# TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH SESSION: COUNCIL - PART II

*Please fill out one form for each textual proposal which your delegation(s) wish(es) to amend, add or delete and send to council@isa.org.jm.*

1. **Name of Working Group:**

   President's Text

2. **Name(s) of Delegation(s) making the proposal:**

   Federal Republic of Germany

3. **Please indicate the relevant provision to which the textual proposal refers.**

   DR 18bis

   **Green text** is in original draft; **blue text** indicates Germany's textual proposals

4. **Kindly provide the proposed amendments to the regulation or standard or guideline in the text box below, using the "track changes" function in Microsoft Word. Please only reproduce the parts of the text that are being amended or deleted.**

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[Regulation18 bis

**Obligations of the Contractors.**

1.      Contractors shall comply with these Regulations and the Rules of the Authority, as well as the applicable Regional Environmental Management Plan as amended from time to time, in a manner consistent with the Convention, the Agreement and the Exploitation Contract.

[1.bis.  A Contractor shall carry out the proposed Plan of Work in accordance with these Regulations, Good Industry Practice, Best Available Scientific Evidence and Best Environmental Practices, using appropriately qualified and adequately supervised personnel.]

[1.ter.  Contractors shall remain current in their implementation of Best Environmental Practices and Good Industry Practices, and shall continually identify and implement solutions that reflect the most up-to-date Best Available Scientific Evidence and Best Available Techniques.]

2.      Contractors, their holding, subsidiaries~~yies~~, affiliated and Ultimate Parent companies, agencies and partnerships ~~and suppliers~~ shall be held liable for the compliance of the Contract. Particularly, they shall be jointly and severally ~~[and strictly]~~ liable for the obligation of compensating damages arising outside of permitted Exploitation Activities or for unforeseen damage arising from permitted activities.

3.      In the event that Contractors fail to comply with their payment obligations under these Regulations, holdings and Ultimate Parent Companies

shall be held responsible to effect such payments to the Authority on behalf of Contractors.

4.    ⌊Sponsoring States shall take all legislative and administrative measures to assure that Contractors have all material, operative, and financial means to comply with the Contract and these Regulations and that no corporate limitation shall prevent Contractors, holding and Ultimate Parent Companies to compensate damages and make the payment required by the Contractors under the Contract and these Regulations.⌋

## 5.  Please indicate the rationale for the proposal. [150-word limit]

- Germany s supports the inclusion of DR 18bis, which is fully consistent with the Convention, including Art 145 and Art 4 of Annex III, which specifically requires the "criteria and procedures for implementation of the sponsorship requirements shall be set forth in the rules, regulations and procedures of the Authority".

- Para 1.quat: Germany suggests copying this paragraph from DR 12bis to here as the more appropriate place in the Regulations.

- In para 2, Germany supports the inclusion of "and strictly" to respond to a liability gap identified by the Seabed Disputes Chamber in its 2011 Advisory Opinion. As the Chamber noted in para 211, the Convention allows for the ISA to impose a strict liability regime to ensure no gaps in liability are left, particularly as the minerals are the common heritage of humankind. Indeed, as the Advisory Opinion highlights in para 194, strict liability regimes exist with respect to other international law regimes, including oil pollution.

- Para 2: Germany also suggests adding text at the end of para 2 to align the provision with DR 55 which covers both damage from non-permitted activities, such as mining outside of a contract area, and unforeseen damage from permitted activities, such as exceeding environmental thresholds for noise/light pollution etc.