

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

Informal Working Group - Environment

Please fill out one form for each textual proposal which your delegation(s) wish(es) to amend, add or delete.

1. Name(s) of Delegation(s) making the proposal:

Federal Republic of Germany

2. Please indicate the relevant provision to which the textual proposal refers.

Draft Regulation 44

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

3. 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.

**Regulation 44
General obligations**

1. The Authority, Sponsoring States, the Enterprise, Contractors and [flag] States shall each within their jurisdiction plan, adopt, implement and [modify] [update all] measures necessary for ensuring effective protection of the Marine Environment, including [but not limited to] rare or fragile ecosystems [all forms of marine life] as well as the habitat of depleted, threatened or endangered species from harmful effects directly or indirectly resulting from Exploitation in the Area, [including from shipboard dewatering immediately above a mine site of minerals derived from that mine site processing, which may include inland processing] in accordance with the [Convention, the Agreement, the Rules of the Authority], Standards and taking into account Guidelines [including those] referred to in Regulation 45, [international law] and the applicable Regional Environmental Management Plan. To this end:

(a) In adopting and keeping under periodic review rules, regulations and procedures, as well as the Standards and Guidelines in accordance with the Convention and the Agreement, the Authority shall:

(i) Apply the precautionary approach and the ecosystem-based [management] approach to the assessment, management and prevention of risk of harm to the Marine Environment from Exploitation in the Area,

(ii) Apply the Best Available Techniques and Best Environmental Practices taking into account the applicable guideline,

(iii) Integrate Best Available Scientific [Evidence information], [traditional and indigenous knowledge] in decision-making, including all risk assessments and management undertaken in connection with environmental assessments, acknowledging knowledge gaps, [and uncertainties] and the management and response measures taken under or in accordance with Best Environmental Practices; and

(iv) Ensure accountability and transparency in the assessment, evaluation and management of Environmental Effects and risks from Exploitation [in the Area] including through Stakeholder participation [in accordance with the relevant Standard] and the prompt public release of environmental data and information, [including sampling methodologies and associated metadata], at regular intervals and in an accessible format through the Authority's website, [including in accordance with Regulations 92 and 92bis].

(iv)bis Take into account the approach that the polluter should bear the cost of pollution, endeavour to promote practices whereby those engaged in exploitation activities bear the cost of meeting the pollution prevention and control requirements for the authorized activities, having due regard to the public interest.

[(iv.ter) Ensure accountability and transparency in the assessment, evaluation and management of Environmental Effects and risks from Exploitation, including through the participation and consultation of Potentially Most Affected Coastal States and other Stakeholders, as well as the prompt public release of environmental data and information at regular intervals and in an accessible format through the Authority's website.]

[(v) Include Underwater Cultural Heritage in the definition of marine environment. Thus, references to the environment include references to these objects which hereinafter are referred to as underwater cultural heritage (UCH) which has been more precisely defined in the UNESCO 2001 Convention on the Protection of the Underwater Cultural Heritage.]

[(vi) Ensure to minimize the direct or indirect [get so as not to transfer] damage or the likelihood of damage from one part of the environment to another or transform one type of pollution into another as stated in article 195 of the Convention. This [is] especially related to avoiding [persistent and bio accumulative] toxic, persistent and bio accumulative substances [effects.]

[(vi Alt.) In implementing the regulations, the Contractor shall not transfer, directly or indirectly, damage or hazards, or the likelihood of damage or hazards, from one part of the environment to another, or transform one type of pollution into another, as stated in article 195 of the Convention, and shall not use toxic, persistent and bio accumulative substances.]

(b) In taking all necessary measures to ensure that the Contractor carries out Exploitation in the Area in conformity with the terms of its contract and its obligations under the Rules of the Authority related to the effective protection for the Marine Environment from harmful effects, the Sponsoring State shall, [at a minimum], assist the Authority to implement, , the measures set out under paragraph (a)(i)

to (vi) above.

(c) In taking [all] necessary measures to prevent, reduce and control pollution and other hazards to the Marine Environment [and its ecosystem structure, function and resilience], including the [adjacent coastlines, and of interference with the ecological balance of the Marine Environment which includes] ecosystem [integrity] ~~[structure, function and resilience]~~ arising from [its] Exploitation in the Area, the Enterprise and Contractors shall **implement, mutatis mutandis, the measures set out under paragraph (a)(i) to (iii) above and** ~~[implement, mutatis mutandis, the measures set out under paragraph (a)(i) to (iii) above and]~~ demonstrate accountability and transparency in the assessment, evaluation and management of Environmental Effects and risks from Exploitation, including through Stakeholder participation and the [timely] [prompt] public release of environmental data and information on their respective activities at regular intervals and in an accessible format. In so doing, the Enterprise and Contractors shall apply a priority order to avoid, minimize, Mitigate, ~~[and]~~ **and - if feasible - remediate, [and restore]** ~~[shall Mitigate]~~ harm to the Marine environment ~~[and as a last resort, offset]~~ and adapt the necessary measures [according] to newly obtained information and data.

2. In adopting laws and regulations, in accordance with the Convention, to prevent, reduce and control pollution of the Marine environment from Exploitation undertaken by vessels, installations, structures and other devices flying their flag or of their registry or operating under their authority, as the case may be, States shall implement, *mutatis mutandis*, the measures set out under paragraph 1(a)(i) to (iv) above. ~~2-bis.~~ The parties ~~[mentioned in paragraph 1]~~ shall:

(a) Apply the precautionary approach, and the ecosystem-based management approach to the assessment and management of risk of harm to the Marine Environment from Exploitation in the Area;

(b) Apply the Best Available Techniques and Best Environmental Practices;

Integrate Best Available Scientific [information Evidence] in decision making, including all risk assessments and management undertaken in connection with environmental assessments, [acknowledging knowledge gaps and uncertainties] and the management and response measures taken under or in accordance with Best Environmental Practices; and

[...]

4. Please indicate the rationale for the proposal. [150 word limit]

We support all amendments proposed by the facilitator.

Regarding Para. 1 a vi) we strongly support the ALT version as proposed in text.

We provide a few minor and editorial amendments above.

We look forward to further discussing how to consider underwater cultural heritage in the regulations and whether to include it in the definition of marine environment.