

OceanCare Input to the “Communications and Stakeholder Engagement Strategy (Zero Draft)”

Wädenswil/Switzerland, January 29, 2021, submitted to:

International Seabed Authority (strategicplan@isa.org.jm)

OceanCare would like to thank the Secretariat of the International Seabed Authority (ISA) for the opportunity to provide input to the “Communications and Stakeholder Engagement Strategy (Zero Draft)” in the course of the public consultation process. This Zero Draft forms a good basis for further work, and we would like to take this opportunity to constructively contribute to the evolution of the Zero Draft by putting forward a few remarks with a view to strengthen engagement of non-governmental organizations (NGOs).

As this is our first submission to ISA, we would like to briefly introduce our organization. OceanCare is a Swiss non-profit organisation. It was founded in 1989 and has a strong commitment to realistic and cooperative initiatives. The organisation works at national and international level in the areas of marine pollution, environmental changes, fisheries, whaling, sealing, captivity of marine mammals and public education. OceanCare holds Special Consultative Status with the Economic and Social Council of the United Nations (ECOSOC) and is a partner of the General Fisheries Commission for the Mediterranean (GFCM), the Convention on Migratory Species (CMS), and the UNEP/CMS Agreement on the Conservation of Cetaceans in the Black Sea, Mediterranean Sea and Contiguous Atlantic Area (ACCOBAMS), as well as UNEP/MAP. OceanCare has also been accredited as a Major Group to the United Nations Environment Assembly (UNEA), which is the governing body of UNEP and is a part of the UNEP Global Partnership on Marine Litter.

2.3 Participatory process to support implementation of the legal regime of the Area

B. Observers

(ii) Guidelines for observer status for non-governmental organizations

1) Eligibility criteria

OceanCare advocates for stronger wording in order to make the observer status for non-governmental organizations (NGO) at ISA a right that is granted under well defined circumstances. Hence, we suggest changing ‘may’ to ‘shall’ in the first sentence now reading:

*Non-governmental organizations **shall** be granted observer status if they can demonstrate their interest in matters under consideration by the Assembly, in accordance with rule 82(1)(e) of its Rules of Procedure.*

The last paragraph under 1) Eligibility criteria suggests wording on the resubmission of applications that deviates from Rules of Procedure of the Assembly (Rule 82, paragraph 1 (e)) and the corresponding Guidelines for observer status of non-governmental organizations with the International Seabed Authority (II. Guidelines, A. Request for observer status, (5)) and would result in narrowing the eligibility criteria for NGO-observers.

The relevant paragraph in the Zero Draft reads:

*If the Assembly determines that **any of these criteria are not met** or that the applicant organization has provided insufficient information regarding its request for observer status, the Assembly may, if it considers it appropriate, invite the applicant to resubmit its application for consideration at the following annual session of the Assembly.*

while the relevant paragraph in the Guidelines reads:

*If the Assembly determines that an applicant organization **has not demonstrated its interest in matters under consideration by the Assembly**, or if the Assembly determines that an applicant organization has provided insufficient information regarding its request for observer status, the Assembly may, if it considers it appropriate, invite the applicant to resubmit its application for consideration at the following annual session of the Assembly.*

We understand the wording in the Zero Draft that all of the criteria have to be met while the Guidelines do not include such a provision, allowing for more margin when determining eligibility of NGO-applicants. The wording in the Zero Draft would, to our understanding, be too constraining and would run counter to the efforts of ISA in developing a "stakeholder communications and consultation strategy and platform which facilitates open, meaningful and constructive dialogue, including on stakeholder expectations".

We therefore strongly suggest to stick to the wording of the Guidelines and refrain from using "any of these criteria are not met" in the Zero Draft.

We also suggest that NGOs who are asked to resubmit their application receive detailed feedback on why their original submission was not successful as well as guidance on how to improve the application for resubmission. This would a) increase transparency of the decisions of the Assembly regarding observer applications and b) assist NGOs in improving their submissions.

2.4 Stakeholder engagement and participation

General comments:

At present the participation of observers is strongly limited in the Rules of Procedure of the Assembly and the Council and non-existent in the Rules of Procedure of the Legal and Technical Commission. In order to enhance transparency and stakeholder participation, **as a general rule, all sessions of all organs and subsidiary organs of ISA should be open for observer participation.** Restrictions to observer participation should be the exception and explicitly defined in the Rules of Procedure of the relevant organ and any such restriction of transparency and stakeholder inclusion justified. We strongly suggest to revise the Zero draft as well as the Rules of Procedure of ISA organs and subsidiary organs accordingly.

NGO-observers should also have the right, as a general rule, to make statements and submit documents in all organs and subsidiary organs of ISA. We strongly suggest to revise the Zero draft as well as the Rules of Procedure of ISA organs accordingly.

A. Key principles governing stakeholder engagement

(iv) Ensuring access to information

See general comment to "2.5 Effective communication, E. Access to information" below.

B. Levels of stakeholder engagement

(i) Participation in the governance of the Authority

1) Accreditation

Objection to the representation:

We suggest to include the following amendment at the end of the paragraph:

If objection is raised against participation of a non-governmental organization observer representative, the originator of this objection as well as the arguments put forward against the participation of the representant shall be made public.

2) Rights and access privilege for accredited stakeholders

Side events organized during annual sessions of the Authority:

In our view, non-profit organizations (NGOs) should enjoy a favourable rate when conducting side events at ISA and we suggest to add wording as follows:

*For cost-recovery purpose, a fee is attached to the organization of each side event. As of November 2020, the fee is USD\$ 300. **Non-profit non-governmental organizations should enjoy a favourable rate.***

4) Funding for stakeholder engagement at the Authority

(ii) Stakeholder consultations:

The last sentence of the third paragraph states "All the drafts developed by the Commission are to undergo stakeholders consultations before consideration by the Council". It is crucial that **this consultations include all stakeholders** as stated in the first paragraph.

(iii) Participation in workshops and events organized by the Authority:

We suggest to amend the last sentence of the second paragraph as follows:

*In any cases, due consideration is also given to ensure balanced geographical representation and gender balance **as well as representation of civil society stakeholders.***

2.5 Effective communication

E. Access to information

General comments:

In order to ensure transparency and because access to information is indispensable for effective stakeholder engagement, **confidentiality of data and information submitted to ISA should be the exception, not the rule.** This also pertains to contracts and submissions regarding exploration and exploitation of deep-sea minerals. This general principle should also be reflected in the regulations on exploration and exploitation of the Mining Code. Unfortunately, at present, confidentiality is the general rule in the exploration regulations and transparency provisions in the exploitation regulations include many options to declare information as confidential.

G. Records and sound recording of meetings

1) Official meetings of the Authority

Life-streams and availability of video-recordings would be a helpful resource for civil society stakeholders and enhance transparency.



Sigrid Lüber, President and Founder, slueber@oceancare.org.

Our contact person for the Deep Sea Mining programme is Mr. Cyrill Martin, Ocean Policy Expert, cmartin@oceancare.org.