

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28<sup>TH</sup> SESSION:  
COUNCIL - PART II**

***Informal Working Group - Environment***

*Please fill out one form for each textual proposal which your delegation(s) wish(es) to amend, add or delete.*

**1. Name(s) of Delegation(s) making the proposal:**

Ireland

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

Draft Regulation 44

**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.**

**Regulation 44 and 44 Alt**

**General obligations**

1. The Authority, Sponsoring States, the Enterprise, Contractors and flag States [and States competent for vessels, installations, structures and other devices flying their flag or of their registry or operating under their authority] shall each within their plan, adopt, implement and update all measures necessary for ensuring effective protection of the Marine Environment, including but not limited to rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species from harmful effects directly or indirectly resulting from Exploitation in the Area. in accordance with the Convention, the Agreement, the Rules of the Authority, Standards and taking into account Guidelines including those referred to in Regulation 45, international law and the applicable Regional Environmental Management Plan. To this end:

(a) In adopting and keeping under periodic review rules, regulations and procedures, as well as the Standards and Guidelines in accordance with the Convention and the Agreement, the Authority shall:

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

(ii) Apply the Best Available Techniques and Best Environmental Practices taking into account the applicable guideline,

(iii) Ensure ~~Integrate~~ Best Available Scientific information, traditional and indigenous knowledge in decision-making, including all risk assessments and management undertaken in connection with environmental assessments, acknowledging knowledge gaps, and uncertainties and the management and response measures taken under or in accordance with Best Environmental Practices; and

(iv) Ensure accountability and transparency in the assessment, evaluation and management of Environmental Effects and risks from Exploitation in the Area including through Stakeholder participation in accordance with the relevant Standard and the prompt public release of environmental data and information, including as well as sampling methodologies and associated metadata, at regular intervals and in an accessible format through the Authority's website, including in accordance with Regulations 92 and 92bis.

(iv)bis Take into account the approach that the polluter should bear the cost of pollution, ~~endeavour to~~ and ~~promote~~ practices whereby those engaged in exploitation activities bear the cost of meeting the pollution prevention and control requirements for the authorized activities, having due regard to the public interest.

~~(iv.ter) Ensure accountability and transparency in the assessment, evaluation and management of Environmental Effects and risks from Exploitation, including through the participation and consultation of Potentially Most Affected Coastal States and other Stakeholders, as well as the prompt public release of environmental data and information at regular intervals and in an accessible format through the Authority's website.~~

[(v) omitted]

~~(vi) Ensure to minimize the direct or indirect damage or the likelihood of damage from one part of the environment to another or transform one type of pollution into another as stated in article 195 of the Convention. This is especially related to avoiding persistent and bio accumulative toxic, persistent and bio accumulative substances effects.~~

~~(vi Alt.) In implementing the regulations, the Contractor shall not transfer, directly or indirectly, damage or hazards, or the likelihood of damage or hazards, from one part of the environment to another, or transform one type of pollution into another, as stated~~

~~in article 195 of the Convention, and shall not use toxic, persistent and bio-accumulative substances.~~

(b) In taking all necessary measures to ensure that the Contractor carries out Exploitation in the Area in conformity with the terms of its contract and its obligations under the Rules of the Authority related to the effective protection for the Marine Environment from harmful effects, the Sponsoring State shall, assist the Authority to implement, the measures set out under paragraph (a)(i) to (vi) above.

(c) In taking all necessary measures to prevent, reduce and control pollution and other hazards to the Marine Environment and its ecosystem structure, function and resilience, including the adjacent coastlines, and of interference with the ecological balance of the Marine Environment which includes ecosystem integrity arising from its Exploitation in the Area, the Enterprise and Contractors shall [implement, *mutatis mutandis*, the measures set out under paragraph (a)(i) to (iii) above and] demonstrate accountability and transparency in the assessment, evaluation and management of Environmental Effects and risks from Exploitation, including through Stakeholder participation and the prompt public release of environmental data and information on their respective activities at regular intervals and in an accessible format [consistent with best scientific practices]. In so doing, the Enterprise and Contractors shall apply a priority order to avoid, minimize, Mitigate, [and if feasible] remediate, and restore harm to the Marine environment and adapt the necessary measures according to [newly] obtained information and data.

2. In adopting laws and regulations, in accordance with the Convention, to prevent, reduce and control pollution of the Marine environment from Exploitation undertaken by vessels, installations, structures, [robots] and other devices flying their flag or of their registry or operating under their authority, as the case may be, States shall implement, *mutatis mutandis*, the measures set out under paragraph 1(a)(i) to (vi) above.

The parties shall:

(a) Apply the precautionary approach, and [the] [an] ecosystem-based [management] approach to the assessment and management 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 information in decision making, including all risk assessments and management undertaken in connection with environmental assessments, acknowledging knowledge gaps and uncertainties and the management and response measures taken under or in accordance with Best Environmental Practices; and

(d) Ensure accountability and transparency in the assessment, evaluation and management of Environmental Effects and risks from Exploitation in the Area, including through Stakeholder participation and the timely public release of relevant environmental data and information at regular intervals and in an accessible format through the Authority's website.

(e) Take into account the [approach] [principle] that the polluter should, [in-principle], bear the cost of pollution, ~~endeavour to and~~ promote practices whereby those engaged in exploitation activities bear the cost of meeting the pollution prevention and control requirements for the authorized activities, having due regard to the public interest.

(f) In implementing the regulations, act so as not to transfer, directly or indirectly, damage or likelihood of damage from one part of the environment to another or transform one type of pollution into another as stated in article 195 of the Convention. This especially related to the previous reference to avoiding toxic, persistent and bio accumulative substances.

(g) Ensure that Exploitation under an exploitation contract is carried out with reasonable regard for climate mitigation and ecosystems in the area, such as carbon burial and sequestration and nutrients recycling.

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

4. No regulation in this Part shall be interpreted as preventing Sponsoring States, the Enterprise and Contractors from taking, individually or jointly, more stringent measures in accordance with codified and customary based international law with respect to the prevention, reduction and where practicable elimination of detrimental effects on the marine environment.

## **Regulation 44 Alt**

### **General Obligations**

1. The Authority, sponsoring States, the Enterprise, Contractors, flag States and the States of registry of or having authority over installations, structures and other devices 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, giving particular attention to rare or fragile ecosystems, 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:

(a) Apply the precautionary approach and the ecosystem-based management approach to the assessment 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, traditional and indigenous 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

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

(f) In implementing the regulations, act so as not to transfer, directly or indirectly, damage or likelihood of damage from one part of the environment to another or transform one type of pollution into another as stated in article 195 of the Convention. This is especially related to avoiding toxic, persistent and bio accumulative substances.

(g) Ensure that Exploitation under an exploitation contract is carried out with reasonable regard for climate mitigation and ecosystems in the area, such as carbon burial and sequestration and nutrients recycling.

2. The Legal and Technical Commission shall make recommendations on the implementation of paragraphs 1 (a-g) above as required.

3. No regulation in this Part shall be interpreted as preventing sponsoring 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 marine environment.

#### **4. Please indicate the rationale for the proposal. [150 word limit]**

Ireland support the use of Regulation 44 Alt for General Obligations.

In addition, the meaning of what is meant by “within their plan” in Para 1 of original Reg 44 is not clear and we would welcome clearer language on this term.