

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.im.

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

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

47 Environmental Impact Statement

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 purpose of the Environmental Impact Statement, which shall accompany an application for approval of a Plan of Work in accordance with regulation 7, is to document and report the results of the environmental impact assessment carried out in accordance with Regulation 46bis.
2. An applicant or Contractor, as the case may be, shall prepare an Environmental Impact Statement in accordance with this regulation and in consultation with relevant Stakeholders via effective, time-bound opportunities for participation throughout the environmental impact assessment process.
3. The Environmental Impact Statement shall be in the form and deliver the contents as prescribed by the Authority in annex IV to these regulations and shall:
 - (a) Include a prior environmental risk assessment;
 - (b) ~~Be based on~~ Describe the results of the environmental impact assessment; including a description of the main elements of the methodology used for the identification and evaluation of the identified environmental impacts;
 - (c) Include a description of the analysis of alternatives, including a no-action alternative;
 - (ed) Include substantive comments received through the Stakeholder consultation on the environmental impact assessment process and an explanation of how such comments have been considered;
 - (de) Be in accordance with the objectives and measures of the applicable regional environmental management plan, ~~if any~~; and
 - (ef) Be prepared in accordance with the relevant Standards, ~~in accordance with~~ consistent with Good Industry Practice, Best Available Scientific Evidence, Best Environmental Practices and Best Available Techniques and taking into account the relevant Guidelines.
4. The Environmental Impact Statement shall demonstrate that the proposed mining operation is in accordance with all applicable environmental Standards and with the requirements of the applicable Regional Environmental Management Plan, ~~if any~~.

Commented [OGJ1]: This seems needed to separate this series from "in accordance with" at the beginning of the sentence.

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

We believe that the draft regulations should clearly describe the opportunities for stakeholder consultation during the EIA, and associated EIS. The language used in 47(2), in contrast to 46bis, references stakeholder consultation on EISs "throughout the process," which appears to be potentially broader than the consultation contemplated in the EIA process. As the EIS process is a documentation of the EIA process, it seems appropriate that stakeholder consultation provisions be consistent, or more clearly describe how/when stakeholder consultation will take place relative to the EIA process and the EIS, if there is a distinction. In 3(b), the purpose of the EIS as described is to document the outcomes of the EIA process. Stating that the EIS is "based on" on the EIA process suggests that the EIS may not be entirely consistent with the EIA process. Further, we propose adding a new sub-paragraph stating the EIS should include an analysis of alternatives, including the no-action alternative, for the sake of comparison. Regarding the inclusion of comments received through Stakeholder consultation, we recommend clarifying that the EIS will include "substantive comments" and "an explanation of" how such comments have been considered "and responded to," as we believe such explanations will improve the transparency of the EIA process and the EIS, while a requirement to include non-substantive comments may prove onerous. Finally, we agree with the many delegations who prefer to strike "if any" after referencing the applicable REMP, and we have struck language in 3(e) that appeared redundant.