

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 31TH SESSION:
COUNCIL - PART I**

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(s) of Delegation(s) making the proposal:

Germany

2. Please indicate the relevant provision to which the textual proposal refers.

Topic: Conditions for beginning Exploitation of the Area, DR 2(3)

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.

1. These Regulations, and any decision-making thereunder, shall be applied in conformity with the principles governing the Area embodied in ~~Section 2 of Part XI [and in Part XII] of the Convention [and the Agreement]~~ as well as the Authority’s Strategic Environmental Goal and Objectives.

...

~~[3. At 2~~ Exploitation in the Area shall only commence:

~~(a) once all Phase 1 Standards and Guidelines, Phase 2 Standards and Guidelines and Phase 3 Standards and Guidelines have been adopted;) once all Phase 1-3 Standards and Guidelines as well as the rules, regulations and procedures on equitable sharing of financial and other economic benefits derived from activities in the Area have been adopted;~~

~~(b) once a decision of the Council, upon recommendation of the Commission, confirms, based on sufficient information, when it is demonstrable, in the view of the Commission and Council, that such Exploitation can be conducted in such a manner so as to ensure effective Protection of the Marine Environment from harmful effects which may arise from Exploitation in the Area, and the ecological balance of the Marine Environment is not interfered with; and~~

~~(c) in instances where it would not impede the effective implementation of international frameworks and agreements related to the Protection of the Marine Environment. Decisions regarding exploitation activities will be made by taking into consideration progress on the implementation of such frameworks and agreements;]~~

4. Please indicate the rationale for the proposal.

Germany strongly supports inclusion of DR 2(3) that sets out conditions for the commencement of exploitation. We note that having all relevant aspects of the Mining Code adopted before any mining can begin will protect the Authority from criticisms about insufficient oversight and due process. It will demonstrate the Authority's commitment to robust governance on behalf of humankind as a whole.

Paragraph (a) sets a clear commitment of the Authority to fulfill its mandate of properly regulating activities in the Area in line with the Convention. We note that we need to progress work on the Standards and Guidelines, as these will be an essential part of the Mining Code and will set out the detailed requirements applicants need to know. However, we believe the wording in paragraph (a) can be streamlined and we propose adding a reference to the benefit-sharing regulations. We note this reference is currently contained in DR 2(5.ter) but it might sit better within paragraph 3 as a matter of consistent drafting.

Paragraph (b) aligns with the Authority's dual mandate to regulate mining activities while being obligated by Article 145 to ensure effective protection of the marine environment. We can support the text proposed by France, that is to add a reference to sufficient information, which is included throughout the regulations. And we also support clarifying procedural aspects by referring to the recommendation of the Commission and decision of the Council.

Paragraph (c) is an important provision to avoid inconsistencies in treaty interpretation. It recognises that all member states have existing obligations under international law, which we are required to fulfil. It also helps with promoting integrated oceans governance.

Lastly, we also wish to highlight that we strongly support the reference to the Authority's Strategic Environmental Goal and Objectives in paragraph 1 of DR2.