



Recommendations on the role of the ISA Assembly in determining the future health of the Deep Sea

A healthy ocean is essential for the future of our planet and the wellbeing of humanity as a whole. Under international law, the 167 member States of the International Seabed Authority (ISA) are responsible for protecting and preserving the marine environment for both current and future generations,¹ and will be held accountable for decisions on whether or not to allow mining on behalf of humankind. As the supreme organ of the ISA, the ISA Assembly and its member States have the power to:

- Set general policies on any question or matter within the competence of the Authority
- Actively provide political support for initiatives within the ISA Council to circumvent the two-year rule
- Build political momentum for the long-term protection of the deep sea by expressing their support of a pause or moratorium on deep-sea mining at ISA Council and Assembly meetings.
- Define the Strategic Plan of the ISA (due this year)
- Initiate a review of the ISA (due as of last year under Article 154 of UNCLOS)

If the principles of **multilateralism and precaution** are to be truly implemented by the ISA, **the Council and the Assembly must both take action** to safeguard the fragile ecosystems of the deep ocean, as is required by UNCLOS and more recent international political commitments (e.g. CBD COP15, SDG 14.2 etc).

As we approach a critical period of decision-making on deep-sea mining and the Common Heritage of Humankind, it is incumbent upon **all member States and observers of the ISA to participate in the upcoming Assembly meetings and raise their concerns and opposition to deep-sea mining**, which would cause irreversible harm to the global ocean and those who depend most directly upon it. The provisions of Article 145 of UNCLOS require that ISA member States ensure the effective protection of the marine environment. **It is time for States to supercharge the ISA Assembly and demonstrate that the protection of the deep ocean against the impacts of deep-sea mining is a global priority.**

The next ISA Assembly meeting takes place in Kingston, Jamaica, from 24 - 28 July 2023.

Establishing a General Policy within the ISA Assembly: the key to the long term protection of the deep ocean (suggested timeframe: late 2023 - 2024)

As the supreme organ of the ISA, **the Assembly has the power to establish 'general policies'**² on any question or matter within the competence of the ISA, including whether or not, and under what conditions, exploitation could commence.

¹ Article 192 of the United Nations Convention on the Law of the Sea (UNCLOS).

² Article 160(1) of UNCLOS: *"The Assembly, as the sole organ of the Authority consisting of all the members, shall be considered the supreme organ of the Authority to which the other principal organs shall be accountable as specifically provided for in this Convention. The Assembly shall have the power to establish general policies in conformity with the relevant provisions of this Convention on any question or matter within the competence of the Authority."*

Responding to the lack of scientific understanding of the impacts of deep-sea mining and the serious environmental risks, the growing momentum for a pause, moratorium or a ban on deep-sea mining could manifest as ISA member States mobilizing around a general policy that establishes a suspension of exploitation activities unless [certain conditions are fulfilled](#). For example, a general policy could state that no deep-sea mining be permitted unless:

- Comprehensive and independent scientific understanding of the deep-sea environment and its role in planetary systems has been established, and the risks and potential impacts of deep-sea mining are fully understood;
- It can be guaranteed that deep-sea mining would not harm the marine environment, would not result in the loss of biological diversity, and would not damage marine flora and fauna;
- All decisions are guided by the Precautionary Principle;
- Governance, capacity and transparency issues of the ISA have been comprehensively resolved; and an institutional vision centred on marine scientific research has been established, with the primary aim of protection and preservation of the marine environment in the Area and increasing and sharing scientific knowledge and understanding of deep-sea and open ocean ecosystems for the benefit of humankind.

The general policy could set a time-frame on the moratorium or pause. As an example, the [Madrid Protocol](#) places a moratorium on mining in Antarctica for a period of ‘at least fifty years’, accompanied by a number of stringent conditions for lifting the moratorium.

In order to activate their powers as members of the supreme organ of the ISA, the presence of at least a simple majority of the members of the Assembly is required as a quorum in order for proceedings and decisions of the Assembly to be formally considered valid (**at least 85 countries**).

For the adoption of a general policy, the members of the Assembly would have to begin by seeking consensus of all members present. **If consensus is not reached, members of the Assembly could call for a vote. The voting procedure requires a two-thirds majority** of members present and voting for the general policy to be adopted.³

A general policy would be established ‘in collaboration with the Council’.⁴ This broad phrasing does not imply any specific prerequisites from the Council such as a prior recommendation in order for a general policy to be established.

The strategy and timing of introducing a general policy to the ISA Assembly is to be determined by like-minded States.

Preventing deep-sea mining is a clear way for States to fulfill their obligations under UNCLOS to protect and preserve the marine environment and to ensure they are not pressured into making hasty decisions with long-lasting, irreversible consequences for the planet and future generations. Under UNCLOS, there is no unqualified obligation for the ISA to award exploitation contracts. But there is a clear obligation in Article 145 to prevent damage to marine flora and fauna and ensure effective protection of the environment from harmful effects of activities in the Area. A suspension of deep-sea mining is achievable and necessary at this critical moment in history.

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³ Article 159(8) of UNCLOS: The Assembly aims for consensus decision-making, but for matters of substance can also resort to a vote “by a two-thirds majority of the members present and voting, provided that such majority includes a majority of the members participating in the session.”

⁴ 1994 Agreement Annex Section 3 para 1.