

The Deep Sea Conservation Coalition's Response to Consultation on the ISA Strategic Plan 2024-2028

23 June 2023

The Deep Sea Conservation Coalition (DSCC) is a group of over 100 environmental organisations, a number of whom are fellow observers at the International Seabed Authority (ISA).

Our first observation pertains to a matter of process. The Strategic Plan is an important document in the ISA's functioning and deserves adequate time dedicated to its development, in order to ensure that all member States and Observers have ample opportunity to contribute. As far as we can see, the ISA Secretariat has undertaken only this one round of consultation, with a very tight deadline for written submissions. Given the numerous other priorities of ISA stakeholders at this time, we suggest that the Secretariat extends the current Strategic Plan by one year, postpones the adoption of the next Strategic Plan to the Assembly meeting of 2024 and provides further opportunities for input, including more comprehensive stakeholder interviews.

We would also like to comment on the range of stakeholders who were interviewed in this consultation process. We believe that the group of member States selected by the ISA Secretariat for consultation, detailed in Annex I of the report, is **not representative of the spectrum of opinions that are expressed at the ISA today. The review fails to include perspectives from the African and Pacific regions, or from member States calling for a moratorium, precautionary pause or ban.** We also note that the Observers consulted are either new to ISA processes, inactive in ISA processes, or altogether absent from ISA processes. The member States and Observers that have been historically the most active in expressing concern or criticism about the ISA and deep-sea mining were excluded. There was no consultation of the broader range of stakeholders that have expressed interest and concerns over the prospect of deep-sea mining, **such as indigenous leaders and the fishing industry.** We are therefore concerned that the **feedback received and reported by the ISA Secretariat presents an incomplete picture of the interests, opinions and objectives of the stakeholders engaged in this issue.**

The ISA is at a pivotal moment: historical decisions are to be made about whether or not to open the global commons to a new extractive activity. In this context, a new strategic plan is to be defined.

Much has changed over the period of the previous strategic plan. The review points to the evolving international global policy landscape, highlighting notable developments such as the Kunming-Montreal Global Biodiversity Framework adopted under the UN Convention on Biological Diversity in December 2022 and the conclusion of the BBNJ Agreement in early 2023. However, **another significant development that the review fails to account for is the growing movement for a moratorium or precautionary pause on deep-sea mining.** At the 2022 United Nations Ocean Conference in Lisbon, 4 Pacific Island States announced their call for a moratorium on deep-sea mining. More [countries](#) have been joining that call at every ISA meeting since, now totalling at 14 countries, alongside ever-growing opposition from [parliamentarians](#), the [private sector](#), [scientists](#), [civil society](#) and the [fishing industry](#).

In the Strategic Plan for 2019-2023, members of the ISA identified the “need for regulatory certainty, with clear requirements to ensure environmental protection and clear financial terms” as a prerequisite to the conduct of activities in the Area. As highlighted by the [Legal Opinion of Matrix Chambers](#), published in March 2023, those needs have not been met. The opinion states that “the current state of science, the current state of draft RRP and the

current institutional capacity of the ISA are insufficient to provide any confidence that deep-sea mining could proceed without risking significant harm to the marine environment” and therefore **“a moratorium or precautionary pause is not only consistent with UNCLOS, but is actually required by it”**.

In spite of all these developments, and although the review underlines the need for ongoing flexibility to ensure that ISA can continue to respond to evolving international commitments and the priorities identified by UNCLOS and the 1994 Agreement, **the draft Strategic Plan for 2024-2028 is almost identical to the 2019-2023 Plan**.

The draft Strategic Plan for 2024-2028 must be adapted to account for the recent international agreements directly pertaining to the activities of the ISA, and to the concerns iterated by the growing number of member States and other stakeholders calling for a suspension of exploitation. The Kunming-Montreal [Global Biodiversity Framework](#) requires that the “impacts of deep-sea mining on the marine environment and biodiversity are **sufficiently researched and the risks understood**” and that “the technologies and operational practices **do not cause harmful effects to the marine environment and biodiversity**” (paragraph 16 of [Decision 15/24](#)). The [BBNJ Agreement](#) underlines the “**need to address, in a coherent and cooperative manner, biological diversity loss and degradation of ecosystems of the ocean**” and notes that Parties are “Desiring to act as stewards of the ocean in areas beyond national jurisdiction on behalf of present and future generations by protecting, caring for and ensuring responsible use of the marine environment, **maintaining the integrity of ocean ecosystems and conserving the inherent value of biological diversity** of areas beyond national jurisdiction.”

Both commitments have significant implications for the ISA, which is charged with regulating **an activity that, as currently proposed, will result in biodiversity loss and harmful effects to the marine environment**. In this new policy context, political and legal safeguards must be implemented at the ISA if States are to uphold their obligations for protection of the marine environment under UNCLOS, the Global Biodiversity Framework and the BBNJ Treaty.

To this end, we suggest that **Strategic Direction 3 (protection of the marine environment) should provide for the ISA Assembly to develop and adopt a General Policy for the effective protection of the marine environment** ensuring that no regulations are adopted and no mining is permitted until there is comprehensive scientific understanding of deep-sea ecosystems, that it can be clearly demonstrated that the environment can be protected from harmful effects of deep-sea mining, and that damage to the flora and fauna of the marine environment can be prevented. We also note that there is only one reference to “precaution” throughout the entire Plan. We suggest that the Plan should be adapted to ensure that the precautionary principle is a central pillar of the ISA’s strategic framework, with specific steps under SD3 to determine how the precautionary principle is to be operationalised.

We suggest that **Strategic Direction 4 (Promote and encourage marine scientific research in the Area)** must be the priority of the ISA for the 5-year period of the next Strategic Plan, as it **will be central to informed decision-making processes and the application of the precautionary principle**. We note that the review recognised the “considerable scientific, technical and commercial uncertainty” that shrouds the deep-sea mining debate to date. We therefore suggest that **SD 4 should explicitly seek to identify and fill gaps in knowledge and understanding of the deep-sea environment, the potential impacts of mining, and the emerging alternatives to perpetual extractivism**. The ISA should engage with independent scientific partners on the development and delivery of this research agenda, which should include objectives for the transfer of technology and capacity building.

Regarding **Strategic Direction 9 (Commit to transparency)** and particularly in light of the multiple critical press reports published over the past two years by the [New York Times](#), [Los Angeles Times](#), and [Bloomberg Green](#) amongst others, we suggest that **the next Strategic Plan should account for the systematic review of how the international regime of the Area has operated in practice, as is required by UNCLOS Article 154**.

All of the above will **require the active engagement not only of the 36 member States of the ISA Council, but also the full membership of the ISA's supreme organ, the Assembly.** In this vein, we suggest an action under **Strategic Direction 6 (Ensure fully integrated participation by developing States) to create a Voluntary Trust Fund for ISA Assembly Members** which qualify as developing States under the UN categorization to participate in meetings, in addition to the two existing funds allocated to members of the Legal and Technical Commission and the Council.

Finally, the review observes “a marked increase in the pace of the meetings of the Council, ensuring that the Council does not lose sight of the ultimate objective of adopting a sound regulatory framework”. Firstly, we observe that this **accelerated trajectory is untenable for many member States and further exacerbates global inequities, particularly for developing Countries, and therefore suggest that the ISA returns to a schedule of one Council meeting and one Assembly meeting per year.** Council has adopted decisions in the past to adjust the frequency of meetings, and can presumably do so again, if considered necessary. Secondly, we suggest that “the ultimate objective” is not to adopt a sound regulatory framework, but to ensure that the Area is managed for the benefit of humankind as a whole, which includes the effective protection of the marine environment. If a regulatory framework cannot currently, or for the foreseeable future, achieve that end, then political and legal safeguards, such as a **General Policy for the effective protection of the marine environment, must be put in place to ensure that mining does not proceed in a landscape of risk and uncertainty.**