

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

Thank you for giving us the floor, Madam President.

The delegation from Germany would like to thank the Secretariat for the preparation of this document on a mechanism and process for the independent review of environmental plans and performance assessments.

As it has been outlined in last year's submission, Germany suggests to establish a review mechanism for all aspects of the plan of work which includes the marine scientific research community.

In this context we believe that it is of utmost importance not only to establish an independent review mechanism for the independent evaluation of the environmental plans at the application stage and of environmental reviews and monitoring during the exploitation phase but also to ensure the greatest level of expertise and of independence of those who are being appointed to conduct respective reviews. At the same time, the work should be organized in an efficient and **cost-effective** manner.

That being said, my delegation wants to point out different aspects with regard to issues described in the discussed document:

Germany generally supports to establish a mechanism for the review of environmental plans under draft regulation 11, as stated in paragraph 6.

Germany would like to reiterate the proposed requirement for a licensed and successfully performed test mining as a legal prerequisite for any application for exploitation in the geographical area concerned.

This should be made a mandatory requirement for the approval of a Plan of Work and included as provisions in the Exploitation Regulations. While the conditions, requirements and procedures under which test mining is to be conducted should be regulated under a separate set of regulations, Germany recommends an independent and legally binding scientific monitoring strategy, partly or completely conducted by third parties, to validate the environmental impact of such activities.

Regarding the reference to relevant international bodies from which independent expertise might be drawn, Germany emphasizes that the LTC is already empowered to seek advice from international bodies.

However, Germany considers it to be desirable for the evaluation process to consult with certain organizations such as the Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection or entirely scientific associations such as the Deep Sea Biology Society. Germany suggests to discuss in the Council whether it should be up to the Council to provide guidance as to whom the Commission should consult with or whether this decision should be left to the Commission. Germany supports that the Commission, in submitting its recommendations to the Council, should disclose when the views of experts from such international bodies has been sought, as well as their contribution to the Commission's deliberations and recommendations to ensure the highest level of transparency, except when this touches upon issues which are confidential.

Germany considers independent expertise as a crucial aspect for informed decision-making.

Allowing the LTC to determine if independent expert advice is appropriate would require the LTC to be equipped with an extended degree of expertise in all related fields to be able to assess such determination. The current composition of the LTC and its working procedures might therefore need to be revised.

We see the need to discuss in the Council whether in addition to the LTC and/or the Secretariat specifically concerned states should be entitled to request the involvement of independent experts with regard to particularly important documents.

Such a conceptual approach has been established with regard to the permission of project concerning marine geo-engineering under the London Protocol whereby concerned states could request the involvement of international independent experts¹.

An alternative to individual calls for independent expert views by the LTC or the Secretariat would be the establishment of a scientific advisory body/committee entrusted with independent reviews during the application phase and performance assessment reviews during the exploitation phase, in order to assist both the LTC and the council in their recommendations and decisions.

An independent preselection- and screening procedure of experts involved in the process could serve as a starting point for further discussions.

In addition to the issues for examination mentioned under Paragraph 10, the involvement of independent experts would also be instrumental with regard to the monitoring of activities. To this end, Germany has proposed in its written submission that the monitoring should be conducted by independent experts for the first 7 years of exploitation activities as a minimum.

Germany agrees with the point put forward by the Secretariat in relation to the scope, nature and extent of any independent examination. Further guidance is needed to ensure that independent expert advice supports scientifically based informed decision making.

The delegation from Germany supports the secretariat to seek best practice examples in the field of the law of the sea. While the expert nomination of each state is a valid option for the selection of independent experts for scientific advisory bodies, the proposal made by Belgium in its non-paper should also be considered in further discussions.

Notwithstanding the selection procedure Germany considers an independent screening mechanism as a valuable contribution towards the highest standards of independent expert advice.

Germany would like to highlight in this respect that the issue of “conflict of interest” should be dealt with when establishing the roster of experts. The roster established under London Protocol could potentially serve as a model.²

1

<http://www.imo.org/en/OurWork/Environment/LCLP/EmergingIssues/geoengineering/Pages/default.aspx>

In this regard, Germany would like to positively acknowledge that the Secretariat attempts to make use of the perspective and experiences of other international instruments.

In this context, Germany fully acknowledges the need to establish an independent expert review process for the evaluation of the environmental compatibility of all activities planned in the license areas for period of the exploration as well as exploitation phase. In addition, Germany furthermore recommends the ISA to establish the same process for the evaluation of Regional Environmental Management Plans (REMP).

Thank you very much.