

TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 27TH SESSION:
COUNCIL - PART I

Informal Working Group – Institutional Matters

(for inclusion in the IWG-Institutional Matters (IM) consultations, due 29 April 2022)

Please fill out one form for each textual proposal which your delegation(s) wish(es) to amend, add or delete and send to council2022@isa.org.jm.

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

Advisory Committee on Protection of the Sea

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

Draft Regulation 3 - Duty to cooperate and exchange of information - (d)(i)

3. Kindly provide the proposed amendments to the regulation 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.

CHANGE current proposed text in ISBA/25/C/WP.1 (2019) DR 3(d)(i) as follows:

(d) (i) ~~Promote~~ Protect the health and safety of human life, health and safety, with respect to activities in the Area, and related property, and property at sea and the protection of the Marine Environment;

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

LOSC Arts. 146 and 145 do not include “promote.” Regulations must implement what is actually written in the LOSC, or risk being vulnerable to legal challenge. As human health and safety are covered in other maritime conventions, their inclusion **as redrafted** should be acceptable.

“Property at sea” is not found in the LOSC, whose Arts. 101 and 105 refer to “property” in regard to activities at sea only for piracy “on the high seas, or in any other place outside the jurisdiction of any State,” and also apply to the Area. (The property of, e.g., the Authority, etc., is a different category.) Its inclusion **as redrafted** should be acceptable.

“Property at sea” is not a legally valid supplement under the LOSC in this context.

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

Draft Regulation 3 - Duty to cooperate and exchange of information – (e)

3. Kindly provide the proposed amendments to the regulation 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.

CHANGE current proposed text in ISBA/25/C/WP.1 (2019) DR 3(e) as follows:

(e) Contractors, sponsoring States and members of the Authority shall cooperate with the Authority in the establishment and implementation of programmes to observe, measure, evaluate and analyse the impacts of Exploitation and related activities on the Marine Environment,

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

The proposed addition of “and related activities” helps avoid potential confusion on the type and scope of the activities being addressed and helps reduce the possibility of the term “exploitation” being interpreted restrictively, thereby risking excluding activities that might harm the marine environment. Such an exclusion would be incompatible with the LOSC because the full scope of its environmental provisions would remain unimplemented as required and render the regulations vulnerable to legal challenge.