

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

Oral Statement by the Federal Republic of Germany

Delivered in March 2024

Regulation 23 – Transfer of Rights

Germany believes that transferring rights and obligations should only be permissible subject to the requirements under regulations 5-16. In line with Art 20 of Annex III to the Convention, we believe it is important that rights are not transferred to an entity that would not meet the qualifications under DR 13. Therefore, we support the red text in **paragraph 5** which links back to DR 13 and 15.

We suggest that if a Contractor is unable or unwilling to carry out the activities under an exploitation contract, the contract should cease, and other applicants may apply for exploration or exploitation rights over the area in question. Leaving it up to the Contractor to select a successor excludes other potential candidates, notably the Enterprise, which is particularly problematic in light of the common heritage status of the Area.

Similarly, it may be argued that making a profit from selling an exploitation contract is not in the interest of humankind at large. At the very least, any such transfer should be taxed to ensure the Authority receives a share of profits made, as is common in domestic law. Such taxation would contribute to ensuring that seabed mining would not receive a competitive advantage over terrestrial mining. We therefore welcome the suggestion from the African Group and Canada in **paragraphs 6bis and 6ter**, to tax transfers via a Transfer Profit Share to ensure maximum return to the common heritage.

We also believe DR 23 should spell out what happens if a transfer is NOT approved. For example, if a transfer is not approved but occurs anyway, the contract should terminate automatically.