

**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:

Informal Working Group – Environment.

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

Republic of Nauru

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

Regulation. 44(1)(a)(i)

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.

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

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

The term “prevention of risk of harm” is not correct. It is not possible to “prevent” all risks. Risks can be avoided, minimised or reduced within the framework of the ALARP principle. As such, we propose replacing “prevention” with “avoidance”.

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Regulation 44(1)(a)(iv.ter)

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~~[(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.]~~

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

We propose that sub-paragraph iv. ter is deleted. The original sub-paragraph (iv), which refers to “including through Stakeholder participation [in accordance with the relevant Standard]” provides for appropriate Stakeholder consultation and participation without the need to introduce terms such as Potentially Most Affected Coastal States” which lacks clarity.

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Regulation 44(1)(c)

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~~(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~~

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

We suggest that this sub-paragraph (c) is deleted as we consider it is duplicative of DR44(1)(a)(iv), which requires the Authority to “ensure accountability and transparency in the assessment, evaluation and management of Environmental Effects and risks from Exploitation...”. Given the Authority will already be subject to this obligation under sub-paragraph (a)(iv) there is no need to reiterate this obligation here in sub-paragraph (c). Equally, the paragraph is cumbersome. Its deletion will assist in streamlining the text and ultimately provide for clear and concise regulatory obligations.

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Regulation 44(2)(a)-(g)

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.

~~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 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 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;~~

~~I 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.~~

~~I Take into account the approach that the polluter should, in principle, bear the cost of pollution, endeavour to 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].~~

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

The principal purpose of the draft exploitation regulations is to regulate the relationship between the Authority and Contractors and the Enterprise. How States Parties comply with their obligations under the Convention and other applicable international law is a matter for the individual Parties. Consequently, we consider this paragraph (2) inappropriate content for the regulations.