

Preliminary comments by Germany on ISA Draft Strategic Plan 2024-28

We thank the Secretariat for the Draft Strategic Plan 2024-2028 and are pleased to submit our preliminary comments below. Because the consultation period for this document was too short to allow a thorough assessment of and consultations on the document, we reserve the right to make additional comments at a later point. We respectfully request a longer consultation period in the future.

In the interest of transparency, Germany would welcome information about the actors and process involved in developing this Draft Strategic Plan. A background note to the document from the Secretariat detailing out the process, including any details on the involvement of consultants in preparing the document as well as information on how interviewees were selected and any other pertinent insights, would be greatly appreciated.

Initial substantive comments

First, the Draft Strategic Plan is missing a commitment to fully implement the Authority's Exploration Regulations, including relevant provisions on a precautionary approach and the protection of vulnerable marine ecosystems. The protection of vulnerable marine ecosystems would be supported by implementing Nodules Exploration Regulation 31(4) and Sulphides/Crusts Exploration Regulation 33(4), which require the LTC to develop procedures for protecting vulnerable marine ecosystems.¹ Implementing a precautionary approach requires clear environmental goals and objectives, and could be supported by a strategic commitment to develop and implement procedural, institutional, and substantive actions to give effect to the precautionary approach, as outlined in the Authority's 2017 Discussion Paper on the topic.² An important component of precaution is the need for robust environmental baseline information. In this context, SD 3.5 should mention the need to develop clear criteria for evaluating the adequacy of environmental baseline information, which is also a fundamental prerequisite for environmental impact assessments.

Second, considering the recent adoption, by consensus, of the Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ Agreement), the Strategic Plan should better align with the BBNJ Agreement. For example, SD 1.2 should include a specific reference to cooperating with intergovernmental bodies with a view to mutually recognising and strengthening environmental protection measures, including achieving multi-sector marine protected areas. This will both help to meet the aims of the BBNJ Agreement and ensure that the Authority's environmental protection efforts are respected by other bodies or actors and vice versa.

¹ Sulphides Exploration Regulation 33(4) provides: 'The Commission shall develop and implement procedures for determining, on the basis of the best available scientific and technical information, including information provided pursuant to regulation 20, whether proposed exploration activities in the Area would have serious harmful effects on vulnerable marine ecosystems, in particular hydrothermal vents, and ensure that, if it is determined that certain proposed exploration activities would have serious harmful effects on vulnerable marine ecosystems, those activities are managed to prevent such effects or not authorized to proceed.'

² ISA Discussion Paper No 5, The Implementation of the Precautionary Approach by the International Seabed Authority (2017), <https://www.isa.org.jm/wp-content/uploads/2022/12/DP5.pdf>

Final remarks

The Strategic Plan of the Authority is a key document as it demonstrates the priorities of the Authority and how it intends to incorporate principles such as precaution and good governance into its work. While the next cycle of the Strategic Plan is scheduled for debate during the July 2023 session of the Assembly, Germany suggests that member states, observers and other stakeholders should be given more time to reflect and submit written comments on the document after the July meeting. Given that the Strategic Plan is an important instrument of the Authority, the Assembly could extend, if it deems necessary, the existing Strategic Plan for another year or even two years in order to solicit further exchange and to allow for greater reflection. This would also allow the consultants to conduct more interviews in order to obtain and reflect the critical input from a broader range of member states, observers and stakeholders, which would promote inclusivity in the work of the Authority. Possibly, an action plan could be also developed in tandem to support implementation.

Finally, considering that the initial Strategic Plan 2019-2023 was conceived after the first periodic review of the Authority under Article 154 of the Convention (which concluded in 2017), Germany is of the view that it is now timely for the Authority to undertake a second periodic review. The Authority is overdue for such a review and the Assembly should conduct a systematic review before adopting the new cycle for the Strategic Plan. The outcomes from that review process will undoubtedly be instrumental in informing and shaping the continuity of the Strategic Plan.