

STATEMENT BELGIUM IN ISA COUNCIL REGARDING
THE ROADMAP 2023 (04/11/2022 – HV)

Mr. President,

During the 27th Session of the Council this year (in March, in July and now earlier this week), some substantive progress has been made in the negotiations on the regulations for deep sea mining exploitation. There is no doubt that next week and during the first meeting of the Council in 2023, we will continue to work diligently on the elaboration of the regulations, and the accompanying standards and guidelines, in a structured and efficient manner.

However, the task is still enormous. Two of the 3 working groups have not even progressed sufficiently to work with the text on the screen for discussion and adoption paragraph by paragraph. In addition, many other issues are still under discussion and far from ready for adoption. The operationalisation of the Economic Planning Commission, the adoption of normative thresholds and standards and the establishment of regional environmental management plans are only some of them. An agreement on the royalty mechanism and benefit sharing is very far from being reached either. And we are only meeting a couple of weeks a year.

The aim of our negotiations is to reach an agreement on a regulatory framework that provides for the highest and most effective level of protection of the marine environment from both short term and long term harmful effects which may arise from deep sea exploitation, based on the precautionary principle which, by its nature, doesn't allow for artificial deadlines by which time the regulations need to be finalised.

In fact, the likelihood that the regulations, let alone the standards and guidelines or the royalty mechanism, will be finalised by the end of the two year deadline in now 8 months is close to zero.

While we can discuss how we can change the way we work to be more efficient in our proceedings, including considering more intersessional work, we should at the same time adequately prepare for the new legal reality in which we will wake up after the end of the two year period if and when the regulations are not finalised, and the wider implications it could have if a plan of work would be introduced in these circumstances. Uncertainty, especially legal uncertainty, is the last thing anyone needs as far as deep sea mining is concerned, the stakes for mankind are too high.

It is therefore important that today, we don't only have a discussion about the roadmap in 2023 given the progress accomplished, but also about the 'what if'-scenario today. And although I understand that we will talk about the What if-scenario later today, let me with two, three sentences already kickstart this discussion for the sake of efficiency.

In December 2021, Belgium already asked the Council to consider the possibility of asking an advisory opinion to the International Tribunal of the Law of the Sea about the implementation and the legal consequences of Section 1, paragraph 15, subparagraph C of the Annex of the Implementation Agreement. Belgium remains open to discuss with other member states what kind of questions could or should be put forward to ITLOS, but is also open to listen to other options put forward by other member states, to avoid a situation in which the Council would sleepwalk into a decision after July 9th 2023 which a majority of the member states did not want to take. This would be totally contrary to the spirit of the precautionary principle, a principle which is front and centre in our negotiations here. I look forward to discussing the 'What if'-scenario later today.

I thank you for your attention, Mr. President.