

African Group's comments on the International Seabed Authority draft Strategic Plan for 2019-2023

April 2018

Introduction

Algeria, on behalf of the African Group, refers to the International Seabed Authority draft Strategic Plan for 2019-2023 and the invitation to Member States of the Authority and stakeholders to submit written comments. The African Group is pleased to respond to this invitation and hereby submits its comments on the draft Strategic Plan.

The African Group commends the Authority's Secretariat for having made available, last March, the draft Strategic Plan for 2019-2023. The African Group also welcomes the process of open consultation presented by the Secretary-General of the Authority on the margins of the first part of the 24th Session of the Council, which includes an invitation to Member States and stakeholders to submit written comments and follow-up briefings in Kingston and New York.

In general terms, the African Group believes that the draft Strategic Plan covers the mandate and responsibilities set out for the Authority in the United Nations Convention on the Law of the Sea (UNCLOS). The structure of the draft Strategic Plan seems, to a large extent, to flow logically. However, some elements need to be strengthened or included.

The African Group would like to focus its comments around eight (08) key points which need to be addressed in the context of the ISA draft Strategic Plan.

Eight key points to be addressed in the context of the draft Strategic Plan

(1) The inclusion or strengthening of the following issues as priority areas for the period 2019-2023 would be welcomed by the African Group:

- a. Participation of developing States;
- b. Capacity building;
- c. Technology transfer;
- d. The Enterprise;
- e. Equitable sharing of benefits;

f. Likely effects of exploitation in the Area on land-based mineral producers.

(2) The African Group strongly recommends that the principle of the Common Heritage of Mankind should be given a dedicated and standalone section in the draft Strategic Plan, to signify its importance as underpinning every Strategic Direction of the Authority, and to give some guidance as to how this fundamental principle of the UNCLOS should be operationalized by the Authority during the Strategic Plan period. The Common Heritage of Mankind principle should not be relegated to incidental mentions, nor equated only with promoting the participation of developing States in exploration and exploitation activities - as is our interpretation of the current wording of the draft Strategic Plan.

(3) The duty of the Authority to ensure the effective protection for the marine environment and of human life could be better emphasized and portrayed in the draft Strategic Plan. The introduction of wording not found in the UNCLOS and that may serve to erode this duty should be resisted (for example, the draft Strategic Plan as currently drafted requires that the Authority's environmental management regime must be circumscribed by such criteria as: 'practicable', 'technically feasible', 'commercially viable', 'cost effective').

(4) The development of a financial regime of payments should be included in the draft Strategic Plan. It should be added in the following sections: 'Challenge', 'Strategic Direction', and 'Results'. A financial regime, in line with the principle of the Common Heritage of Mankind, is a crucial element in the context of the future Exploitation Regulations.

(5) The draft Strategic Plan's focus on (i) equitable sharing criteria for benefits, and (ii) monitoring metal markets and assessing likely impacts on the economies of land-based mineral producer States, should be addressed as two distinct areas of work, and not conflated into a single issue.

(6) Parts of the draft Strategic Plan (such as paragraph 3, page 3), could be read as if the Authority's aim is to develop Exploitation Regulations that encourage deep-sea mining. In our view, a proper reading of the UNCLOS and the Authority's mandate is for the Authority to develop Regulations that enable exploitation in the Area to occur only insofar as there would be (net) benefit to mankind as a whole. This must take into account all parameters set by the UNCLOS, including the effective protection of the marine environment, and ensuring optimum revenues for the Authority for equitable sharing, in accordance with the UNCLOS.

(7) The Strategic Plan should acknowledge the existence of the many exploration contracts that will be active during the Strategic Plan period. The Plan should identify the Authority's role, not only to develop new regulations, but also to implement the legal framework, acting as an effective regulatory and monitoring body for existing contractors.

(8) The sections focused on capacity-building and prioritizing the participation of developing States could address more widely the importance to support increased representation by developing States in processes of the Authority, for example in:

- Annual Sessions of the Authority;
- The personnel, and organs of the Authority;
- Workshops, working groups, and other events of the Authority;
- Accessing funding mechanisms and training programmes of or via the Authority;
- Technology transfer;
- Involvement in marine scientific research conducted or overseen by the Authority;
- Direct engagement in exploration and exploitation activities and contracts;
- Developing a revenue mechanism and other benefit-sharing regimes.