

**Statement by the German delegation on document ISBA/25/C/4
ISA Council, 26 February 2019**

The delegation from Germany would like to thank the Secretariat for the preparation of document ISBA/25/C/4.

Before commenting on this document please allow me to come back to a related document, ISBA/25/C/13, that was submitted only shortly before the meeting and that the Secretariat presented on Monday.

Since the submission was very late, our delegation could unfortunately not properly consult on this. After initial scrutiny, however, Germany wants to raise some points regarding document C13:

- The title suggests that the ISA has an agreed strategy which is now to be implemented – a statement we would like to scrutinize: We had taken note of last year’s document ISBA/24/C/3 (“preliminary strategy of the secretariat”), but we do not recall this having been adopted by the council.
- Furthermore, this ‘strategy’ did not contain a concept for REMPs and did also not intend the development of such a concept, which we regard highly necessary.
- We were also surprised when State Parties were notified through the document about the establishment of an “*advisory committee consisting of internationally recognized experts, which held a number of virtual meetings*” – we would be interested in how and when this committee has been composed and what the result of this committee is in relation to the process.
- Regarding the “Key Approaches” as contained in the Annex, we consider that this is lacking substantial elements, such as the performance of a strategic environmental assessment (SEA), an initial assessment of environmental status, a selection process for representative areas to be long-term-protected, only to mention a few.
- To close with a positive point: We very much welcome that we can look at a roadmap now, thank you for following up on this suggestion put forward to the Secretariat!

Please allow me to now comment on document C/4. Germany holds the view that the development of regional environmental management plans is a particularly crucial issue for the development of the Mining Code. The overarching UNCLOS objective to ensure effective protection of the marine environment from harmful effects can only be achieved through the establishment of elaborate and consequent regional planning.

Germany therefore reiterates that it needs to be clarified in the regulations that a fully developed and agreed Regional Environment Management Plan (REMP) is a prerequisite for the granting of exploitation licenses. At the same time, a situation should be avoided where the granting of exploitation licenses could be prevented simply by blocking the further development and adoption of the respective REMP.

Germany holds the view that the provisions of an REMP should be binding. This should be achieved both by respective decisions of the Council when adopting the REMP *and* by imposing in the exploitation regulations an obligation for the EMMPs to comply with the relevant REMP.

According to national law, spatial planning instruments are generally legally binding and incorporate binding stipulations for later decision processes. It has yet to be examined *how* the ISA can agree on REMPs as legally binding instruments on the basis of UNCLOS and the 1994 Implementation Agreement.

Germany can only underline that the decision to establish an REMP must be seen as a necessary measure to be taken to ensure the effective protection for the marine environment from harmful effects that may arise from activities in the Area.

We welcome the notion that there is a “*need to develop regional environmental management plans through transparent and inclusive processes involving all stakeholders*”. Only an inclusive process leads to a broad acceptance of an REMP, particularly calling for an active involvement of regionally competent organisations such as under the regional sea conventions (RSCs).

Contrary to what is stated in Para 4, first research results from the APEIs in the Clarion-Clipperton Zone show that these areas host different megafaunal communities and might not be representative of the areas planned for mining.

We therefore underline the importance and the need to make the best possible use of the instrument of REMPs in order to develop fully representative and coherent networks of marine protected areas. Unlike APEIs, such areas need to be preserved and protected from human activities on a *long-term basis*.

Nevertheless the science-driven development of REMPs and APEIs needs to be ensured.

Owing to the limited scientific knowledge available on most deep-sea habitats, we underline that the precautionary approach will need to be the starting point and basic principle for any REMP development.

Germany has fully supported the two workshops referred to in the document, that were held in Qingdao and Szczecin and welcomes the results obtained from them. At the same time, it is our view that the Authority is still lacking a general conceptual approach to the development of REMPs.

Germany holds the view that the Authority is still lacking a general conceptual approach to the development of REMPs. Before further analyzing resource- and region-specific necessities for environmental planning, we see the need to agree on the basic requirements and procedures for REMPs. This includes defining the legal status of REMPs, the legal status of the provisions within the REMPs, the role of relevant regional organizations and other competent international bodies, the requirements and criteria to develop networks of protected areas and the regionalization of environmental standards and thresholds.

In view of these necessities, Germany proposes to develop a generalized guidance document for REMP development and offers to host a dedicated meeting/workshop on this issue later in 2019, in order to form a discussion basis for the next session of the Council.