the marine environment.

It is therefore that we participate with high ambitions and with due respect in the negotiations of the future mining code under the provisions of the UN Law of the Sea.

As Council Members, we have the rare opportunity to effectively regulate a possibly large-scale human activity before it is implemented in practise – and we have the chance to do it right. In our view, this is a great responsibility.

We are closely following the latest developments in scientific research both on the deep-sea ecosystems and on the potential impacts of deep-sea mining, including through our own research activities. **The current state of knowledge is, in our view, insufficient to proceed to exploiting mineral resources in the Area.**

We underline and fully support the position agreed by the EU and its Member States, that – and I quote – *“marine minerals in the Area cannot be exploited before the effects of deep-sea mining on the marine environment, biodiversity and human activities have been sufficiently researched, the risks are understood and technologies and operational practices are able to demonstrate that the environment is not seriously harmed, in line with the precautionary principle”*.

We will therefore continue and strive to intensify our research activities on the deep-sea environment and we invite others to do the same.

Keeping in mind Art. 150 of the Convention, our primary objective continues to be the improvement of our understanding of the structures and functions of marine biodiversity and ecosystems in the deep sea as well as the impacts of mining. We thereby also

intend to contribute to achieving the objectives of the UN Decade of Ocean Sciences and, ultimately, to achieving the goals of the UN 2030 Agenda for Sustainable Development.

In our upcoming negotiations, Germany will be committed to working towards robust regulations for exploitation activities, in order to ensure that effective control systems are in place, once the knowledge gaps will have been closed.

In our view, there are several cross-cutting issues under this Agenda Item, that the Council should address before entering into negotiation of the draft regulations, standards and guidelines:

First, and as already announced by the LTC and the Secretariat it will be crucial to improve the overall **Coherence** amongst the draft regulations, standards and Guidelines. This relates notably to the interaction of different regulatory elements, such as Regional Environmental Management Plans, Environmental Impact Assessments, Environmental Impact Statements, Environmental Monitoring and Management Plans will interact.

We suggest that a clear cross-referencing between the various elements be implemented, to link the regulations, standards and guidelines of, for example, the EIA and EIS. For this reason, we would see benefit in working on the draft Standards and Guidelines only after substantial progress on the Draft Regulations has been made.

Secondly, regarding the Standards and Guidelines, we hold the view that the Council should refuse to adopt any Standards or Guidelines until state parties have been properly involved in drafting the content. Until now, there has been no consideration of the request of several Council members (including Germany) to adopt an inclusive work mode with expert working groups open

to nominations by member States, and with Terms of Reference to be agreed by Council.

Third, so far the LTC's response to stakeholder comments on the draft Standards and Guidelines has been very general and no track-changes documents and no compilation of stakeholder comments were made available. In order to be transparent and allow for a proper debate, a mark-up document as provided by the facilitator regarding the Draft Regulation would be very helpful for our negotiations. Therefore, we suggest that the Council request such a document.

Besides, in order to fulfil the Council decision of 2019 regarding "necessary standards", we suggest that the Council discuss at this meeting, which additional Standards should be developed and agreed in Phase 1. There are a number of additional issues of priority. Furthermore, it is yet to be discussed by the Council, which issues qualify for standards and which ones for guidelines.

Fourth, as argued by several members before, the mining code as a whole is still lacking **binding and measurable normative requirements** for the protection of the marine environment: The current Standards, Guidelines and Regulations contain descriptive information requirements and do not yet include any specific environmental minimum requirements, notably in the form of measurable thresholds on pollution/discharges, sediment plumes, biodiversity, and noise and light impacts.

In our view, without such normative requirements the mining code will not fulfil its function to effectively regulate future exploitation activities.

In case of sparse data availability, *preliminary thresholds* should be set on the basis of the precautionary principle. They will have to be updated regularly with the improvement of scientific knowledge, as the adaptive management concept foresees.

And **finally**, the binding normative requirements will need to be explicitly linked to Draft Regulation 13 (Assessment of Applicants). The normative standards should be essential criteria for the LTC in their assessments of whether a plan of work provides for the 'effective protection of the marine environment'.

Thank you for kind attention.