

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

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: Protection and preservation of the marine environment
Name(s) of Delegation(s) making the proposal: India**

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

DR 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 : General obligations

1 (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 [] 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. In so doing, the Enterprise and Contractors shall apply a priority order to avoid, minimize, Mitigate, [] remediate, [and restore] [] harm to the Marine environment [] and adapt the necessary measures [according] to ~~newly~~ obtained information and data.

[(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].

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

Para 1 (c) The word newly may be deleted to avoid confusion. Para 2 (g) The phrase mentioning reasonable regard to climate mitigation is not clear and may be deleted.

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DR 44 bis

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Regulation 44bis : Regional Environmental Management Plans

1. The Commission shall ~~only~~ consider an application for a Plan of Work ~~if a based on the adopted~~ -Regional Environmental Management Plan ~~has been adopted~~ by the Council for the particular area [and type of resource] concerned.
2. If the Regional Environmental Management Plan for a particular area [and type of resource] concerned is yet to adopted but an application for plan of work fulfils other eligibilities, in such cases plan of work should be provisionally approved while Authority and Commission need to finalise the REMP within one year of the reporting time by the applicant and submit the same with recommendations to the Council for adoption,

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

DR 44 bis needs to modified to protect the interest of the applicants who are engaged presently in the exploration activities in certain areas but REMP for those areas are still under process,

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DR 45

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Regulation 45 :Development of environmental Standards and Guidelines

2 c (i) biodiversity status and ecosystem structures, ~~functions and~~
~~services;~~

(iii) ~~Physico-chemical Characteristics of seawater and sediment~~~~Water chemistry and temperature;~~

(vi) ~~habitat removal.~~

(h) Procedural and substantive requirements relating to submissions or reports required by these regulations, including but not limited to: Plans of Work, Environmental Management Systems, Environmental Impact Assessments, **Environmental Risk Assessments**, Environmental Impact Statements, Environmental Management and Monitoring Plans and Closure Plans.

3. The **Authority** shall not approve any Exploitation activities unless the Environmental Standards have been adopted.

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

Para 2 c (i) Threshold values for functions and services is hard to understand and foresee, it may be deleted. Para (iii) May be modified as proposed for better clarity and inclusion characteristics of bottom sediment. Para h, Is Environmental Risk assessment is a separate procedure or included in the EIA process, if yes, procedure and guidelines are not found in the draft regulation. 3. Is it the only Authority, who will approve exploitation activities.

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DR 46

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Regulation 46 : Environmental management system

2. An environmental management system shall,[inter alia]:

(a) Deliver the Authority’s environmental objectives in the [] [Contract area including those] [] reflected in the [] Applicant’s Environmental Management and Monitoring Plan, [and taking into account the applicable Regional Environmental Management Plan] ~~as well as any additional objectives as set by the Contractor or Sponsoring State;~~

~~(b) Be [reviewed and undergo] [] **periodical [audits] by an independent recognized and accredited international or national organization, in accordance with applicable Standards and Guidelines. [];** and~~

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

First of all, the Guidelines for DR 46 is lacking in the draft regulation. Para 2 (a) is a kind of compliance and the additional objectives of contractor or sponsoring is not a part of the regulation and the same may be deleted. Para 2. B the periodicity should be defined or it should be in the guidelines. The level of credentials for the independent recognisedorganisations is not clear.

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DR 46 bis

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 46 bis: Environmental monitoring

2. The Contractor shall establish and implement an environmental management and monitoring [programme in accordance with the approved environmental monitoring plan and in accordance with the Standard on Monitoring Programmes and cooperate with,] [] the Authority and the Sponsoring State or States [] **as well as share findings and results of such programmes with the Authority for wider dissemination.**

[3. In addition to the Monitoring conducted by the Contractor pursuant to Paragraph 2,] the Environmental Management and Monitoring Plan shall [cover all stages of the mining life cycle, and on submission for approval] contain a monitoring programme for at least the first [] [five] **years of the mining project , to be conducted by independent experts and in compliance with the applicable Standards [and taking account of the relevant guidelines].**

[4.bis.] The Secretary-General shall release publicly [environmental data and information in the required standardized format], [] [in] **real time** or at monthly intervals,

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

First of all, the Guidelines for DR 46 bis is lacking in the draft regulation. Para 2 the periodicity should be defined or it should be in the guidelines. Para 3 again the level of credentials for the independent experts and mechanism of parallel monitoring particularly cost bearing is not clear. Para 4 bis, is this real time means as and when received.

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

DR 46 ter

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 46: Environmental management and monitoring plans

3bis. [The Contractor shall conduct monitoring for the entire duration of exploitation]. In addition to the Monitoring required to be performed by the Contractor, the Environmental Management and Monitoring Plan shall contain a supplementary monitoring programme for at least the first seven years of [mining operations,] **to be conducted by independent experts and in compliance with the applicable Standards.** The Contractor shall conduct monitoring for the entire duration of [the mining operation] and comply with any post-closure monitoring requirements [according to Regulations 59-61 and the applicable Standard.]

4. The Contractor shall provide information on the implementation of the Environmental Management and Monitoring Plan [in its annual report] in accordance with regulations 38, paragraph 2(g), and 46bis, paragraph 4, for evaluation by the Legal and Technical Commission, as well as [environmental data and information for] publicly release, in an accessible format, consistent with Best Scientific Practices monitoring data and information at a regular basis **[(real-time or on a monthly basis). [.]**

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

Annex-VII outlines about EMMP but it is mentioned only that independent experts will be appointed by the Authority and further details about independent experts is lacking. Again , para 4, real time needs clarity.

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DR 46

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Regulation 46: Environmental management and monitoring plans

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

Though Annex-VII outlines about EMMP but it is mentioned only that independent experts will be appointed by the Authority and further details about independent experts is lacking. Again Para 4, real time needs clarity.

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DR 47

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Regulation 47: Environmental Impact Assessment process

2. (b) Be carried out by qualified, independent experts,

(e) Be subject to an independent scientific assessment prior to the submission of the proposed Environmental Impact Statement to the Authority,

3. (iv) The ability of an ecosystem to recover from harm, and the rate of such recovery;

(vi) The timing and duration of the impact relative to the period in which a species needs the habitat during one or more of its life history stages affected for its long survival.

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

The detailed guidelines for EIA process is not available in the draft and it is not clear whether is it merged with the Annexure IV or not? So, in para 2 (b) it is not clear who are qualified experts and who will fix their qualification. Again, the process of independent scientific assessment prior to the submission has been mentioned but the procedure is not clear and not stated anywhere. Para 3 (iv) and (vi) has merits in academic perspectives but not practical for in the document like exploitation regulation. So, both points may be deleted to avoid controversy.

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DR 47 bis

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Regulation 47bis: Environmental Impact Assessment

2. a) Ensure, in accordance with article 142 of the Convention and **Regulation 4**, that the Sponsoring State and the Contractor, with respect to resource deposits in the Area which lie across limits of national jurisdiction, conduct the environmental impact assessment with due regard to the rights and legitimate interests and duties of affected coastal States by maintaining consultations and a system of prior notification to avoid infringement of their rights and legitimate interests, and

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

Para 2 (a) refers Regulation 4 but could not be traced elsewhere in the draft.

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DR 47 ter

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Regulation 47ter: Environmental Impact Assessment scoping report

4. (b) A description and overview of tentative timelines and deadlines for the proposed **Exploration** and any associated activities,
- (i) **A preliminary impact analysis which categorizes the important issues** into high-risk, medium-risk and low-risk for the Environmental Impact Assessment to address and evaluates the need for further information, taking into account the environmental risk assessment,

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

Para 4 (b) exploration may be typo error, needs to be corrected. Para 4 (i) Is this additional to EIA or a kind of mini EIA, if so, no guidelines found in the document.

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DR 48

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Regulation 48: Environmental Impact Statement

3 (g) Be **peer reviewed by competent independent experts**, before submission and include a description of the experts, their qualifications, and the results of their review.

4. (i) An assessment of impacts and Environmental Effects on the biological environment and proposed **Mitigation**, including description of key impact source, potential impact categories and pathways, receptors and impacts and cumulative operation effects,

(l) An outline of hazards arising from natural, accidental and discharge events, for example related to extreme weather, natural hazards, accidental events, maritime safety, emergency response, handling waste and **blast ballast** water,

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

Para 3 (g) peer review process and details of competent independent experts are not available in the Annex IV. Para 4 (i) and several places, the term mitigation is stated. Currently, are any mitigation methods available for deep sea mining? The term mitigation may be deleted. Para 4 (l) Balast is a typo error, needs to be corrected as ballast.

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DR 51

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Regulation 51: Compliance with the Environmental Management and Monitoring

(a) Monitor continuously in accordance with the applicable Standard,[on Environmental Monitoring] release [environmental] monitoring data publicly, in accordance with regulation 46ter, paragraph 4 in an accessible format consistent with best scientific practice, [~~in real time~~] [] and report annually under regulation 38 (2) (g) on the Environmental Effects of its activities on the Marine

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

Para (a) It is impractical to provide deep sea observation in real time under such programs, probably proper meaning of the term is respect of oceanographic measurements and data sharing was misunderstood by the proposer and the same may be deleted.

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DR 54

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Regulation 54: Establishment of an Environmental Compensation Fund

2. The rules and procedures of the Fund shall be established by the Council on the recommendation of the Finance Committee before the ~~submission approval~~ of a first plan of work for a[n] exploitation contract under these regulations.

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

It is important that the contractors must be aware of the rules and procedures before they submit a plan of work for approval. Therefore, the Para may be so modified.

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DR 55

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Regulation 54: Purpose of the Environmental Compensation Fund

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

The “polluter pays principle” must be retain in any formulation. Also, there must be described difference between “activities that were not consented and “activities that were consented”.