

## 中国关于《国际海底管理局2019至2023年 战略计划》高级行动计划和业绩指标的评论意见

问题一：为实现《国际海底管理局2019-2023年战略计划》预期成果，高级行动计划是否准确反映了国际海底管理局需采取的行动和产出？

答：高级行动计划总体上体现了海管局为落实2019至2023年战略计划所应采取的行动，但仍有诸多需提高改善之处。为澄清本行动计划与《联合国海洋法公约》和1994年执行协定的关系，保持实施中的灵活度，建议在行动计划中明确说明，该行动计划旨在落实海管局的战略计划，不会为海管局成员国、勘探矿区承包者等在《公约》和1994年协定之外创设新的责任和义务；该行动计划在必要时可以进行调整。其他具体意见如下：

### 一、关于表1：战略方向和相应的高级行动

表1列举了战略计划中包括的九大战略方向以及每个战略方向对应的高级行动。作为对战略计划的执行和落实，行动计划应比战略计划更为详细和具体，并应全面体现有关战略方向的要点。

但现有草案却存在多个行动计划比战略计划简略，甚至漏掉战略计划要点的情况，建议对此作必要调整。

（一）战略计划第1.3表示“构建一种全面、包容的方法，为全人类的利益开发共同继承财产，并且平衡可持续发展的三个支柱”。该部分行动计划第1.3.1仅表示，“确保区域内活动为了全人类利益而进行”。建议高级行动增加体现“构建全面、包容的方法以及可持续发展三个支柱”的内容。

（二）战略计划第2.5表示“考虑深海海底采矿活动的趋势和发展，包括对世界金属市场状况和金属价格、趋势和前景的客观分析，通过一个各方一致同意、时间明确并且允许利益攸关方以适当方式提出意见的可预测程序，推进‘区域’内活动监管框架的拟定”。该部分行动计划第2.5.1仅表示，“对世界金属市场状况和金属价格、趋势和前景开展定期经济评估和分析”。建议增加“对深海海底采矿活动的趋势和发展开展定期评估和分析”。同时，在表2中将上述两项评估和分析的完成年限由“2020年”改为“每两年”。

(三) 战略计划第6.5表示“确定企业部独立运作的可能办法，以符合《公约》和1994年执行协定的目标，同时考虑到企业部缺乏资本，仅限于以合资企业方式开展业务”。该部分行动计划第6.5.1仅表示，“确认企业部独立运作的可能办法”。考虑到1994年执行协定规定企业部初期运作需采取联合企业方式，建议增加“制定企业部以联营企业方式独立运作的程序和条件”。同时在表2对高级行动的描述部分增加“委托研究企业部以联营企业方式独立运作的程序和条件”。

(四) 战略计划第9.1表示，海管局为提高其工作透明度，应“及时以具有成本效益的方式通报”。该部分行动计划第9.1.1和9.1.2均未提及“及时以具有成本效益的方式”。建议在第9.1.1和9.1.2中均补充上述内容。

## 二、关于表2：高级行动和相关产出

表2在高级行动基础上，又增加了对高级行动的具体描述、完成年限、负责机关和辅助机关。此部分的主要问题是高级行动的实施与负责机关的职责不对称。

(一) 关于第2.1.2项高级行动的第 (i) 项描述为, “检查和报告承包者未遵规的情况”, 负责机关为“秘书处”。考虑到秘书处应无权认定承包者的行为是否违规, 建议将负责机关改为“法律和技术委员会”。

(二) 关于第3.2.1项高级行动的第 (ii) 项描述为, “制定和实施‘设计和制定区域环境管理计划’的标准化方法”, 负责机关为“秘书处”。鉴于标准化方法对于设立区域环境管理计划至关重要, 建议将负责机关改为“理事会”。

(三) 关于第3.5.1项高级行动的第 (i) 项描述为, “制定监督和确保风险评估的标准和指南”, 负责机关为“法律和技术委员会”。根据《公约》, 法律和技术委员会无权制定标准和指南, 仅可向理事会提出建议。建议将上述描述修改为“提出监督和确保风险评估的标准和指南的建议”。

(四) 关于第8.2.1项高级行动的第 (ii) 项描述为, “制定鼓励成员国和相关利益攸关方向海管局计划、项目和倡议作贡献的措施和机制”, 负责机关为“秘书处”。建议将负责机关改为

“大会”，以提高相关措施和机制的权威性。

(五) 关于第9.3.2项高级行动的第(v)项描述涉及承包者大会。考虑到理事会有必要了解承包者大会的讨论情况，建议在本部分增加“请秘书处向理事会报告承包者大会讨论情况”的内容。

(六) 关于第9.4.1项高级行动的第(i)描述和第9.4.2项高级行动的第(i)项描述，均涉及海管局与其他利益攸关方交流和互动的战略或机制，负责机关为“秘书处”。为保障海管局的主体地位，建议将负责机关改为“大会”。

问题二：为评估国际海底管理局实现《国际海底管理局2019-2023年战略规划》所列战略方向的绩效，业绩指标是否足够清晰和明确？

答：相关业绩指标较好地对照了战略规划中包括的九大战略方向，清晰明确，易于衡量评估，有利于战略计划的落实和执行，我们对此表示赞赏。为与高级行动保持一致，我们愿就企业部问题提一处修改建议，即将第40段PI6.6改为“确认企业部独立运作

的可能方法，包括成立联合企业的程序和条件”。

Comments of China on the draft High-Level Action  
Plan and draft Key Performance Indicators for the  
International Seabed Authority for the 2019-2023 period

**Question 1. Does the High-Level Action Plan (HLAP) reflect accurately the actions and outputs that the Authority needs to undertake to meet the expected outcomes set out in the Strategic Plan of the Authority for the 2019-2023 period?**

The draft HLAP in general reflects the actions that the International Seabed Authority (“Authority”) needs to undertake for the implementation of the Strategic Plan of the Authority for the

2019-2023 period. However, more work still needs to be done for its improvement. In order to clarify the relationship between the HLAP and the United Nations Convention on the Law of the Sea (“UNCLOS”) and the 1994 Agreement and keep certain degree of flexibility for the implementation of the Strategic Plan, it is suggested to state clearly in the HLAP that *“the HLAP is to implement the Strategic Plan of the Authority and will by no means create any new responsibility or obligation beyond the UNCLOS and the 1994 Agreement for the members of the Authority and the exploration contractors, and the HLAP may be adjusted when circumstance so requires ”*. Other concrete comments are as follows:

I. On table 1: Strategic Directions and Corresponding High-Level Actions (HLAs)

Table 1 enumerates nine strategic directions as contained in the Strategic Plan and corresponding High-Level Actions. As measures to discharge the Strategic Plan, the action plan should be more detailed and concrete than the Strategic Plan and reflect the points of the strategic directions in its entirety. Nevertheless, in the current draft there are cases in which some High-Level actions are simpler than the Strategic Plan, and even miss out some critical points of the latter. It’s

proposed to make necessary amendments.

1. The Strategic Plan 1.3 states “*build a comprehensive and inclusive approach to the development of the common heritage for the benefit of mankind as a whole that balances the three pillars of sustainable development*”. The corresponding High-Level Action 1.3.1 only states “*ensure that activities in the Area are carried out for the benefit of mankind as a whole*”. It is suggested to add the element of “building a comprehensive and inclusive approach” and “the three pillars of sustainable development” in the High-Level Actions.

2. The Strategic Plan 2.5 states “*advance the development of the regulatory framework for activities in the Area, taking into account trends and developments relating to deep seabed mining activities, including objective analysis of world metal market conditions and metal prices, trends and prospects, through a predictable process with clear timelines, based on consensus, and that allows for stakeholder input in appropriate ways*”. The corresponding High-Level Action 2.5.1 only indicates that “*undertake regular economic assessments and analysis of world metal market conditions and metal prices, trends and prospects*”. It is suggested to insert “*undertake regular assessment and analysis of trends and*



*developments of deep seabed mining activities*". Meanwhile, the target completion year in table 2 for the two types of assessment and analysis is also suggested to be altered from "2020" to "biennially".

3. The Strategic Plan 6.5 provides "*identify possible approaches to the independent operation of the Enterprise in a way that meets the objectives of the Conventions and the 1994 Agreement while taking into account that the Enterprise lacks capital and is limited to operating through joint ventures*". The corresponding High-Level Action 6.5.1 only provides "*identify possible approaches to the independent operation of the Enterprise*". In light of the 1994 Agreement stipulating that the Enterprise shall conduct its initial deep seabed mining operation through joint ventures, it is proposed to add "*develop procedures and criteria for the independent operation of the Enterprise through joint ventures*". At the same time, it is also proposed to supplement "*commission study on the development of procedures and criteria for the independent operation of the Enterprise through joint ventures*" in table 2 "Description" for the High-Level Actions.

4. The Strategic Plan 9.1 provides that the Authority should "*communicate information about its work in a timely and*

*cost-effective manner*” to improve the transparency of its work. Neither 9.1.1 nor 9.1.2 of the High-Level Actions makes reference to “*timely and cost-effective manner*”. It is proposed to add this point in both 9.1.1 and 9.1.2.

## II. On table 2: High-Level Actions (HLAs) and Related Outputs

Table 2 further lists “Description”, “Target completion year”, “Organs responsible” and “Associated organs” in addition to the High-Level Actions. The major problem of this part is the mismatch between the fulfillment of some High-Level actions and the corresponding responsible organs.

1. “Description” (i) about High-Level Actions 2.1.2 is “*examine and report on cases of non-compliance by contractors*”, for which the responsible organ is the “Secretariat”. Given that the Secretariat is not in a position to identify whether a contractor’s activities constitute non-compliance, it is suggested to replace it by the “Legal and Technical Commission”.

2. “Description” (ii) about High-Level Actions 3.2.1 is “*develop and implement standardized approach for the design and development of REMPs*”. The responsible organ is “Secretariat”. In view of the significance of the standardized approaches to the design

of REMPs, it is proposed to replace the “Secretariat” by the “Council”.

3. “Description” (i) about High-Level Actions 3.5.1 is “*develop standards and guidelines for monitoring and ensuring risk assessments*”. The responsible organ is the “Legal and Technical Commission”. Pursuant to the UNCLOS, the LTC has no competence to issue standards and guidelines, and its mandate is limited to make recommendations to the Council. Hence, it is proposed to tweak the above “Description” as “*make recommendations on the standards and guidelines for monitoring and ensuring risk assessments*”.

4. “Description” (ii) about High-Level Actions 8.2.1 is “*develop measures and mechanism to encourage contribution of members and relevant stakeholders to the programmes, projects and initiatives of ISA*”. The responsible organ is “Secretariat”. It is suggested to substitute the “Secretariat” with the “Assembly” so as to ensure the authority of relevant measures and mechanisms.

5. “Description” (v) about High-Level Actions 9.3.2 concerns contractor meeting. Given that it is necessary for the Council to know what has been discussed in the contractor meeting, it is suggested to add “*request the Secretariat to report to the Council on the discussion*”.

*of the contractor meeting”.*

6. Both “Description” (i)s about High-Level Actions 9.4.1 and 9.4.2 relate to strategy or mechanisms that the Authority use to communicate or engage with stakeholders. The responsible organ is “Secretariat”. To maintain the principal status of the Authority, it is suggested to replace the “Secretariat” with the “Assembly” serving as the responsible organ.

**Question 2: Are the Key Performance Indicators (KPIs) sufficiently clear and precise to assess the performance of the Authority towards achieving the strategic directions set out in the Strategic Plan of the Authority for the 2019-2023 period?**

The relevant KPIs are largely in keeping with the nine strategic directions contained in the Strategic Plan, clear and easy to be measured, as well as conducive to implementing the Strategic Plan. It is highly appreciated in this regard. In order to be consistent with the High-Level Actions, we would like to make one modification suggestion regarding the Enterprise, which is to amend PI 6.6 of paragraph 40 as *“identification of possible approaches to the independent operation of the Enterprise, including the procedures*

*and criteria for the joint ventures”.*