Statement by Germany (ISA Council, March 2022) on the Financial Terms of a Contract

check against delivery

Thank you Mr. Chair,

and thank you for the extensive and comprehensive work you have done in preparation of this meeting. You have presented us with a concise briefing note that has been referred to many times very positively and should indeed set an example.

We also thank Dr. Roth and his colleagues for the MIT report and for his very informative and helpful presentation this morning.

We are mindful of the need for progress in this working group and we appreciate the efforts to reduce the numbers of options in order to reach a text that can be submitted to the Council.

Germany is clearly in favor of a two-stage ad valorem system. We support the use of a variable rate during the second stage of production, that is, Option 4.

As convincingly shown by the MIT, the progressive payment system with a low rate during the first stage of production and a variable increased rate between, depending on the metals prices, after the initial period provides an adequate balance for the Authority and the Common Heritage.

That system provides significant ability to capture upside gain if prices are high, while somewhat limiting the Authority's risk exposure if prices are low.

That being said, we would like to revisit one aspect in the briefing note and that is the factoring in of environmental costs.

We are not sure whether the arguments against factoring in environmental costs that are presented in para. 9 of the briefing note fully address the issue.

The economic idea behind factoring in environmental costs is the internalization of external costs that aims at creating an economic incentive for operators to resort to environmentally less intrusive practices.

Let me give you an example what this means: Electricity can be produced by burning fossil fuels. If the carbon dioxide emissions are factored in on the price of the electricity, the costs of producing such electricity will increase.

This creates an economic incentive to reduce the carbon dioxide emissions through various means, such as filters and more effective technology.

Transferred to deep sea mining this means: factoring in environmental costs or, differently put, internalizing external costs, can be used to create an economic incentive for contractors to resort to less intrusive mining practices.

In short: mineral resources that are mined in an environmentally less intrusive way should be cheaper than minerals that are mined in an environmentally more intrusive way, for example by using technology that creates less noise, less plumes and so forth.

In our view this aim should be acceptable to all – at least in principle.

Now, the arguments put forward in para. 9 of the briefing note do not address this object and purpose of the internalization of external costs.

The **first** argument relates to practices of land-based mining. In our view, this argument is mistaken for two reasons.

First, land-based mining simply does not take place in the Common Heritage of Mankind.

Second, and more importantly, it is self-evident that economic mechanisms that try to internalize external costs are new and probably alien to already existing practices of land based mining.

It is only since very recently that there are serious attempts to internalize external costs. Carbon dioxide emissions are the primary example. Of course, there was a time when there was no price tag on carbon dioxide emissions and yet at the moment, we see a growing number of countries implementing mechanisms that put a price tag on carbon dioxide emissions.

The **second** reason presented in para. 9 of your briefing note is that in land-based mining, the regulator usually sets emission levels and environmental standards – a practice that the briefing note deems suitable for deep sea mining as well. We note this with great interest because, so far, the regulations, standards and guidelines do not include emissions levels.

The **third** reason presented is that the concerns of environmental costs could be sufficiently addressed by insurance, environmental performance guarantees and environmental funds. While all these are of high importance, they are all aimed at providing the necessary financial means for restoring harm done to the environment. However, they do not create an economic incentive to minimize external costs.

For these reasons, we submit that the working group should not do away with the idea of internalizing external costs prematurely. Rather, we propose that the Working Group decides to request a study that explores the options of internalizing external costs in deep sea mining further.

It is only on the basis of a clear picture of what these options are, that the Working Group can take an informed decision as to whether the financial terms of a contract should include a mechanism that internalizes external costs.

A note of caution at the end. We see any mechanism of internalizing external costs as compatible with all four options presented in the briefing note.

Therefore, the Working Group can decide to narrow down the options to one or two options and – without substantially slowing down this decision making process – the working group can also decide to explore the options of the internalization of external costs further by requesting the aforementioned study.

Thank you.