

Statement of the United States on The Roadmap
International Seabed Authority Council, Part 2, July 2023

Thank you, President. We wish to commend the co-facilitators of the intersessional dialogue on the thoroughness of their efforts and the framing of the issues for discussion. Like other delegations who have commented, the United States underscores the need to ensure that any Council decision, including on any guidance or direction to be provided to the LTC, must be consistent with the framework contained in the Convention.

The United States supports the number of delegations who believe that the Council should remain focused on developing a regulatory framework that will ensure effective protection of the marine environment from harmful effects of activities in the Area. We remain keenly sensitive to the concerns being raised that more scientific research on the marine environment and the possible harmful effects of seabed mining is needed. For an effective regulatory regime, we must have sufficient research to understand the potential for negative effects on the marine environment from seabed mining and the steps necessary to minimize and mitigate them. The United States, particularly as a potentially affected coastal state, continues to believe that, if mining in the Area is to proceed, it must only be under a stable, internationally recognized framework for seabed mining that ensures effective protection for the marine environment from harmful effects which may arise from such mining activities.

The Council's discussions over the past two years seem to reflect the Council's intention to act cautiously and not to approve the commencement of commercial mining until it decides on a regulatory framework for the effective protection of the marine environment, as required by the Convention. No delegation has asserted that the draft regulatory framework in its current form ensures effective protection of the marine environment. Absent any rules, regulations, and procedures provisionally adopted by the Council, Article 145 is an impediment to provisional approval of an application. We note in this regard the joint statement issued by Costa Rica on behalf of a number of delegations. Like the Netherlands, the United States also supports many aspects of that joint statement.

President, we note that the Council has not discussed in much detail the meaning and effect of provisional approval of an application under the current state of the regulatory framework. As such, the analysis appears to be incomplete. Further clarification of the meaning of provisional approval would be beneficial at this time, even if a recommendation for and provisional approval of an application at this time may seem unlikely. In this regard, and as we noted during the first part of this Council session, the United States does not believe that provisional approval of an application in the existing context means that approval to begin mining must be granted. Under section 15(c) of Section 1 of the Annex, provisional approval must be based on (1) the provisions of the Convention, which includes Article 145, and (2) any provisionally adopted regulations, of which there are none, or on norms contained in the Convention, which also includes Article 145. We do not see how a mining contract could be approved in view of Article 145 absent any rules, regulations, and procedures provisionally adopted by the Council or a regulatory framework that ensures effective protection of the marine environment from harmful effects of such mining. We thank you, President, and the Council for considering these views.