

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28<sup>TH</sup> 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](mailto:council@isa.org.jm).*

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

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

DR 44(1) – proposed amendments in green; black text and tracked changes text is from the Consolidated text.

**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 Authority, Sponsoring States, the Enterprise, Contractors, flag States and {port States} [and the States of registry ~~of or having authority over installations, structures, robots, and other devices~~] [where they are members of the Authority] shall take necessary measures to ensure effective Protection of the Marine Environment from harmful effects which may arise [directly or indirectly] from Exploitation in the Area, in accordance with Regulations as well as applicable Standards and taking into consideration Guidelines referred to in Regulation 45 and the relevant Regional Environmental Management Plan and to this end shall, as applicable in their respective areas of competence:

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

We support removing the brackets around ‘port States’ in paragraph 1.

On the reference to ‘States having authority over installations, structures, robots, and other devices’, we think the language may be too imprecise, and could create conflicts between the jurisdiction of flag, registry and sponsoring States, and these other States who have ‘authority.’ It is important that the flag, sponsoring and registry States should take all the necessary steps themselves to exert appropriate control over the Contractor and its use of equipment.

We consider that the language of ‘where they are members of the Authority’ in paragraph 1 functionally does not add anything of substance, as only States which are Members of the ISA can be bound by the Authority’s framework. On that basis we would support deleting this bracketed text.

We do not think the reference to 'direct' and 'indirect' harm is necessary. Referring to 'harmful effects which may arise from activities in the Area,' already does (and should) capture both direct and indirect harm, and aligns more closely with the Convention.

Importantly, if certain regulations explicitly refer to 'direct and indirect' harm, then this may indicate that when a reference in different regulations are made to harm without specifically noting it captures indirect harm, then it will be excluded in that instance. For the sake of consistency, we therefore support referring only to 'harmful effects', on the understanding that this term will capture both direct and indirect harms.