

ISA 29th Session, Part II – Reading of the Draft Consolidated Text

Oral Statement by the Federal Republic of Germany

Delivered in March 2024

Regulation 15 – Commission’s recommendations

For DR 15, we are again concerned to see that some of our textual proposals have not made it into the consolidated draft, even when they do not conflict with proposals from other delegations. We kindly request for our proposals to be inserted.

One particularly important proposal focuses on **paragraph 1**. We believe it is crucial for the LTC to have sufficient information to be able to assess an application against the criteria in DR 13. It will be a matter for the Commission to decide whether and when an application is accompanied by sufficient baseline information. This is in line with the precautionary approach or principle and offers a procedural safeguard to ensure Contractors gather sufficient baseline data during the exploration stage, which is an established requirement already. We therefore propose for **paragraph 1** to read:

The Commission may recommend approval of a proposed Plan of Work if the Plan of Work complies with all requirements stipulated in Regulation 13 and the Commission has sufficient information to determine that all requirements in Regulation 13 have been met.

This so-called “sufficient information requirement” is not new at all. In fact, it is included in several multilateral treaties, such as Annex II of the London Dumping Protocol and Article 3 of the Protocol on Environmental Protection to the Antarctic Treaty. It was also included in Article 4 of the 1988 Convention on the Regulation of Antarctic Mineral Resource Activities which was to focus specifically on seabed mining in the Antarctic, before it was replaced with a 50-year moratorium on seabed mining in Antarctica. Providing sufficient environmental information is also a requirement under the regional Aarhus Convention.

This sufficient information requirement is commonly used for situations with high scientific uncertainties and helps states to discharge their international legal obligations relating to the precautionary approach. For DR 15, we believe it is important to reflect this sufficient information criterion in **paragraphs 1 and 2(a)**. We therefore support the amendments in paragraph 2(a) but ask for our textual proposal in paragraph 1 to be added.

In terms of further comments on DR 15, we strongly support the inclusion of **paragraph 1.bis.a** on identifying uncertainties in the Plan of Work.

We also support keeping **paragraph 2.a** including the bracketed text, instead of the four alternatives provided. The reason is that the alternatives focus solely on environmental concerns whereas the LTC will assess an application against a range of requirements, not only environmental requirements. The same reasoning applies to paragraph 4 where we support the suggested amendments and suggest making para 4 applicable if the LTC recommends to NOT approve an application “for any reason”.

We support **paragraph 5** including the suggested deletions. We believe it is unrealistic to require the LTC to consider comments from the applicant within 30 days, as it may be more than 30 days until the LTC’s next meeting. We also note that the regulations place a heavy workload, sometimes with time-bound deliverables, on the LTC in a number of provisions, which may simply not be realistic as the Commission may be unable to respond to several urgent matters in parallel. Germany therefore suggests exercising caution when drafting provisions around timelines.

Lastly, we also support reference to the new DR 44.ter on strategic environmental goals and objectives in **paragraph 2(c)** and we support inclusion of **paragraph 2.bis** and the bracketed sub-paragraphs under **2(b), 2(c), 2(d), and 2(e), and 3(c)** which add useful information.