



Intersessional dialogue - discussion on the possible scenarios and any other pertinent legal considerations in connection with section 1, paragraph 15, of the annex to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea

The Deep-Ocean Stewardship Initiative (DOSI) welcomes this informal intersessional dialogue and the opportunity to submit a response. Acknowledging that the three questions posed by the co-facilitators are primarily of a legal nature, DOSI would like to bring a unique perspective and provide a scientific response. This relates to Question 2 and the evaluation criteria of an application for exploitation in terms of ensuring the effective protection of the marine environment from the harmful effects of such activities (art. 145) under the two-year rule.

The ISA shall take a science-based approach to decision-making, which means that each plan of work must be rigorously assessed against a set of criteria, informed by science, before a decision can be taken on approval or rejection. By default, these criteria - against which any environmental impacts can be measured, and that allow for the assessment of any application for exploitation - must be in place before any decision can be made.

Such yet-to-be agreed criteria include, but are not limited to:

- (a) defined strategic environmental goals and objectives for the protection of the marine environment,
- (b) a definition of 'serious harm', developed based on understanding of environmental goals and objectives,
- (c) a definition of significant adverse impacts based on identified normative thresholds and indicators,
- (d) a definition of criteria to be able to establish suitable and effective Preservation References Zones (PRZ) and Impact Reference Zones (IRZ) in order to monitor the environmental impacts of activities, and
- (e) standardized approaches to measure and monitor impacts.

Establishing such criteria in practice requires adequate and robust environmental baseline information and scientific knowledge, which does not yet exist.

DOSI wishes to reiterate that a recent peer-reviewed scientific study showed that 60% of the scientific categories assessed for regions with mining exploration contracts were shown to have no or next to no scientific knowledge to enable evidence-based management, and only 1% had enough (<https://doi.org/10.1016/j.marpol.2022.105006>). Thus, the international community is currently not in a position to reliably assess the likelihood of significant adverse impacts and serious harm from exploitation.

In addition, DOSI wishes to reiterate that robust and effective Regional Environmental Management Plans must be in place before any exploitation may commence, in line with draft Regulation 44bis.

Finally, despite diligent work by the ISA, the regulations that are necessary for ensuring the protection of the marine environment are not yet ready. Thus, considering and/or provisionally approving any Plan of Work before such criteria are in place may be inconsistent with the ISA's Article 145 obligation, as well as with the precautionary principle.