

**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(s) of Delegation(s) making the proposal: Australia

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

DR46 – 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. An applicant or Contractor shall carry out an Environmental Impact Assessment on the potential [impacts and] effects on the Marine Environment of the proposed operations and activities.

2. The purpose of an Environmental Impact Assessment under this Regulation shall be to [identify and inform the Authority’s assessment of an application of a Plan of Work under Regulations 13 to 16, or a Contract’s continued adherence to these Regulations and] predict [and evaluate the potential] Environmental Impacts, [effects and risks] anticipated from the proposed activities [on the marine environment and identify necessary measures to Mitigate, minimise or manage such effects and risks], to enable the Authority to assess the potential adverse Environmental Effects [and risks], with the aim to:

(a) Ensure effective Protection for the Marine Environment from harmful effects which may arise from such proposed activities;

(b) Ensure that activities in the Area are carried out with reasonable regard for other activities in the Marine Environment;

(c) [~~Avoid Serious~~] [Prevent] harm to the Marine Environment arising out of the proposed activities;

(d) Ensure, in accordance with [article 142 of] the Convention [and Regulation 4], that the Sponsoring State [or States] 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 [adjacent affected] coastal States and any other potentially most affected coastal State by maintaining, [timely, targeted and proactive] consultations in accordance with Regulation 93

ter and a system of prior notification to avoid infringement of their rights and legitimate interests]; and

(e) Ensure that the proposed activities are carried out in accordance with [the Convention, the Agreement], the Rules, regulations and procedures of the Authority, [general International Law, including the Convention] and the applicable Standards and taking into consideration account the relevant applicable Guidelines as well as, Best Available Scientific Information, Best Environmental Practices, and Best Available Techniques.

3. The Environmental Impact Assessment [Process] shall:

(a) Be based on relevant environmental baseline data [that captures temporal, (seasonal and interannual) and spatial variation] in accordance with [relevant applicable] Standards and taking into consideration account [relevant] Guidelines and the objectives and measures of the [relevant applicable] Regional Environmental Management Plan;

[(a)bis Be based on a Scoping Report;]

(b) Be carried out by [competent qualified, and] [independent] experts;

(b) bis Be based on the best available [science and] scientific information, and, [if applicable, taking into account where available,] relevant traditional knowledge of Indigenous Peoples and local communities;

(c) Include an Environmental Risk Assessment [and a survey of the seabed to identify Underwater Cultural Heritage,] that takes into consideration the region as a whole taking into account the objectives and measures of the relevant [and applicable] Regional Environmental Management Plan;

(d) Provide for Stakeholder consultation in accordance with Regulation 93 bis, applicable relevant Standards and taking into consideration account the relevant Guidelines;

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

(f) Take into account the results from Test Mining, if applicable, in accordance with Regulation 48 ter bis;

(g) Be conducted in accordance with the terms of reference developed during scoping in accordance with Regulation 47 bis ter;

(h) Identify scientific and other knowledge gaps or data uncertainties, and [assess] the degree to which these influence the assessment; and

(i) Be an iterative process where specific stages [of the activities] are revisited and may be updated in the light of new information or new activity at a later stage.

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

Under paragraph 2, Australia suggest retaining 'evaluate the potential' as well as the inclusion of 'effects and risks'. We also suggest adding in 'minimise' next to 'mitigate'.

On paragraph 2(c), we suggest referring to 'prevent harm' rather than 'avoiding serious harm'. We do not think there is any reason to limit this only to 'serious harm'.

On paragraph 2(d), we suggest inserting 'timely' within 'targeted and proactive consultation'. Timely makes clear there is an expectation of early engagement, which can ensure the consultation is more effective.

On paragraph 3(b), Australia suggests reinserting 'qualified and independent' as we think it establishes a higher and more robust threshold than just 'competent'