

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

Informal Working Group – Institutional Matters

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:

Canada

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

Regulation 4, paragraphs 2 to 5

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.

2. Contractors shall take all measures necessary to ensure that their activities are conducted so as not to cause damage/harm, including by pollution, in areas under the jurisdiction or sovereignty of coastal States, and that any pollution arising from Incidents in their Contract Area does not spread into areas under the jurisdiction or sovereignty of a coastal State.

3. Any coastal State which has grounds for believing that any activity under a Plan of Work in the Area by a Contractor is likely to cause damage/harm to the Marine Environment under its jurisdiction or sovereignty may notify the Secretary-General in writing of the grounds upon which such belief is based. The Secretary-General shall immediately inform the Legal and Technical Commission, the Contractor and its sponsoring State or States of such notification. The Contractor and its sponsoring State or States shall be provided with a reasonable opportunity to examine the evidence, if any, and submit their observations thereon to the Secretary-General within a reasonable time.

4. If the Commission determines, taking account of the relevant Guidelines, that there are clear grounds for believing that damage/harm to the Marine Environment under its jurisdiction or sovereignty of the coastal State is likely to occur, it shall recommend that the Council issue an emergency order pursuant to article 165 (2) (k) of the Convention.

5. If the Commission determines that the damage/harm to the Marine Environment under the jurisdiction or sovereignty of the coastal State, which is likely to occur or has occurred, is attributable to a breach by the Contractor of the terms and conditions of its exploitation contract, the Secretary-General shall issue a compliance notice pursuant to regulation 103 or direct an inspection of the Contractor’s activities pursuant to article 165 (2) (m) of the Convention and Part XI of these regulations.

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

We believe the threshold of serious or significant harm is too high. "Damage" or "harm" is more consistent with article 194, paragraph 2 of UNCLOS: "States shall take all measures necessary to ensure that activities under their jurisdiction or control are so conducted as not to cause damage by pollution to other States and their environment, and that pollution arising from incidents or activities under their jurisdiction or control does not spread beyond the areas where they exercise sovereign rights in accordance with this Convention." and with article 142, paragraph 3 of UNCLOS: "Neither this Part nor any rights granted or exercised pursuant thereto shall affect the rights of coastal States to take such measures consistent with the relevant provisions of Part XII as may be necessary to prevent, mitigate or eliminate grave and imminent danger to their coastline, or related interests from pollution or threat thereof or from other hazardous occurrences resulting from or caused by any activities in the Area."