

ISA 29th Session, Part II – Reading of the Draft Consolidated Text

Oral Statement by the Federal Republic of Germany

Delivered in July 2024

Regulation 89 – Confidentiality of information

The lack of transparent sharing of data and information about the Area and deep ocean has been an issue throughout the exploration phase. This has been raised many times by states and others over several years. These draft regulations now offer an opportunity to improve the sharing of data and information, in line with the Convention. However, as currently drafted, the categories of information that can be confidential are so broad that most information could fall into those categories.

For example, the current **paragraph 2(a)** of DR 89 allows any data that was considered confidential under an exploration contract to remain so indefinitely, which effectively prevents the exploitation regulations from changing the status quo. This would be a missed opportunity. We strongly argue to delete paragraph 2(a). We note the exploration contract will have expired by the time the exploitation phase begins and it would therefore be consistent to assess any confidentiality under the new exploitation regulations. Any information that should remain confidential during the exploitation phase can be justified under paragraphs 2(b)-(e).

Similarly, in **paragraph 2(d)**, we support that designating data as confidential should involve a separate arrangement, such as a Data Committee as proposed in this text. In our view, this cannot be solely decided by the Contractor, who clearly has a vested interest in the matter, and the Secretary-General, because there would be a lack of oversight and absence of checks and balances. If deemed helpful, Germany could offer to dedicate some further thinking into what such a Data Committee could look like in practice.

We support the additions in **paragraph 5**, which offers a procedure to deal with potential disagreements over whether any particular data should be confidential or not. Given the importance of transparency and public participation as modern good governance standards that apply to the Authority, this paragraph should allow stakeholders other than the

Secretary-General to object to data being kept confidential and introduce a transparent process to evaluate confidentiality.

Lastly, we support the minor changes in Para 3(e) and the inclusion of the proposed additional paragraphs 3(h)-(j).