

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 27<sup>TH</sup> SESSION:  
COUNCIL – PART 2**

***Informal Working Group - Environment***

*Please fill out one form for each textual proposal which your delegation(s) wish(es) to amend, add or delete.*

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

African Group of 47 Member States

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

46 bis

**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, **as the case may be**, shall carry out an environmental impact assessment **process one** of the potential effects on the marine environment of the proposed mining operation in accordance with these regulations **and** the applicable Standard and **taking into account the relevant Guidelines** as well as Good Industry Practice, Best Available Scientific Evidence, Best Environmental Practices and Best Available Techniques.

**1bis** In the conduct of the environmental impact assessment, the Sponsoring State and Contractor shall maintain consultations, including a system of prior notification, with any coastal State **whose jurisdiction is adjacent to the resource deposit in the Area. across whose jurisdiction resource deposits in the Area lie**, with a view to avoiding infringement of their rights and interests, in accordance with Regulation 4.

2. The environmental impact assessment **process** shall include **the following steps**:

(a) **A** Scoping process to identify and **prioritize-risk assess** the **main-anticipated** activities and potential impacts associated with the proposed mining operation, **as well as to identify and engage with Stakeholders**, in order to focus the Environmental Impact Statement on the key environmental issues.

(b) **An Environmental** Impact assessment and evaluation **process** to describe and predict the nature and extent of the Environmental Effects of the mining operation, including cumulative impacts and residual effects **using Best Available Scientific Evidence, Best Environmental Practices, Best Available Techniques, and Good Industry Practice and taking into account, where applicable: [(i) The intensity or severity of the impact at the specific site being affected; (ii) The spatial extent of the impact relative to the availability of the habitat type affected; (iii) The sensitivity/vulnerability of the ecosystem to the impact; (iv) The ability of an ecosystem to recover from harm, and the rate of such recovery; (v) The extent to which ecosystem functions may be altered by the impact; and (vi) The timing and duration of the impact relative to the period in which a species needs the habitat during one or more of its life-history stages.]**

(c) **The** Identification of measures envisaged to prevent, mitigate **or, as a last resort and if approved, -or if possible-, offset**, and manage **harmful Environmental Effects and risks** to as low as **reasonably** practicable, including through the development and preparation of an Environmental Management and Monitoring Plan; **[(c)bis An analysis of reasonable alternatives to the planned activity under the jurisdiction or control of a State Party, including the no-action alternative;]**

(d) **The** preparation **and submission to the Authority** of the Environmental Impact Statement in accordance with Regulation 47 **and the applicable Standards and taking into account** the relevant Guidelines.

**3. When, following the approval of a Plan of Work, the Contractor modifies the Plan of Work in such a way that the proposed modification constitutes a Material Change in the Environmental Management and Monitoring Plan or Closure**

~~Plan as determined under these Regulations, Screening shall also be part of an the environmental impact assessment process.~~ when, following the approval of a Plan of Work, the Contractor modifies the Plan of Work in such a way that the proposed modification constitutes a Material Change in the Environmental Management and Monitoring Plan or Closure Plan in order to determine whether a revised Environmental Impact Statement is required

3 Alt. In addition to the Environmental Impact Statement required for an application for a plan of work pursuant to Regulation 7(3)(d), a Contractor must conduct a new Environmental Impact Assessment and submit a new or revised Environmental Impact Statement when:

(a) A Material Change to an existing Plan of Work is proposed which is likely to increase the adverse Environmental Effects caused by the activities, or

(b) An activity described in the Plan of Work is predicted to exceed the impact thresholds set out in the [Commission's Recommendations for the Guidance of Contractors ISBA/25/LTC/6/Rev.1 or a Standard that sets screening thresholds for environmental impact assessment], and this activity and predicted impact has not already been addressed by an Environmental Impact Statement.

3bis. The Commission shall determine whether an Environmental Impact Assessment and Environmental Impact Statement are required under paragraph 3alt when:

(a) Any change to an existing Plan of Work is proposed other than the type described under sub-paragraph (3)(a).

(b) The Commission requests an applicant to change its proposed Plan of Work during the application stage under Regulation 14.

4. The environmental impact assessment **process** shall: (a) Be based on relevant baseline data that captures temporal, and seasonal **and spatial** variation; (b) Include an environmental risk assessment that takes into consideration the region as a whole, in accordance with the objectives and measures of the relevant Regional Environmental Management Plan, **if any**; (c) Provide for Stakeholder consultation **in accordance with relevant Standards and Guidelines at the scoping stage and before the Environmental Impact Statement is finalized**; and ~~(d) Be subject to an independent scientific assessment prior to the submission of the proposed Environmental Impact Statement to the Authority.~~ **[(e) Take into account the results from test mining, in accordance with Regulation 48bis ]**

...

**[8][bis] The Environmental Impact Statement shall be in the form prescribed by the Authority in annex IV to these regulations and shall: (a) Demonstrate that the proposed mining operation is in accordance with all relevant environmental Standards and with the requirements of the relevant Regional Environmental Management Plan. (b) Be Based on the results of the environmental impact assessment; (c) Identify comments received through public consultation on the environmental impact assessment and how they have been addressed;**

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

Regarding para 1 bis, the phrase "with any coastal state across whose jurisdiction resource deposits in the Area lie" is not clear. Acknowledging this text comes from UNCLOS, it would be opportune to refresh its use in these regulations. We suggest it should be any coastal state that is within reasonable proximity to the proposed exploitation activities, regardless of if the mineral deposit continues into their jurisdiction.

Regarding para 2(a) the term 'risk assess' more clearly describes the requirements of scoping than 'prioritize'. It is important to include a qualifier such as 'anticipated' as at this stage we cannot be sure all activities and impacts will be known.

Regarding 2(b), 'using Best Available Scientific Evidence, Best Environmental Practices, Best Available Techniques, and Good Industry Practice' is not needed here as it is listed in para 1.

Regarding para 2(c) we suggest 'harmful' be removed as any effects, not only those that are considered 'harmful' at this point in time, should be mitigated. Additionally, "As low as 'reasonably' practicable" should be used for consistency with this phrase throughout the regs.

Regarding 2(c), Although we support the inclusion of 'Offset' in this para, it should not be written as if it could occur prior to of prevention / mitigation. We propose the following rephrasing '...to prevent, mitigate or, as a last resort and if approved, offset, ....'

Regarding 2(c)bis, We support the inclusion of an alternatives analysis. However, it should not just contain "reasonable" alternatives, it should be a thorough examination of alternative options, including a no mining scenario.

Regarding para 3 we have proposed an alternate text. Screening is an initial process to decide whether an EIA is required. If any change to a PoW is a material change, it should automatically go through a new EIA process or require revisions to the original EIA. It is only if there is doubt around level of impact that screening would be useful.

Regarding 4(d) We are not sure how or why an 'independent scientific assessment' of the EIA arranged by the Contractor is necessary or helpful, and could raise concerns of conflict of interest. The EIA will have gone through an open stakeholder consultation, and the LTC will be conducting their own independent assessment - which might include arranging external experts to review.

We support insert of para 8bis.