

Statement by the Federal Republic of Germany – ISA 29th Session, Part I

Thematic discussion on Test Mining

Delivered on 27 March 2024

(a) What is the purpose of test mining?

Thank you Madame Facilitator for giving me the floor,

When it comes to the first question – the purpose of test mining – Germany considers the following purposes of test mining to be relevant:

- First – and as mentioned by others – to generate comprehensive and robust information based on real respectively field data from test mining operations using the actual equipment foreseen to be deployed during exploitation activities;
- Second, to feed such information and data into the process to conduct an environmental impact assessment and prepare an environmental impact statement;
- Third, to provide such information and data as a reliable basis for any decision-making by the Authority regarding applications for a Plan of Work,
- Fourth, to set out a clear obligation for any contractor and proponent of commercial deep-sea mining activities to test their technical equipment and prove their conformity with the regulations and standards, prior to the ISA granting any exploitation contracts;
- Fifth, to avoid a situation where exploitation activities need to be stopped after the approval of a plan of work, with the consequence that the entire evaluation and assessment procedure needs to be conducted again; and
- And Lastly, to establish a level playing field between contractors.

(b) Is the aim to inform the Environmental Impact Assessment?

Regarding the second question – Germany is indeed of the view, that any information and the field data gathered during test mining shall inform the Environmental Impact Assessment and eventually the Environmental Impact Statement, which in turn represents an essential element of the information basis upon which ----- any decision by the Authority should be taken with regards to any application for a Plan of Work.

(c) Is test mining required before or after the approval of a plan of work?

In terms of whether test mining should be required before or after the approval of a plan Germany considers it essential that test mining is conducted before consideration is given by the Authority to approve any Plan of Work.

We believe --- it is necessary that test mining is undertaken during the exploration phase in order to ensure that in situ field data on the effects of operations of the actual equipment on the environment is available before an application is submitted for an exploitation Plan of Work. ----- In our view, it is not sufficient to use “modelling data” only, considering the limited scientific knowledge that we still have on deep-sea environments and the need to follow a precautionary approach.

An approval should only be given when an applicant can demonstrate with the use of real field data that the impacts of the operation will be within the permissible margins.

Furthermore, the ISA is also required to assess an applicant’s ‘technical capability’ before awarding an exploitation contract. Assessing the test mining performance of a contractor will surely help the Authority to fulfil this duty appropriately.

(d) Should there be a choice to have test mining prior to or after the approval of a plan of work?

In terms of the fourth question, Germany does not believe that there should be a choice to schedule test mining prior or after the approval of a Plan of Work. We believe it is important for the Authority to set our clear obligations and requirements and thereby to ensure a level playing field for all contractors.

As mentioned, we see the need to require test mining to be conducted prior to any application for a Plan of Work.

(e) How should it be regulated?

On the last question, Germany is of the view that the following elements or stipulations would need to be included in the exploitation regulations with a view to regulate test mining:

- First, a mandatory requirement in the relevant regulations, and the template relating to EIA/EIS contained in Annex IV, that the EIA/EIS has to be based on “in situ field data gathered through test mining”. In our view, DR 46 and DR 47 should therefore be amended to clearly set out such a requirement.

- Another element should be a legal definition of 'test mining', as it is now entailed in paragraph 2 of DR 48ter. We note that this definition in our view may best be situated in the Schedule.
- Furthermore, a technical standard for test mining, which should elaborate further what specifically is required to constitute valid and adequate test mining. Such a standard still needs to be developed.
- a provision on the procedure on how test mining should be approved. This could be included either in the exploration regulations or the exploitation regulations.

The current draft *exploration* regulations foresee test mining to be conducted under an exploration contract, and include a specific EIA and permitting procedure for Test Mining via the relevant LTC Recommendations for the Guidance of Contractors (ISBA/25/LTC/6/Rev.1).

Germany holds the view that this EIA procedure for test mining at the exploration stage needs re-visiting. ----- Whether this should be done through an amendment of the exploration regulations or in the draft exploitation regulation needs to be discussed further. In our view, both options would be legally possible.

In any case, as has previously been suggested by several delegations, the ISA should re-visit the exploration regulations to make any necessary revisions in order to ensure consistency and conformity with the exploitation regime once the draft exploitation regulations are more advanced.

I thank you