

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH SESSION:
COUNCIL - PART III**

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 55

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 55

Purpose of the Environmental Compensation Fund

1. The purpose of the Fund is to finance the implementation of any necessary measures designed to mitigate or compensate for any [unlawful] loss or damage to the Marine Environment of the Area or coastal states, or damage caused to third parties arising from ~~exploration~~ Exploitation activities in the Area when the costs of such measures ~~and~~ efforts cannot be recovered from a Contractor or Sponsoring State. This includes the remediation restoration and rehabilitation of the Area Marine Environment (when the rehabilitation is technically and economically feasible) ~~and~~ in accordance with Good Industry Practice, Best Environmental Practices and Best Available Techniques ~~when the costs of such measures and efforts cannot be recovered from a Contractor or Sponsoring State, as the case may be for environmental damage outside of consented activity.~~ Compensation can be used in cases when the restoration and rehabilitation are impossible. shall include the costs for implementation of any necessary measures designed to prevent, reduce, mitigate, limit, and remediate any damage to the marine environment and its resources.

1. Alt. The purpose of the Fund is to finance compensation [and mitigation costs], which cannot be borne by the Contractor or Sponsoring

State as the case may be, for environmental damage outside of consented activity.

2. Based on the ~~precautionary polluter pays~~ principle the Contractor pay for any necessary measure to limit, remedy and compensate any [unlawful] damage to the Area arising from their ~~mining~~-Exploitation activities.

[2.Alt. Based on the precautionary principle the contractor shall pay for necessary measures to limit, remedy and compensate damage to the Area arising from exploitation, outside of consented activity.]

[3. In cases where the contractor' payment is insufficient to limit, remedy and compensate any damage to the Area arising from] [the mining activities] [Exploitation,] the compensation fund may be used.]

[4. In cases where situations may arise, where a Contractor does not meet its liability in full while the Sponsoring State is not liable under Article 139 (2) of the Convention, the compensation fund may be used.]

Regulation 55 Alt.

Purpose of the Environmental Compensation Fund

1. The Environmental Compensation Fund has two purposes:

(a) In the event that there is environmental damage caused by contractor activities that were not consented, then in accordance with the polluter pays principle the contractor shall bear liability for the financing of any measure to mitigate that environmental damage and shall also be liable for compensation to any person affected by that environmental damage, but if the contractor is unable to meet that liability in full, then, as a last resort, the environmental compensation fund may be called upon; and

(b) In the event that there is unforeseen environmental damage caused by contractor activities that were consented activities then the environmental liability fund shall be used to finance any measure to mitigate that environmental damage and compensate any person affected by that environmental damage.

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

The text in Paragraph 1 of Regulation 55 refers to any loss or damage to the Marine Environment of the Area. It is certain there will be at least some degree of loss due to exploitation and there will also be various degrees of damage due to the activities in the area, so Ireland would like clearer text regarding the activation of the fund. It will require consistency between regulations on what constitutes harmful effects and what measure this triggers in terms of the ICE regulations and/or compensation.

Ireland also has reservations on the use of the word “unlawful” in Para 1 of Reg 55.

Therefore, as suggested, Ireland favours Regulation 55 Alt as more appropriate as it begins to tackle these issues and gives prominence to the polluter pays principle, however it should not only apply to damage arising from non-consented activity.