

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

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 for the Protection and Preservation of the Marine Environment

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

The Pew Charitable Trusts

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

DR 47ter

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.

**Regulation 47 ter
Environmental Impact Assessment Scoping Report**

1. An applicant or Contractor, as the case may be, shall carry out an Environmental
1. The applicant or Contractor, as the case may be, shall prepare and submit to the Secretary-General a scoping report in accordance with this regulation and in the format prescribed in Annex IV.

2. ~~An application or Contractor~~ The applicant or Contractor, as the case may be, shall use Environmental ~~li~~mpact ~~A~~assessment scoping to identify and prioritize the main activities and potential impacts associated with the proposed ~~Exploitation mining operation~~, in order to focus the Environmental Impact Assessment and Environmental Impact Statement on the key environmental issues.

3. In undertaking the ~~E~~environmental ~~li~~mpact ~~A~~assessment scoping ~~process~~, the applicant or Contractor, as the case may be, shall:

(a) Review available data and knowledge, and propose additional data to be collected and studies needed to complete an Environmental Impact Statement in accordance with these regulations,

(b) Undertake a preliminary impact analysis and ~~E~~environmental ~~R~~risk ~~A~~assessment which will be updated as the ~~E~~environmental ~~li~~mpact ~~A~~assessment proceeds,....

4. ~~An environmental Impact Assessment~~ Scoping Report shall include the following:

a. A brief description of the proposed Exploitation ~~activities~~ and any ancillary features, including what is known or anticipated about where the mining will occur within a Contract Area and the mining machinery to be used,

- b. A description and overview of tentative timelines and deadlines for the proposed Exploration and any associated activities,
- c. A description of what is known about the environmental setting, including Underwater Cultural Heritage, for the project (Contract Area and regional setting),
- d. A description of information for the project that is not yet known but must be, or should be known, including baseline data, and a plan for gaining that information prior to commencement of the **Exploitation exploitation activities**,
- e. A summary of existing environmental baseline studies, and, where available, relevant traditional knowledge of indigenous peoples and local communities including a description of methodology for collecting and analyzing the baseline data,
- f. A summary of gaps in environmental baseline including description of methodology for collecting and analyzing additional baseline data to inform the Environmental Impact Assessment.
- g. A description of the technical, spatial and temporal boundaries for the Environmental Impact Assessment,
- h. A list of any assumptions relied upon and identification and quantification of the uncertainties at this stage of the Environmental Impact Assessment, how they are being addressed, and assessment of their implications to the **Eenvironmental Rrisk Aassessment** findings,
- 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 **Eenvironmental Rrisk Aassessment**,
- j. An **Eenvironmental Rrisk Aassessment**, which includes:
 - i. The identification of potential hazards,
 - ii. The environmental consequence for each identified potential impact(s) (the magnitude of the impact(s), the duration of the impacts, and the receptor characteristics, and the likelihood of the consequence occurring),
 - iii. A description of the **Ceumulative Eenvironmental Eeffects** of the project, combined with other authorized, anticipated, or expected activities, actions, or natural phenomena,
 - ~~iv. The likelihood of the consequence occurring,~~
 - v. The confidence levels of experts, in order to account for uncertainty and a precautionary approach,
 - vi. A description of the methodology employed in the **Eenvironmental Rrisk Aassessment**
- k. A description of the results of the **Eenvironmental Rrisk Aassessment**, including identification of high priority risks for local and regional ecosystem functioning over short and long term, requiring particular focus in the subsequent impact assessment **phase** stage of the Environmental Impact Assessment,
- l. A preliminary Stakeholder list that proactively identifies likely Stakeholders, and an indicative schedule and methodology for engagement with key Stakeholders throughout the Environmental Impact Assessment **process**, taking into account **privacy concerns** related to ~~to not to publish~~ the publication of personal information of identified stakeholders,

- m. A report of consultations undertaken during scoping.
- n. A consideration of reasonable alternative means of carrying out the project that will be examined in detail in the Environmental Impact Assessment, including a no-action alternative, and any others that have been not carried forward for further analysis at this stage, and the reasons for that selection,
- o. A draft Terms of Reference for the Environmental Impact Assessment, which identifies the activities and studies planned for the Environmental Impact Assessment, and any additional baseline data that will be required,
- p. An explanation for how the activities and studies planned for the Environmental Impact Assessment will be sufficient to determine likely environmental impacts, and to propose Mitigation and management strategies and monitoring methodology,
- q. A brief description of the socioeconomic and sociocultural aspects of the project, including sociocultural uses of the project area (e.g., traditional navigation routes, migratory paths of culturally significant marine species, sacred sites and waters associated with ritual or ceremonial activities of Indigenous Peoples and local communities),
- r. A note describing and explaining any divergence from relevant ISA Guidelines....

6. The Commission shall consider a scoping report submitted in accordance with this regulation, and any comments and responses received, in accordance with any relevant Standards and taking into account Guidelines. Based on this review, the Commission shall approve a scoping report, disapprove it or make recommendations to the applicant or Contractor regarding the proposed ~~E~~environmental ~~l~~impact ~~A~~assessment, accompanied by a detailed rationale.

7. The Commission's recommendations under the previous paragraph [paragraph 6] may include recommendation:

- a. To revise the environmental risk assessment or other aspects of the scoping report based on different methodology or inputs,
- b. To amend the proposed terms of reference for the ~~E~~environmental ~~R~~risk ~~A~~assessment, or
- c. To re-submit a revised scoping report for further Stakeholder consultation and Commission review, in the case where uptake of any of the Commission's recommendations are likely to lead to a Material Change in the Scoping Report.

8. The applicant or Contractor, ~~as the case may be~~, shall take into account the Commission's recommendations under this regulation, and agree to the final contents of the Scoping Report with the Commission, before proceeding with an ~~E~~environmental ~~l~~impact ~~A~~assessment ~~process~~. ~~Furthermore, the applicant or Contractor shall agree to the final contents of the Scoping Report with the Commission.~~

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

Regarding paragraph 4, we support moving the Scoping Report contents from the annex to this regulation. We are in principle fine with moving this content to an EIA Standard but would err on the side of being more detailed here for now and could look at cutting

after seeing revised drafts of the EIA Standard that incorporate this content. We also note that it may be helpful at a later time to cross-check and harmonize the required content of the scoping report and the way it is described, with the required content of the EIS and the way it is described, considering that the EIS should be based on the scoping report.