

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

Please fill out one form for each textual proposal which your delegation(s) wish(es) to amend, add or delete and send to council@isa.org.im.

1. Name of Working Group:

IWG Institutional Matters

2. Name(s) of Delegation(s) making the proposal:

International Cable Protection Committee (“ICPC”)

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

Regulation 13.1

4. 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 Commission shall determine taking into account the comments made by State Parties and Stakeholders, any responses by the applicant and any additional information or comments provided by the Secretary-General, if the applicant:

(g) Has demonstrated, in relation to the accommodation of other activities in the Marine Environment, due diligence to:

- (i) identify in-service and planned submarine cables and pipelines in, or adjacent to, the area under application using the publicly- and commercially- available data and resources as listed in the Guidelines;
- (ii) where such submarine cables and pipelines are identified, consult with the operators of the cables and pipelines to agree measures the Contractor will take to reduce the risk of damage to the in-service and planned submarine cables and pipelines (ie-eg. such as an easement, or a mining exclusion zone separation distances and technologies to permit within a reasonable radius minimum separation distances and geolocation technologies);

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

ICPC supports adoption of the draft text in the Council Drafting Suggestions, ISBA/26/C/CRP.1, with certain modifications. As the development and consideration of a Plan of Work by the Commission is a confidential process in which submarine cable operators have no right of information or the ability to initiate coordination with the contractor, it is critical that the Commission ensure coordination between a Contractor and a submarine cable operator at an early stage when it can be meaningful.

- In some cases, data and resources about submarine cables and pipelines are commercially available for a fee. ICPC believes they should also be used by contractors (as reflected in paragraph 1(g)(i)), just as submarine cable operators use commercially available data and resources to plan routes and assess risks.
- No Guidelines have been proposed or developed in this area, and the Guidelines should not limit identification activities (as reflect in paragraph 1(g)(i)).
- The proposed modifications seek to future-proof the text and make it less prescriptive by including less prescriptive examples of coordination and protection mechanisms in paragraph 1(g)(ii).

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Regulation 13.4

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4. The Commission shall determine if the proposed Plan of Work:

~~(d) Provides for Exploitation activities to be carried out with reasonable regard for other activities in the Marine Environment, including navigation, the laying of submarine cables and pipelines, fishing and marine scientific research, as referred to in article 87 of the Convention in accordance with the relevant Guidelines;~~

(d)(alt.) Provides for Exploitation activities to be carried out with **due and** reasonable regard for other activities in the Marine Environment, as referred to in articles 87 and 147 of the Convention, including inter alia navigation, the laying of cables and pipelines, the right to maintain and repair existing submarine cables and pipelines, fishing and marine scientific research;

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

ICPC supports the adoption of the text in paragraph 4(d)(alt.) of the Council Drafting Suggestions, ISBA/26/C/CRP.1, as it properly references articles 87 and 147 and also accounts for maintenance and repair (not just laying) of submarine cables.

- The text in paragraph 4(d) omits these critical provisions, and also inappropriately references Guidelines, which should not be a substitute for, or condition, compliance with the Convention.
- Article 87 of the Convention references "due regard." This has the same meaning as "reasonable regard," but both terms should be referenced here to ensure consistency with the Convention.