

To: VEITS Veronika (MARE); [REDACTED]

Cc: [REDACTED]

Subject: ISA standards and guidelines on draft regulations - report of the call between MARE ENV and GROW - 14/09/2020

Dear colleagues,

A call was organized on Monday 14th September between MARE, ENV and GROW to exchange views and discuss the way forward in relation to the draft standards and guidelines (SG) to support the implementation of the draft regulations for exploitation of mineral resources in the international seabed area (the Area) that the International Seabed Authority (ISA) has submitted for comments in a public consultation with stakeholders. These SGs are related to:

1. Plan of work
2. Environmental Performance Guarantee (EPG)
3. Environmental management system (EMS)

More information is available here: <https://isa.org.jm/news/stakeholder-consultations-draft-standards-and-guidelines-exploitation-mineral-resources-area> The ISA secretariat has provided templates for the submissions of comments: they can be found here: https://isa.org.jm/files/files/documents/Stakeholderconsultations_final-3.pdf . The deadline for submission is the 20th of October.

The three services agreed that the main comments to be made to the SGs relate to weaknesses or important lacunas of the draft regulations itself. For example in describing the process for the environmental impacts statements it is clear that every step is left to the contractor (setting the objectives/ defining the criteria for respecting the objectives and evaluating the results), with no independent/ external review. This is however in compliance with the draft regulations on exploitation, therefore the comment is an important one to be included in the EU positions in relation to the draft regulations.

The main comments referred to in the call were:

- ✓ No independent review of the process (see above)
- ✓ No reference to any inspection and supervising system, that will need to be integrated into the draft regulations.
- ✓ Very soft language weakening the obligations: "when possible" "level that is as low as reasonably practicable"
- ✓ No timeline for submitting the environmental impact statement
- ✓ Conceptual difference between the environmental impact statement and the EIA process

- ✓ The reference on compliance with “regulations and administrative measures of the sponsoring State(s)” in the “Plan of work”, in addition to other identified international regulations, would provide different legal frameworks to different operators.

GROW suggested that the procedures of seabed mining should follow the same rules of land-based mining to a certain extent and that they should be reviewed by authorities that are experienced in land-based mining, and should be looked at in a broader context than the maritime policy. GROW will also raise awareness of this process in the raw materials supply group of stakeholders, whose next meeting is in October after COMAR.

ENV will consult B.3 on the performance guarantee.

Outcomes of the call:

1. It was agreed to proceed with drafting comments in the provided templates: MARE in lead of the EIS SG, GROW in lead of the plan of work SG and ENV in lead of the EPG. Drafts with comments will be circulated, aiming at having agreed comments by the 30th of September.
2. At the next COMAR on the 8th of October it was agreed to encourage MS to reply to the consultation and to liaise with their mining authorities. Two options were agreed for the comments:
 - a. If the Council draft Decision on the basis of 218 (9) is ready we can present the COM comments on the SGs and submit them to consultation to the MS.
 - b. If the Council draft Decision on the basis of 218 (9) is not ready we can share with the MS the COM comments on the SGs, ahead of submitting them to the ISA. The advantage of this approach is that COM positions will be already taken into account by ISA in case the process to establish competence would take longer.

Kind regards,



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