

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

***Informal Working Group - Environment***

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

**a) Name(s) of Delegation(s) making the proposal:**

Pew Charitable Trusts

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

DR 46bis

**c) 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.**

[We propose the addition of the following text in place of draft regulation 46bis]

**Section 1bis: Environmental Impact Assessment**

**Regulation 46bis alt1**

**Purpose and General Requirements**

1. The purpose of an environmental impact assessment under these regulations is to predict environmental impacts anticipated from the any proposed activities, to enable the Authority to assess the potential adverse Environmental Effects, with the aim to:

- (a) ensure the effective protection of the Marine Environment,
- (b) ensure that activities in the Area are carried out with reasonable regard for other activities in the Marine Environment, and
- (c) prevent Serious Harm to the Marine Environment arising out of the proposed activities.

2. The applicant or Contractor shall ensure that the environmental impact assessment:

- (a) Includes each of the stages described in DR46ter.
- (b) Is conducted in accordance with the terms of reference developed during the scoping process pursuant to DR46quin.
- (c) Is informed by relevant baseline data on the condition of the Marine Environment, collected in accordance with Standards and the relevant Regional Environmental Management Plan, and taking into account Guidelines, that captures temporal (seasonal and interannual) and spatial (horizontal and vertical) variation;
- (d) Identifies, predicts, and evaluates the physical, chemical, biological, geological, oceanographic and socio-economic and other relevant effects of the proposed mining operation comparative to other alternatives considered.
- (e) Is carried out by a suitable combination of qualified and competent environmental impact assessment practitioners and scientific experts experienced in the relevant issues for the particular project and its location.
- (f) Describes and predicts, among others, the spatial and temporal nature and extent of the Environmental Effects,-risks and impact-of the mining operation, including cumulative impacts;
- (g) Enables identification of measures to Mitigate and manage Environmental Effects within acceptable levels, including through the development and preparation of an Environmental Management and Monitoring Plan;

- (h) Includes an assessment of data integrity, gaps or deficiencies in knowledge, and any other uncertainties regarding anticipated impacts and identified Mitigation measures, and analysis of methods to address those gaps, deficiencies or uncertainties
- (i) Includes evidence of consultation with coastal States in accordance with regulation 4;
- (j) Identifies comments received through public consultations in accordance with regulation 46sexies. and how they have been addressed.
- (k) Is conducted in accordance with these regulations, the applicable Standards, taking into account Guidelines, and in accordance with Good Industry Practice, Best Available Scientific Evidence, Best Environmental Practices and Best Available Techniques.

## **Regulation 46ter**

### **Screening**

1. 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.

2. The Commission shall determine whether an Environmental Impact Assessment and Environmental Impact Statement are required under paragraph 1 when:

- (a) Any change to an existing Plan of Work is proposed other than the type described under sub-paragraph (1)(a),
- (b) The Commission requests an applicant to change its proposed Plan of Work during the application stage under Regulation 14.

## **Regulation 46quater**

### **Stages of Environmental Impact Assessment**

1. An environmental impact assessment for the purposes of these Regulations shall include the following steps:
  - a. A scoping process undertaken in accordance with regulation 46quin;
  - b. An environmental impact assessment process that satisfies the requirements of regulation 46bis(alt1)
  - c. Consultation and Stakeholder engagement, in accordance with DR46sexies;
  - d. Preparation and submission to the Authority of an Environmental Impact Statement, in accordance with DR47;
  - e. Publication, and review by the Commission of the Environmental Impact Statement, and report and recommendation by the Commission to the Council pursuant to regulations 11 to 15;
  - f. A decision by the Council to approve, or not approve, the proposed activities or proposed change to the plan of work, recorded and published in accordance with regulation 16.

## **Regulation 46quin**

### **Scoping**

1. An environmental impact assessment scoping process shall identify key environmental and other relevant issues associated with the proposed activities and their impacts, including potential cumulative impacts, to prioritize and focus the environmental impact assessment process.

2. In undertaking the environmental impact assessment scoping process, the applicant or Contractor shall:

- (a) Review available data and knowledge, and propose additional data to be collected and studies needed to complete an environmental impact statement in accordance with these regulations;
  - (b) Undertake a preliminary impact analysis and environmental risk assessment which may be updated as the environmental impact assessment proceeds; and
  - (c) Proactively identify Stakeholders in accordance with the relevant Standards and taking into account Guidelines.
  - (d) Identify and evaluate feasible alternative means of carrying out the project that will be examined in detail in the environmental impact assessment
3. The applicant or Contractor shall prepare and submit to the Secretary-General a scoping report in the form prescribed by the Authority in annex III bis.
4. Upon receipt of a scoping report from an applicant or Contractor, the Secretary-General shall:
- (a) Make the report available on the Authority's website for a period of at least 60 days, with an invitation for members of the Authority and Stakeholders to submit comments in writing;
  - (b) Following the close of the comment period under sub-paragraph (4)(a), provide any comments received to the Contractor with a specified timeframe for response;
  - (c) At the expiry of the timeframe specified in sub-paragraph (4)(b), provide the Commission with the scoping report, any stakeholder comments received, and any responses to those comments from the applicant or Contractor.
5. The Commission shall consider the Scoping Report and any comments and responses received, in accordance with any relevant Standards and taking into account Guidelines. Based on this review, the Commission shall make recommendations to the applicant or Contractor regarding the proposed environmental impact assessment, accompanied by a detailed rationale.
6. The Commission's recommendations under paragraph (5) may include:
- (a) Recommendation of the proposed terms of reference for the environmental impact assessment;
  - (b) Revising the environmental risk assessment or other aspects of the scoping report based on different methodology or inputs;
  - (c) Amendment to the proposed terms of reference for the environmental impact assessment; or
  - (d) Re-submission of a revised scoping report for further Stakeholder consultation and Commission review, in the case where uptake of any of the Commission's recommendations are likely to lead to a Material Change in the Scoping Report.
7. The applicant or Contractor must take into account the Commission's recommendations under this regulation, before proceeding with the environmental impact assessment process.

## **Regulation 46 sexies.**

### **Stakeholder consultation during environmental impact assessment**

1. In conducting an environmental impact assessment for the purposes of these regulations, an applicant or Contractor shall proactively consult with Stakeholders at all stages, in accordance with relevant Standards and taking account of Guidelines.
2. In the course of such consultations, the applicant or Contractor shall:
  - (a) Provide Stakeholders with access to up-to-date and comprehensive information to about the proposed Exploitation activities and environmental data and impacts;
  - (b) Solicit and use best efforts to obtain Stakeholder comments on the draft scoping report and draft environmental impact statement for a reasonable period.
  - (c) Provide a reasonable opportunity for those consulted to raise enquiries and to make known their views;
  - (d) Make Stakeholder comments received during a consultation process publicly available, including on the applicant or Contractor's website;
  - (e) Record and address in the scoping report and environmental impact statement any comments received (in accordance with Annexes III bis. and IV)

**(e) Please indicate the rationale for the proposal. [150 word limit]**

We welcome the improvements made to the EIA process through 46bis; however, we believe this regulation and regulation 47 could benefit from further reorganization to reflect a step-by-step approach through a series of regulations under a specific section on EIA and EIS, as proposed above.

See [Fifth Report of the Code Project - Part 1](#) for additional rationale.