

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

### Oral Statement by the Federal Republic of Germany

Delivered in July 2024

#### **Regulation 90 - Procedures to ensure confidentiality**

In terms of paragraph 1, like the African Group, Costa Rica and others, we hold the view that it is appropriate for the Council to develop policies and procedures relating to confidentiality, rather than the Secretary-General.

Moreover, again like the African Group, in paragraph 1, we are generally supportive of the proposed addition of text such as “following a legal direction” or “lawful cause” that would cover situations where there are legal grounds like a court order or ongoing judicial proceedings that require such disclosure. That said, a clear definition of these terms is needed. To our understanding, the prior consent of the contractor is not required under such circumstances. We remain open to suggestions for appropriate language and recognise that further discussion may be needed on the procedure regarding data and information disclosed following legal proceedings.

We also believe that the Council and the Assembly can on their own also take decisions to direct the Secretary-General to disclose certain confidential information, not necessarily to the public but to a specific person or body, under certain conditions. Thus DR 90 should reflect this in clear terms.

Moreover, we believe not only the LTC members, but also Inspectors, members of the Compliance Committee and members of relevant subsidiary bodies, existing or to be established in future, may also need access to such confidential information as needed to carry out their functions. Thus, the language used in DR 90 should account for such possibilities.

Finally, with reference to para 6, we wish to query as what would the next steps be once there has been a breach regarding confidential information? In our view, such instances need to be referred to the Compliance Committee.