

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28<sup>TH</sup> 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](mailto: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.**

DR 31

**Green text** is in original draft; **blue text** indicates Germany's textual proposals

**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.**

**Regulation 31**

**Reasonable regard for other activities [and infrastructure] in the Marine Environment**

[1. Contractors shall, ~~consistent with the~~ relevant Standard and taking into account Guidelines, carry out exploitation under an exploitation contract with reasonable regard for other activities [and structure] in the Marine Environment, ~~[including but not limited to submarine cables and pipelines in the Contract Area, fishing activities and other activities]~~, in accordance with article[s] [87 and] 147 of the Convention and the Plan of Work, approved Environmental Management and Monitoring Plan, ~~Regional Environmental Management Plan~~ and Closure Plan ~~[and any applicable international rules and standards established by competent international organizations and any applicable international rules and standards established by competent international organizations]~~

Alt. 1. [Contractors shall, consistent with the [Standards and taking into account the] relevant Guidelines, carry out Exploitation under an exploitation contract with reasonable regard for other activities [and structures] in the Marine Environment in accordance with article 147 of the Convention and the ~~[and structures]~~ approved Environmental Management and Monitoring Plan [of Work, the applicable Regional Environmental Management] [and Closure] Plan and any applicable international rules and standards established by competent international organizations, and relevant national laws and regulations of Sponsoring States and flag States.].

~~[1.bis. Each Contractor shall exercise due diligence to ensure that it does not cause damage to submarine cables or pipelines [interfere with other uses of the sea] in the Contract Area. In particular, the Contractor shall:~~

~~(a) comply with the measures it agreed with the operators [undertaking other uses of the sea] [of the submarine cables and pipelines] to reduce the risk of damage to any in-service cables and pipelines [(such as an easement, or a mining exclusion zone within a reasonable radius)]; and~~

~~(b) ensure that any actions it takes will not interfere with the route of a planned submarine cable or pipeline.~~

[1.bis.alt. Each Contractor shall exercise due diligence to ensure that it does not interfere with other uses of activities in the sea in the Contract Area. In particular, the Contractor shall:

(a) identify current and planned uses of activities in the sea transiting, overlapping, or proximate to the Contract Area through publicly available data and resources and any other reasonable means, including but not limited to marine scientific research, submarine cables or pipelines, fishing, navigation, activities related to marine genetic resources, and environmental protection measures and area-based management tools established or proposed by competent international organizations;

~~— [(b 1) — coordinate directly with the operators undertaking other uses of the sea in order to reduce the risk of interference with those uses as a result of the Contractor's activities].~~

(b) coordinate directly with the responsible organisations for, or operators of, undertaking other uses these activities in of the sea in order to reduce the risk of interference with those uses as a result of the Contractor's activities.

(c) comply with the measures it agreed with the organisations or operators undertaking other uses of activities in the sea to reduce the risk of damage to any structure in service cables and pipelines and the Marine Environment; and

(d) ensure that any actions activities it conducts takes will not interfere with the route of a planned submarine cable or pipeline, recognized sea lanes essential to international navigation, or areas of intense fishing activity].

~~[1 alt ter. [Contractors shall carry out Exploitation under an exploitation contract with reasonable regard for climate mitigation carried out by ecosystem in the area, such as carbon burial and sequestration and nutrients recycling.]~~

~~2. — The Authority, in conjunction with member States, shall take measures to ensure that other activities in the Marine Environment shall be conducted with reasonable regard for the activities of Contractors in the Area.~~

2. Alt. ~~†~~To further the due and reasonable regard obligations in Articles 87 and 147 of the Convention, the Authority, in conjunction with member States, shall facilitate early-stage coordination and cooperation between the Contractors and the proponents of the other activities in the marine environment, including during the development and regular updating of Regional Environmental Management Plans. Where the relevant other activities involve competent international, regional, or sectoral bodies, the Authority shall, in conjunction with member States, cooperate with such bodies to coordinate activities in the Marine Environment.

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

- Germany suggests that discussion may be needed on whether this DR should include a complaints mechanism for proponents of other marine uses and activities in case the Contractor is alleged to have breached its obligation to have due regard for other marine uses and activities.
- Para 1 and 2.Alt: It is important to reference the REMP here as that will be the key regional policy document through which the ISA can map and consider all marine uses in a region.
- Para 2.Alt: Cooperation with an individual marine user may not always be practicable. If the use in question is shipping or fishing, there will be many relevant stakeholders. Hence, it might make more sense for the ISA to cooperate with the relevant governance body, eg IMO or RFMOs.
- Para 1.bis: We prefer 1.bis.alt over 1.bis as the latter is too narrowly focused on pipelines and cables and leaves out other marine uses, such as shipping and fishing which are specifically mentioned in Art 147.
- Para 1.bis.alt(d): suggested additions are copied from Art 147 to ensure the Regulations comply with UNCLOS.
- Para 1 alt ter: Germany supports the intent behind this text but is open to it being moved to a different regulation, as suggested by the President.