

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28<sup>TH</sup> 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 94

**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 94**

**Adoption of Standards**

1. The Commission shall, taking into account the views of [recognized experts,] [recognized experts identified in accordance with annex X], Stakeholders and relevant existing internationally accepted standards, make recommendations to the Council on the adoption and revision of Standards relating to Exploitation activities in the Area, including standards relating to [inter alia]:

(a) Operational safety;

[(a).Alt. The effective protection of human health and safety, and labour matters;]

(b) The conservation [and Exploitation] of the Resources; and

(c) The protection of the Marine Environment, including standards or requirements relating to the Environmental Effects of Exploitation activities, as referred to in regulation 45.

[1bis. [The Council shall ensure that requirements and legally-binding obligations associated with relevant and/or applicable international treaties and agreements are adopted/integrated into the ISA's Standards and Guidelines.]

[1.ter. Standards shall describe how the Authority and Contractors shall implement these regulations, and shall aim for:

(a) a uniform and non-discriminatory operating environment for all Contractors;

(b) a consistent approach by all parties to reduce environmental impacts and human health and safety risks to as low as reasonably practicable;

(c) an outcomes-based approach to regulation, which prescribes rigorous environmental outcomes while affording flexibility for the processes by which these outcomes are achieved to enable continuous improvement, particularly as technology advances.]

2. The Council shall consider and approve, upon the recommendation of the Commission [and taking into account statements submitted by Stakeholders during a public consultation,] the Standards, provided that such Standards are consistent with the

intent and purpose of the Rules of the Authority [and] [including] [the decisions of the Council and the Assembly [and, to the extent relevant, developed on the basis of Best Available Scientific Evidence, Best Environmental Practices, Best Available Techniques, and Good Industry Practice]. If the Council does not approve such Standards, the Council shall return the Standards to the Commission for reconsideration in the light of the views expressed by the Council. [The Standards approved by the Council shall remain effective on a provisional basis until approved by the Assembly or until amended by the Council in the light of any views expressed by the assembly].

3. [The Standards contemplated in paragraph 1 above ~~may~~**must** include both qualitative and quantitative standards, [if applicable], and must include all the methods, processes and technology required to implement the Standards.]

[3. bis. Standards shall be methodological, procedural, technical and environmental rules that are necessary to implement the regulations and to ensure a coherent approach to monitoring, **assessment and management**, as referred to in Regulation 45. Standards are legally binding on Contractors and the Authority, and shall be revised every 5 years in the light of new knowledge, e.g., resulting from environmental impact assessments and monitoring.]

4. [Standards adopted by the Council [and approved by the Assembly] shall be legally binding on Contractors, [Sponsoring States] and the Authority and [] [shall] be **31/65** [reviewed and eventually amended] at least every five years from the date of their adoption or revision, and in the light of improved knowledge or technology [and on the request of the Council] [or in view of unforeseeable events or environmental considerations].

[4.alt. Standards [or amendments thereto] adopted by the Council **and approved by the Assembly**, shall be legally binding on Contractors, [member States] and the Authority [from the date of their adoption] and the Commission shall review these Standards at least every five years from the date of their adoption or revision and advise the Council, in the light of improved knowledge or technology, as to whether any revision is required]

[4.bis. Standards adopted or revised may incorporate an appropriate transition period for implementation by existing Contractors.]

[4.ter. For the avoidance of doubt, compliance with Standards is a fundamental term of the contract, for the purposes of regulation 103.]

[5. In the event of any conflict between the provisions of these regulations and the provisions of a Standard, the regulations shall prevail. The Authority should be notified of the conflict, and shall provide additional guidance as necessary.]

~~[5.bis. To the extent of any inconsistency between a Standard and amendments thereto, and an already approved Plan of Work, a Contractor following a reasonable transition period, shall use its best efforts to comply with any additional changes to its Plan of Work as a result of the amendment.~~

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

We support the changes proposed by the facilitator in Para 1, including the development of an Annex on the involvement of independent expertise and the procedural proposals in Para 2, including on Stakeholder participation.

In Para 4 alt we suggest to discuss whether the approval of the Assembly is needed for Standards to become binding, i.e. whether Standards are to be considered as rules, according to Art. 162(2-o-ii).

In Para 3, we suggest to use the term “must”, as there should both be qualitative and quantitative standards. Without quantitative standards, e.g. an assessment of environmental impacts (by contractors or the LTC) will not be comparable nor reliable.

There is duplication on the review of Standards in Paras 3bis and 4.

We suggest deletion of Para 5bis as this Paragraph partly contradicts Paragraphs 4alt and 4bis, stating that Contractors are bound to revised Standards.