

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

Informal Working Group - Environment

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:

DOSI (Deep Ocean Stewardship initiative)

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

Reg 44. General obligations

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 and Contractors shall each, within their respective competence, adopt, plan, implement and modify measures necessary for ensuring effective protection of the Marine Environment, including [rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species] and other forms of marine life, from harmful effects [directly or indirectly resulting from Exploitation in the Area ~~or from shipboard dewatering immediately above a mine site of minerals derived from that mine site,~~ ~~which may arise from activities in the Area~~], in accordance with the Rules of the Authority, Standards and Guidelines referred to in regulation 45 and the applicable Regional Management Environmental Plan. To this end:

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

DOSI suggests reducing text length and refer to direct and indirect effects. In science, direct effects typically include habitat removal, while indirect effects would include e.g., dewatering. By including both terms, clarity should be created between different disciplines. Include “Standard and Guidelines”, to ensure coherence of all documents. We recommend using throughout the document always “Standards and Guidelines”.

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(i) Apply the precautionary ~~in principle 15 of the Rio Declaration on Environment and Development~~ [approach] [principle], as reflected ~~in principle 15 of the Rio Declaration on Environment and Development~~ and the ecosystem-based management approach to the assessment, ~~and~~ management and prevention of risk of harm to the Marine Environment from Exploitation in the Area.

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

DOSI accepted the facilitators proposal and only shows DOSI’s amendments in track changes. DOSI suggests using the term precautionary principle. DOSI suggests deleting “as reflected in principle 15 of the Rio Declaration”, to allow for evolutive interpretation of the precautionary principle. DOSI suggests adding “prevention” of risk of harm, as this is central to the precautionary principle.

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(iv) Ensure accountability and transparency in the assessment, evaluation and management of Environmental Effects and risks from Exploitation in the Area, including through Sstakeholder participation and the timely public release of ~~relevant~~ environmental data and information at regular intervals and in an accessible format through the Authority’s website.

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

DOSI accepted the facilitators proposal and only shows DOSI’s amendments in track changes. DOSI suggests deletion of “relevant” as all environmental data is relevant. Deleting the term also avoids “choosing” of what is considered relevant or not, which would result over the long term also in non-coherent data analysis and interpretation. It should be strictly avoided that a priori selection of relevance is possible.

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(b) In taking all necessary measures to ensure that the Contractor carries out Exploitation in the Area in conformity with the terms of its contract and its obligations under the [Rules of](#) the Authority related to the [effective](#) protection for the Marine Environment from harmful effects, the Sponsoring State shall, [at a minimum, assist the Authority to implement](#), ~~mutatis mutandis~~, the measures set out under paragraph (a)(i) to (iv) above.

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

Adding “at a minimum” would set the lower limits of what has to be done. The reasoning for adding “mutatis mutandis” is not clear to us; would it allow delineation? We suggest deleting the “mutatis mutandis”.

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(c) In taking necessary measures to prevent, reduce and control pollution and other hazards to the Marine Environment, **including the coastline, and of interference with the ecological balance of the Marine Environment** arising from Exploitation in the Area, the Enterprise and Contractors shall implement, mutatis mutandis, the measures set out under paragraph (a)(i) to (iii) above and demonstrate accountability and transparency in the assessment, evaluation and management of Environmental Effects and risks from Exploitation in the Area, including through Stakeholder participation and the timely public release of environmental data and information on their respective activities at regular intervals and in an accessible format. In so doing, the Enterprise and Contractors shall apply the mitigation hierarchy in a priority order to avoid, minimize, mitigate, and remediate harm to the marine environment, as well as adapt the necessary measures to newly emerged information and data.

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

DOSI would like to seek clarification of the newly added text on interference (in bold above), on what is meant by interference with ecological balance, as this kind of definition is not known to scientists. We suggest referring in the regulation to the widely used mitigation hierarchy. As it is written now, the meaning of mitigate and remediate could be confusing. We explicitly suggest not including step 4 (off-set) of the mitigation hierarchy as significant adverse impacts are per definition not allowed under UNCLOS. Step 1 Avoidance: action(s) that avoid impacts that cause significant loss in biodiversity and associated ecosystem services. Step 2 Minimization: action(s) that are taken to minimize impacts that cannot be avoided (reduce duration, intensity, and extent). Step 3 Remediate (=Rehabilitation and/or restoration): action(s) taken to assist the recovery of ecosystems that have been degraded,

damaged, or destroyed. Rehabilitation emphasizes the reparation of ecosystem processes, productivity, and services. The restoration target is to establish a self-supporting habitat similar to the “original” habitat prior to impacts, including re-establishment of the pre-existing biotic integrity in terms of species composition and community structure. Step 4 Off-set: measurable conservation outcomes resulting from actions designed to compensate for significant residual adverse biodiversity impacts after appropriate avoidance, minimization, and rehabilitation and/or restoration measures have been taken. The goal is no net loss and preferably a net gain of biodiversity.

References:

BBOP. (2012). Glossary.

BBOP & UNEP. (2010). Mitigation hierarchy.

IFC. (2019). Guidance note 6 biodiversity conservation and sustainable management of living natural resources. International finance corporation.

Arlidge et al. (2018). A Global Mitigation Hierarchy for Nature Conservation *BioScience*, Volume 68, Issue 5, May 2018, Pages 336–347