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International Seabed Authority
14-20 Port Royal Street
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To: ola@isa.org.jm

IASS/RIFS Comments on ISBA/27/C/37 'Guidance to facilitate the development of regional environmental management plans' Report and recommendations by the Legal and Technical Commission, 10 August 2022 presented and discussed at Council 27/3 in November 2022, item 14

Dear Madam/Sir,

The Institute for Advanced Sustainability Studies (IASS), renamed Research Institute for Sustainability, RIFS, since January 1, 2023, observer at the Authority since 2017, is pleased to provide comments on the document above based on ISBA/27/C/44, Decision of the Council of the International Seabed Authority relating to the reports of the Chair of the Legal and Technical Commission, para 13.

Please find our comments and suggestions below.

Yours sincerely

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Senior scientist

Research Institute for Sustainability (RIFS)

Comments and suggestions

on ISBA/27/C/37 'Guidance to facilitate the development of regional environmental management plans' Report and recommendations by the Legal and Technical Commission, presented 10 August 2022 presented and discussed during Council session 27/3 in November 2022, item 14;

in view of ISBA/27/C/44 'Decision of the Council of the International Seabed Authority relating to the reports of the Chair of the Legal and Technical Commission', para. 13, which 'requests the Commission to revise the draft standardized procedure, taking into account the Council's comments as summarized by the President of the Council,¹ the submissions in 2019 by Germany and the Netherlands, co-sponsored by Costa Rica, and written comments to be submitted by delegations by 15 January 2023, and provide the rationale for its decisions; ...

We are grateful for the opportunity to provide comments on the document named above. Generally, we fully support the process and content for the development of ISA REMPs suggested in the submissions made by Germany, the Netherlands, and co-sponsored by Costa Rica in 2019 (ISBA/26/C/6 and 7). These submissions were the product of intensive discussions as part of an international, multi-disciplinary workshop on the subject in 2019,² which was supported by IASS. In particular, we believe that REMPs and their environmental goals and objectives should be binding for the Authority, sponsoring states, and contractors.

However, to make REMPs an effective tool for ISA's environmental governance, and in addition to the range of issues named in ISBA/26/C/6 and 7, we would like to suggest a few further issues to be taken into consideration when revising document ISBA/27/C/37.

1 Assessment

Neither ISBA/27/C/37 nor ISBA/26/C/6 and 7 currently foresee any assessment or evaluation process, not even a risk assessment of the collected information on the region, to base measures on. Rather, the text favors the development of a merely descriptive document, as observed in the so-called regional assessment report for the northern Mid-Atlantic-Ridge³.

We therefore propose to add a new section VIIbis to the General Template for reporting on all actions taken in conjunction with an integrated assessment and evaluation of the regional knowledge base against the regional conservation goals and applicable standards and thresholds. The assessment and evaluation results will be reported in an Environmental Report (point 2).

An integrated regional assessment as part of the REMP development process, should include all available data and information compiled (Section III.C in ISBA/27/C/37) as well as information potentially resulting from scientific assessments (Section III.D in ISBA/27/C/37). In parallel, such instrument should incorporate existing regionally adopted conservation goals (e.g. as in ISBA/26/C/

² see <https://www.umweltbundesamt.de/international-workshop-remp-hamburg-nov-2019>

³

7), operational objectives, and environmental thresholds for appropriate indicator parameters (ISBA/27/C/42). All this information should set the basis for decision-making upon spatial or non-spatial measures, and be constantly revisited to evaluate acceptability of (further) exploration contracting in the region. The information should also be used to perform a regional risk assessment, which should assess the risks of mining activities, as well as the effects of other marine uses in the region, against the established regional conservation goals, operational objectives of the REMP and thresholds determined.

As acknowledged by the Council Decision ISBA/A/18/C/22, para 1, initiation of ISA's REMPs are a precautionary measure to ensure *à priori* that the individual and cumulative environmental effects of the activities in the Area will not undermine the achievement of pre-agreed conservation goals and objectives or impair ecosystem structure, function and services (so far undefined). To this effect, and in order to be able to justify any measures, strategic, integrated regional assessments and spatial planning exercises are needed which consider also cumulative effects with other human activities and climate change trends. Periodic reviews and revision of measures in a functional management cycle are essential. The European Union and many national governments around the globe have developed corresponding appropriate formats and procedures which ISA could use as a starting point.

2 Environmental report

The REMP assessment (point 1) should conclude with the publication of an environmental report in a **new section VIIter. The Environmental Report** should ideally include all regional knowledge synthesised from a variety of sources (including probably the information provided in section VI of the General Template ISBA/27/C/37). The following sections should be included:

- a) An environmental baseline description and an evaluation of the state of the environment (e.g. in a Quality Status Report), including the observed natural variability, the interconnectedness with other regions, the possible vulnerability to impacts from human activities, as well as all environmental and cultural values present;
- b) Identification of knowledge gaps and uncertainties;
- c) An inventory of all existing spatial and non-spatial conservation measures, as well as potential sites of conservation interest according to global and sectoral measures and criteria;
- d) An inventory of past, present and planned human activities and their current regulation;
- e) Identification of actual or potential conflicts over the usage of the area among ISA contractors, with other legitimate users and transboundary issues
- f) An assessment of the probability, duration, frequency and reversibility of environmental impacts and risks from direct and indirect pressures, their magnitude and spatial extent, including cumulative and synergistic and likely transboundary effects, as well as the effects of global warming on the ocean ecosystems;
- g) [A social and economic impact assessment.]
- h) Action arising from the report, e.g. fill knowledge gaps, development of measures.

An appropriate ISA guidance on the preparation of such an environmental report, based on a standard template of the contents is required. It is also essential to agree on a regional assessment framework

for the assessment of impacts and risks to be provided to contractors for application to activities in their responsibility.

3 Stakeholders

For ISA REMP to become respected regional instruments, an active stakeholder engagement process based on stakeholder mapping is required. The stakeholder engagement should also offer the opportunity to collect insights from stakeholder knowledge and experiences beyond published science. Regional stakeholders are potentially diverse and numerous, as preliminarily listed in (International Seabed Authority, 2019)⁴. These stakeholders include global and regional intergovernmental and scientific bodies active in the region, observers, members and contractors of the ISA. Furthermore, stakeholders are groups and individuals either potentially affected by activities and/or able to contribute e.g. cultural, historic or observational knowledge and experience, such as NGOs and representatives of traditional rights and knowledge. This wide range of potentially affected stakeholders highlights the need for a transparent, inclusive formal engagement process with a variety of options for stakeholders to become engaged and voice their concerns.

To this end, **we submit** that the General Template for developing REMP should receive a **new section I bis on "Stakeholder engagement"**, providing information on

- a) the results of regional stakeholder mapping exercise
- b) efforts to establish a diverse and inclusive stakeholder pool
- c) options for different stakeholder groups to get engaged (engagement strategy)
- d) the transparency of data, documents, review and ongoing processes. as well as on the clearing-house mechanism used to establish transparency.

4 Coastal States and regional entities

As established in ISBA/27/C/37, ISA's REMP seem to be an isolated management instrument in a regional governance context. This can be observed through, for example, the non-consideration of close-by coastal state's boundaries and other regional matters of priority, such as fishing and conservation areas. Most regions have a multitude of governance and management bodies with mandates over the high seas and seafloor which should be systematically involved and consulted.

We submit that the development of REMP needs to respect all regional interests from the start, include legal boundaries and other spatial designations in the determination of the region, and notify coastal States as well as regional and eventually global bodies unconditionally of the intent to develop an REMP including of options for being kept informed or consulted.

⁴ International Seabed Authority, 2019. Developing a framework for regional environmental management plans for polymetallic sulphide deposits on mid-ocean ridges. Report of the second workshop held in Szczecin, Poland, 27-29 June 2018. International Seabed Authority, Technical Study No. 22, Kingston, Jamaica, pp. 1-32

5 Link to high seas conservation

We submit that the sectoral approach to REMP development as put forward in ISBA/27/C/37 is insufficient given the ongoing negotiations over biodiversity conservation in the high seas for an ILBI/BBNJ Agreement. We view the development and subsequent implementation of REMPs by ISA as an opportunity for establishing a comprehensive regional data base and cumulative threats and risk assessment. The sectoral measures undertaken by the ISA are expected to contribute to the effective protection of the marine environment as a whole (that is on the seafloor and the water column). As a minimum, coherence of environmental objectives, methodologies and measures should be ensured.⁵

6 Regional monitoring programme

A regional monitoring programme with operational indicators to survey changes in environmental status has to be included in each REMP to verify whether the required effective protection of the marine environment (UNCLOS Art. 145) was met. So far, "priorities for future monitoring and research" are listed under section IX, 'Knowledge gaps'. The template in ISBA/26/C/ 7 includes a section 8.7 for a regional monitoring programme, however without integrating the monitoring results into a management cycle.

We submit that the template in ISBA/27/C/37 requires an **additional section IXbis** for details of any regional monitoring programme to be specified. Such a regional monitoring plan is legally required to be recommended by the LTC (UNCLOS Art. 165, 2(h)), in fact as part of an assessment and management cycle.⁶

7 Review

So far, the review in ISBA/27/C/37 section X appears to be an end in itself rather than part of a management cycle as proposed in ISBA/26/C/6. This approach does not provide for recommending follow-up actions based on the results of the REMP review, such as a new environmental assessment process, a change of standards and criteria, or a revised monitoring programme or measures.

We submit that REMPs should be subject to review such as identified in ISBA/26/C/6. And, as required in UNCLOS Art. 165.2(h), it must be 'ensure[d] that existing regulations are adequate and are complied with', possibly leading to the revision of measures in the Plan, including also effects on contractors.

⁵ see Christiansen, S., Durussel, C., Guilhon, M., Singh, P., Unger, S., 2022. Towards an Ecosystem Approach to Management in Areas Beyond National Jurisdiction: REMPs for Deep Seabed Mining and the Proposed BBNJ Instrument. *Frontiers in Marine Science* 9.

⁶ Art. 165.2(h): 'make recommendations to the Council regarding the establishment of a monitoring programme to observe, measure, evaluate and analyse, by recognized scientific methods, on a regular basis, the risks or effects of pollution of the marine environment resulting from activities in the Area, ensure that existing regulations are adequate and are complied with and coordinate the implementation of the monitoring programme approved by the Council;'