

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 27TH 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 and send to council2022@isa.org.jm.

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

The Pew Charitable Trusts

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

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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. The purpose of the Environmental Impact Statement, which shall accompany an application for approval of a Plan of Work in accordance with regulation 7, is to document and report the results of the environmental impact assessment carried out in accordance with Regulation 46bis.
2. An applicant or Contractor, as the case may be, shall prepare, ~~or commission the preparation of,~~ an Environmental Impact Statement in accordance with this regulation and in consultation with relevant Stakeholders throughout the process in accordance with Regulation 46bis.
3. The Environmental Impact Statement shall be in the form and deliver the contents as prescribed by the Authority in annex IV to these regulations and shall:
 - a. ~~Be inclusive of~~ Include a prior environmental risk assessment preliminarily prepared during the environmental impact assessment scoping phase, and revisited and updated as the environmental impact assessment proceeds;
 - b. Be based on the results of the environmental impact assessment; including a description of the main elements of the methodology used for the identification and evaluation of the identified environmental impacts. ~~Identify~~ Include comments received through the public Stakeholder consultation ~~on the environmental impact assessment~~ process and explain how ~~such each~~ comments have been incorporated or otherwise addressed ~~considered~~ they have been addressed;
 - c. Be in accordance with the objectives and measures of the relevant applicable regional environmental management plan, if any; and
 - d. Be prepared in accordance with the ~~applicable- relevant Standards Guidelines in accordance with~~ Good Industry Practice, Best Available Scientific Evidence, Best Environmental Practices and Best Available Techniques and taking into account the relevant Guidelines.

4. The Environmental Impact Statement shall demonstrate that the proposed mining operation is in accordance with all ~~relevant-applicable~~ environmental Standards and with the requirements of the ~~relevant-applicable~~ Regional Environmental Management Plan, ~~if any~~.
5. Where predictive models have been used to inform an environmental impact assessment:
 - (a) These shall be reviewed by competent independent experts, with the results provided to the Authority as annexures to the Environmental Impact Statement; and
 - (b) The monitoring programme proposed in the Environmental Impact Statement shall describe how predictions made by models will be validated.

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

For paragraph 2, we would note that in some jurisdictions, a private applicant cannot itself prepare an EIA given their potential conflict of interest. As an ISA applicant/contractor will need to adhere to the national law requirements for EIA of its sponsoring state, we recommend inserting that qualifications. Also, while we appreciate the reference to consultation with relevant Stakeholders, as we mentioned previously, we believe it would be more appropriate/helpful to be specific about when these consultation opportunities are to ensure consistency across applicants and Contractors. We have provided some text in our 46bis submission (para. 7bis) to remedy this issue.

In paragraph 3, common practice for many EIA systems (both international and domestic) is to include the environmental risk assessment (ERA) in the scoping phase and then to update during the environmental impact assessment and resulting environmental impact statement. We agree with Ghana's intervention on behalf of the African Group and also recommend that it be made more explicit in subparagraph (a) when the ERA is to be conducted. We also agree with the interventions made by Germany, Costa Rica, Trinidad and Tobago and others that contractors should be required to not only consider, but also act on and respond to stakeholder comments. We have provided textual suggestions in paragraph (3)(b) to remedy this issue.

For paragraph 4, we recommend at the end deleting "if any" as this language implies that there might be a situation where a REMMP may not be in place, but that an EIS could be prepared and evaluated in its absence. This is inconsistent with the stances of the majority of Council members, which made similar statements during the March and July 2022 sessions.

Lastly, given the scarcity of current knowledge about deep-sea environments and mining impacts, EIAs are likely to rely to some extent on predictive modeling. Those methodologies should be verified, and the accuracy of those models should be checked, as new data comes in. We note the Facilitators comment on this issue and would like to clarify that our proposal for **paragraph 5** does not preclude using other methods, but rather sets specific parameters for using this method, which should be subject to heightened scrutiny due to limited existing environmental information.