

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

### Oral Statement by the Federal Republic of Germany

Delivered in July 2024

#### **Regulation 47bis (former DR 47ter alt) - Scoping Report**

As for the content of DR 47.bis, we have several comments. With regards to the **title** of this draft regulation, Germany would like to propose only referring to “*Scoping*”, as the regulation elaborates upon the scoping *process* rather than only on the production of the scoping *report*.

As already addressed in our comments regarding DR 47 on EIA, we would suggest reversing the **sequence** of DR 47bis on Scoping and DR 47 on EIA. This is because as a matter of process, an EIA would be conducted after a scoping report has been prepared.

Regarding **paragraph 1**, we suggest deleting the brackets, slightly amending language and including a reference to Annex III.bis on the Scoping Reports, so that it would read:

*“An applicant or Contractor shall prepare and submit to the Secretary-General a scoping report in accordance with this Regulation, the applicable Standard and taking into account the applicable Guideline(s), and in the format prescribed in Annex III bis.”*

For **paragraph 2**, in light of our suggestion to refer in this regulation to the entire “scoping process”, we would suggest amending the language slightly, so that the sentence would read: “An applicant or Contractor shall conduct an Environmental Impact Assessment scoping process to identify and prioritize the main activities and potential impacts ...”. This would also align with language set out in paragraph 3.

With regards to **sub-paragraph 3(c)**, we believe that as part of the scoping process all relevant stakeholders need to be identified and not only those that might be *potentially directly affected*. We therefore ask to delete the terms currently contained in brackets.

Concerning **sub-paragraph 3(c)bis**, we would again suggest referring to “*Stakeholders*”, rather than “*potentially directly affected Stakeholders*”. We also request for this provision to require the Contractor to “*engage*” with stakeholders, rather than to “*endeavor to engage*”. As a consequence, the sentence would read: “*Engage with all relevant Stakeholders in*

*accordance with Regulation 93 bis, as well as the applicable Standard(s) and taking into account the applicable Guidelines”.*

With regards to the details that a scoping report should entail, which have previously been set out in **paragraph 4**, Germany supports moving these details to Annex III.bis on the Scoping Report.

Concerning **paragraph 5** on the consultation procedure, Germany is of the view that it needs to be clarified at what point in time consultation has to be conducted - *before* or *after* the submission of a draft scoping report, or even both. Paragraph 5 currently requires stakeholder consultation “following submission of the scoping report” (presumably to the Authority). The question is whether stakeholder feedback can have an impact on the scoping report if it is only solicited after the report has already been submitted to the Authority. Would it be more appropriate for an applicant or Contractor to publish the draft scoping report, run a stakeholder consultation round, revise the scoping report in light of comments received, and then submit the revised report together with stakeholder feedback to the Authority? Also, Germany appreciates that paragraph 5 clearly sets out that the applicant or Contractor is responsible for conducting the stakeholder consultation.

In general, we note that the BBNJ Agreement contains detailed and robust EIA requirements, including a scoping phase, which received broad support by states at the adoption of the Agreement last year. We therefore submit that in the interest of efficiency, DR 47bis should mirror the scoping requirements of the BBNJ Agreement.