

**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.

Regulation 46bis2(a)

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.

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

(a) A Scoping process and scoping report to identify and prioritize the main 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. It should include assessment of the available baseline data and their compliance with the relevant Standard, an environmental risk assessment, and the results of the consultation process with Stakeholders in line with the relevant Standards and Guidelines, and set out the terms of reference for the environmental impact assessment

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

We suggest adding “and a scoping report” so that the scoping process is documented. DOSI suggests to include a regulation on scoping process and report either within 46bis2a or as a new regulation (for example as 46ter). In addition, we suggest adding one sentence (as suggested by PEW) on inclusion of baseline data, as without ensuring robust baseline data, all follow up documents on potential impacts won’t be effective.

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Regulation 46bis2(c)

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(c) The Identification of measures of the mitigation hierarchy envisaged to avoid, minimize, and remediate prevent, mitigate or if possible, offset, and manage harmful Environmental Effects and risks to as low as practicable, and within acceptable levels in accordance with environmental quality objectives Standards, such as thresholds, 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;]~~

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

DOSI suggests (please also see our detailed comments as in reg. 44) to follow the definition of the mitigation hierarchy of void, minimize, and remediate. We explicitly suggest not including step 4 (off-set) of the mitigation hierarchy as significant adverse impacts are per definition not allowed under UNCLOS. DOSI suggests that “[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;]” could be deleted, in case the mitigation hierarchy, that includes avoidance (so no-action), is taken up. Supports the suggestion made by PEW, of adding a reference to environmental quality objectives Standards, and suggesting to include the term thresholds.

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DR 46bis 2(d)

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

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

The proposed textual addition is an explanation of what an Environmental Impact Statement is to provide clarity and differentiate it clearly from an Environmental Impact Assessment, as suggested by PEW.

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DR 46bis 3

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~~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~~

~~3alt. 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 subparagraph (1)(a),~~

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

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

We agree with the proposed text by the Facilitator; the suggested the textual change increases the clarity of the text, as suggested by PEW, too.

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DR 46bis 4

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Regulation 46bis

Environmental impact assessment

4.

(f) Be conducted in accordance with the terms of reference developed during the scoping process.

(g) Be carried out by a suitable combination of qualified, independent and competent environmental impact assessment practitioners and scientific experts experienced in the relevant issues for the particular project and its location

(h) Identify scientific knowledge gaps or data uncertainties, and the degree to which these influence the assessment

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

The proposed textual addition of (f) will ensure the reinforcement of the link between scoping and the Environmental Impact Assessment. The clarification in (g) ensures clarity in who can carry out the Environmental Impact Assessment, which the Regulations do not specify otherwise. We support these proposals made by PEW.

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DR 46bis 8

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

The proposed addition of 8ter in Regulation 46 is to provide clear requirements for stakeholder consultation in the Environmental Impact Assessment process. Note that this lack of clarity is also present in the draft Standard and Guidelines, while ISBA/26/C/2 noted that this clarity would be preferable, as highlighted in the PEW proposal.