

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH 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.im.

1. Name of Working Group:

Committee of the Whole (President's Text)

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

International Cable Protection Committee ("ICPC")

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

Regulation 31 Title and Paragraph 1 from President's revised draft text,
ISBA/28/C/WOW/CRP.1/Rev.1

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.

*Additions marked in **blue**. Deletions marked in **red**.*

Reasonable regard for other activities ~~and infrastructure~~ in the Marine Environment

[1. Contractors shall, [consistent with ~~the~~**any**] relevant **Standards and taking into account any relevant** Guidelines, carry out exploitation under an exploitation contract with reasonable regard for other activities **and infrastructure** 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 articles **s 87 and** 147 of the Convention, **the Plan of Work**, and the 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.]~~

Alt. 1. [Contractors shall, consistent with ~~the~~**any Standards and taking into account any** relevant Guidelines, carry out Exploitation under an exploitation contract with **due and**

reasonable regard for other activities and infrastructure in the Marine Environment in accordance with articles s 87 and 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 [or 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 of submarine cables and pipelines [and] [undertaking other uses of the sea] 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 ~~pipepipeline.~~

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

~~(a) identify current and planned uses of the sea transiting or proximate to the Contract Area through publicly available data and resources and any other reasonable means [(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 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.~~

~~(c) comply with the measures it agreed with the operators undertaking other uses of the sea to reduce the risk of damage to any in-service cables and pipelines; and~~

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

~~[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.]~~

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

The phrase “other uses of the sea” is not a defined term in the Convention or an agreed term under international law, so there is no understanding that it would necessarily include submarine cables and pipelines. The omission of references to activities, such as submarine cables and pipelines, that are specifically addressed in the Convention could cause interpretive problems and provide a basis for some contractors to disregard submarine cable coordination and protection. The meaning of “interfere with” is unclear and unnecessarily abstract, as compared with “damage.” Throughout, reference should be made to “due and reasonable regard” and both articles 87 and 147 of the Convention, and not just article 147, as both apply with respect to activities in the Area. Finally, the word “structure” should be replaced with the word “infrastructure,” as “structures” and “submarine cables” are mutually exclusive categories as set forth in articles 58, 60, 79, and 80 of the Convention.

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International Cable Protection Committee ("ICPC")

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Regulation 31(2) from President's revised draft text, ISBA/28/C/WOW/CRP.1/Rev.1

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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 between the Contractors and the proponents of submarine cables and pipelines the other activities in the marine environment.

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

This language addresses the specific and well-known potential spatial conflict between submarine cables and exploitation that merits specific treatment in the regulation. Subsuming submarine cables and pipelines entirely with the phrase "other activities in the marine environment" would make the regulations less clear, and potentially fail to operationalize due and reasonable regard. Submarine cables and pipelines are addressed specifically in 10 articles in the Convention, and addressing them with specificity here ensures consistency.