

**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.

Preamble

Green text is from Draft Regulations; **Blue text** shows textual proposals from Germany.

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.

In accordance with the United Nations Convention on the Law of the Sea of 10 December 1982 ("the Convention"),

[Ensuring the effective protection for the Marine Environment from harmful effects, which may arise from the activities in the Area, in accordance with Article 145 of the Convention],

Reaffirming the fundamental importance of the principle that the Area and its resources are the common heritage of humankind,

Emphasizing that the exploitation of the resources of the Area shall be carried out for the benefit of mankind as a whole, on whose behalf the International Seabed Authority acts, in accordance with Part XI of the Convention and the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 ("the Agreement"),

Recalling the United Nations Declaration on the Rights of Indigenous Peoples and existing international rights of Indigenous Peoples or of, as appropriate, local communities,

Acknowledging the current lack of knowledge about deep ocean ecosystems and the potential effects of activities in the Area and the need to revise these regulations in light of advancements in scientific knowledge,

Considering that the objective of these regulations is to ~~provide for regulate~~ the exploitation of the resources of the Area consistent with the Convention and the Agreement.

[Preamble Alt.

In accordance with the United Nations Convention on the Law of the Sea of 10 December 1982 (“the Convention”), the Area and its resources are the common heritage of humankind, and the Exploitation of the resources of the Area shall be carried out for the benefit of humankind as a whole, on whose behalf the Authority acts.

The objective of these regulations is therefore to ~~provide for regulate the~~ Exploitation of the resources of the Area consistent with the Convention, including the duty to ensure effective protection for the Marine Environment from harmful effects caused by those activities.]

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

- Germany prefers the original draft Preamble instead of the Preamble Alt.
- Germany supports reference to common heritage of HUmankind, instead of Mankind in line with the wording used in the BBNJ Agreement.
- Consistent with the BBNJ Agreement Preambular paragraphs 7 and 8, Germany supports the inclusion of a reference to existing rights of Indigenous Peoples under international law. These rights are already applicable, but the reference avoids misinterpretation. States, including Germany, have adopted a decision at the COP-15 of the Convention on Biological Diversity that confirms that it should be ensured that “rules, regulations and procedures are put in place by the International Seabed Authority, in accordance with the best available science and the traditional knowledge of indigenous peoples and local communities with their free, prior and informed consent.”¹ The importance of this issue was also highlighted by the UN High Commissioner for Human Rights in their July 2023 Statement.²
- Germany also suggests adding a reference to the need to view the Mining Code as dynamic and subject to amendments in light of evolving scientific knowledge. This speaks to the fact that we are trying to regulate a future industry in a situation of significant scientific uncertainty.
- The objective of the Exploitation Regulations is broader than the current wording suggests. The Regulations determine how exploitation would be managed, set financial, environmental, and technical standards, establish a compliance and enforcement mechanism, and describes decision-making processes at the Authority. As such, we suggest a slight change in wording for the last paragraph of the Preamble.

¹ Decision adopted by the Conference of the Parties to the Convention on Biological Diversity, 15/24: Conservation and sustainable use of marine and coastal biodiversity CBD/COP/DEC/15/24, para. 16

² <https://www.ohchr.org/sites/default/files/documents/issues/climatechange/information-materials/ohchr-seabed-mining-10-july.pdf>