

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 29TH 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 of Working Group:

Environment

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 44

Red 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 44 Alt

General Obligations

1. The Authority, sponsoring States, the Enterprise, Contractors, flag States, **port States** and the States of registry of or having authority over installations, structures and other devices **where they are members of the Authority** shall take necessary measures to ensure effective protection of the Marine Environment from harmful effects which may arise directly or indirectly from Exploitation in the Area, in accordance with Regulations and Standards and taking into account Guidelines referred to in regulation 45 and the relevant Regional Environmental Management Plan and to this end shall, as applicable in their respective areas of competence:

(a) Apply the precautionary approach and the ecosystem-based management approach to the **prevention**, assessment, **and** management ~~and prevention~~ of risk of harm to the Marine Environment from Exploitation in the Area;

(b) Apply the Best Available Techniques and Best Environmental Practices;

(c) Integrate Best Available Scientific Evidence **and traditional knowledge** in decision-making;

(d) Ensure accountability and transparency in the assessment, evaluation and management of Environmental Effects and risks from Exploitation in the Area, **including but not limited to stakeholder consultation and public access to environmental information**;

(e) Apply the polluter pays principle having due regard to the public interest; and

(f) Ensure that damage or hazards are not transferred, directly or indirectly, from one area of the environment to another or from to the marine environment and that one type of pollution is not transformed into another one, and shall not use ~~This is especially related to avoiding toxic, persistent and bio accumulative substances.~~

(g) apply the mitigation hierarchy to avoid, minimize, mitigate, and, should it become feasible in the future, remediate and restore the Marine Environment from harm caused by activities in the Area;

2. The Legal and Technical Commission shall make recommendations on the implementation of paragraphs 1 above as required.

3. No regulation in this Part shall be interpreted as preventing ~~sponsoring~~ Member States, the Enterprise and Contractors from taking, individually or jointly, more stringent measures in accordance with international law with respect to the prevention, reduction and where practicable elimination of detrimental effects on the ~~m~~Marine ~~e~~Environment.]

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

Germany welcomes the streamlined proposal by Spain (DR 44 ALT) and suggests a few changes, as follows:

- Paragraph 1: Germany suggests adding Port States as one of the entities that can help to ensure effective protection of the marine environment. For example, inspecting mining equipment in port may be a feasible option.
- Paragraph 1: Germany notes that the Regulations cannot bind States that are not party to UNCLOS, hence we suggest adding qualifying language to paragraph 1 to clarify that these regulations only bind Sponsoring States, Flag States, Port States, and States of Registry that are ISA Members. The risk, of course, is that if a Contractor partner with a Flag States that is not ISA Member, these Regulations would not apply to the Flag State. A possible solution to this legal gap is to require Contractors to register their vessels and installations with an ISA Member State, which could be added to DR 5. That way, the Regulations would be fully applicable to all actors involved.
- Paragraph 1(f): Germany supports the intent behind this provision but suggest a slight rewording to better reflect language in the Convention.
- Paragraph 1(c) and (g): Germany suggest adding back into the draft two substantial points that went missing during the streamlining, namely traditional and Indigenous knowledge and the mitigation hierarchy.
- Paragraph 3: Suggested edits to include flag States and port States, not only sponsoring States.
- Germany notes that the obligation of Member States to cooperate with the Authority in implementing DR 44 has been deleted. We are open to the deletion as long as DR 3 specifies a general obligation of ISA Member States to cooperate with the Authority in implementing the Regulations as a whole.