

**Statement by the German delegation on document ISBA/25/C/10**  
**ISA Council, 27 February 2019**

The delegation from Germany would like to thank the Secretariat – and in particular Chris Brown – for the preparation of this document. It is a thorough, comprehensive document encapsulating various important aspects in relation to structuring and implementing an inspection mechanism.

First of all, we would like to underline the necessity for an independent, robust and transparent inspection regime in order to guarantee a level playing field for all exploitation activities in the Area including activities of the Enterprise or its joint ventures.

Germany wishes to ensure that the provisions of any future inspections mechanism do not interfere with IMO regulations on ship safety as well as the rights and obligations under the existing port state and flag state regimes. Therefore we very much welcome the advancing discussions of the secretariat with the International Maritime Organization in terms of jurisdiction and cooperation.

That being said, my delegation wants to point out the following aspects with regard to issues described in doc. ISBA/25/C/5:

In general, Germany considers the inspection mechanism to be a safeguard mechanism which aims at ensuring that all rules of the Mining Code and the fundamental principles of Part XI of the Convention are complied with, i.e., in particular the aspects mentioned in Article 145 and 150 of the Convention. Germany therefore agrees with the demand contained in para. 5 that the inspection mechanism needs to be robust and transparent and without commercial interests.

Germany underlines the need to – in a first step – carefully analyse the different legal regimes and different responsibilities. In this regard, we very much welcome the development of a matrix setting out the respective roles and responsibilities of the Authority and of the sponsoring State. Such a matrix should also reflect the comments by the Tribunal in its 2011 Advisory Opinion. Additionally, we would like to propose to include also the responsibilities of flag states, port states and private sector conformity assessment services in respect to activities in the Area and its inspections regime.

Germany is in support of establishing benchmarks in the sense of good practices for the implementation of inspection programmes. In this context, it seems to be particularly important to establish an inspectorate which institutionally safeguards the independence of inspectors. Germany is of the view that the notion of independence is absolutely crucial here. Germany therefore concurs with the points put forward in the note by the Secretariat in this respect. In particular, we support the suggestion that the development of an inspectorate should consider the well-established system of the Commission for the Conservation of Antarctic Marine Living Resources as a good practise example. In Germany's view this inspection system may very well be used as a blueprint to establishing and setting up an inspectorate under the umbrella of the ISA.

Furthermore, in the process of establishing an inspections regime the Authority could also learn from past incidents as well as subsequent regulatory action. In this regard, e.g. the 2010 Deepwater Horizon disaster and the subsequent European Union Directive on Safety of Offshore Oil and Gas Operations (2013/30/EU) may provide additional ideas on how to structure a robust and effective system.

Finally, Germany supports the suggestion to further explore the possibilities remote real-time monitoring technology.

Thank you, Madame President.