

TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS FOR THE 28TH 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:

Submitted by the International Marine Minerals Society (IMMS)

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

Definition of “Environmental Objectives” from [President’s Text](#) – Schedule – Use of terms and scope

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.

“**Environmental Objectives**” means [...]

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

- Suggested Definition: a specific statement of desired environmental outcomes that represent the achievement of a Goal.

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Definition of Best Available Techniques from [President's Text](#) – Schedule – Use of terms and scope

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Alt. 1 “Best Available Techniques” means the most appropriate processes, within reasonable technical and economic constraints, facilities or methods of operation that indicate the practical suitability of a particular measure for the avoidance, prevention, reduction and control of pollution and the protection of the Marine Environment from the harmful effects of Exploitation activities, taking into account the guidance set out in the applicable Guidelines.

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Deleted: Alt. 2 [“Best Available Techniques” means the most effective and advanced stage in the development of activities and their methods of operation which indicates the practical suitability of particular techniques for providing the basis for emission limit values and other permit conditions designed to prevent and, where that is not practicable, to reduce emissions and the impact on the environment as a whole:

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

There are a number of terms that need better definition. These terms should be defined with input from the whole spectrum of ISA stakeholders.

There are also a few terms that have been defined (see Schedule, Use of terms and scope, of the President's Text) for which we see room for improvement.

- We do not support the definition of “Best Available Techniques” provided in Alt.2, and support Alt. 1, subject to some additional amendments. We consider that the concept of “Best Available Techniques” does not always mean the latest or state-of-the-art technology.

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Definition of “Damage to the Marine Environment” from [President’s Text](#) – Schedule –
Use of terms and scope

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[“Damage to the Marine Environment” means] [...]

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

- We do not think that this is a term that should be defined here. Damage to the marine environment could take many forms, which cannot be fully elaborated in a definition. It would be more appropriate for this to be included and discussed in a Guideline.

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

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Definition of “Ecological Balance of the Marine Environment” from [President’s Text](#) – Schedule – Use of terms and scope

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.

[“Ecological Balance of the Marine Environment” means] [...]

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

- We do not see the need for this to be a defined term in the schedule. However, should it be retained, we note that the [OECD](#) has developed a definition of ecological balance which could be used. The OECD definition is as follows: “The ecological balance is the equilibrium between, and harmonious coexistence of, organisms and their environment.”

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

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Definition of Environmental Effect from the [President's Text](#) – Schedule – Use of terms and scope

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.

"Environmental Effect" means any **material** consequences in the Marine Environment arising from the conduct of Exploitation activities, ~~whether~~ positive, ~~negative~~, direct, indirect, ~~cumulative~~, temporary or permanent.

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

There are a number of terms that need better definition. These terms should be defined with input from the whole spectrum of ISA stakeholders.

There are also a few terms that have been defined (see Schedule, Use of terms and scope, of the President's Text) for which we see room for improvement.

- **Environmental Effect** – We generally support the definition of "Environmental Effect" but we are concerned the current definition may be too broad for all uses. For example, the EIA and EIS will deal with key environmental effects (as determined through an Environmental Risk Assessment), and not every effect (i.e. the EIA and EIS will not consider in detail effects that are considered trivial or insignificant). There may be a need to differentiate environmental effect (i.e. any effect) from Environmental Effect (which perhaps means material effect?) in the regulations. This likely needs further discussion. We note, too, that Cumulative Effects now has a separate definition and so does not need to be included in this one.

Deleted: , or **Ccumulative environmental** effect arising over time or in combination with other [mining impacts] [effects or impacts] [stressors and activities in the same area, including those not regulated by the Authority].

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(a) 'techniques' includes both the technology used and the way in which the installation is designed, built, maintained, operated and decommissioned; ¶

(b) 'available techniques' means those developed on a scale which allows implementation in the relevant industrial sector, under economically and technically viable conditions, taking into consideration the costs and advantages, whether or not the techniques are used or produced inside the Member State in question, as long as they are reasonably accessible to the operator. ¶

(c) 'best' means most effective in achieving a high general level of protection of the environment as a whole;]

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Definition of “Interference with the Ecological Balance of the Marine Environment” from [President’s Text](#) – Schedule – Use of terms and scope

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.

[“**Interference with the Ecological Balance of the Marine Environment**” means [...]

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

- We do not think that this is a term that should be defined here. Interference with the Ecological Balance of the Marine Environment could take many forms, which cannot be fully elaborated in a definition.

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Definition of "Restoration" from President's Text – Schedule – Use of terms and scope

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.

"Restoration" means a return to pre-disturbance conditions, implying complete re-creation of a system.

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

Suggested Definition: A return to pre-disturbance conditions, implying complete re-creation of a system.

Comment: We suggest further discussion by the Council, based on this draft definition. We note, however, that full restoration to pre-disturbance conditions is an unrealistic aim for land-based mining and it is unlikely to be realistic for deep-seabed mining. Rehabilitation (see suggested definition above) to some agreed state is a more realistic environmental goal/objective post disturbance.

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References to the requirement for a scientific review of the EIS prior to the application being made from Dr Taga's (Facilitator the IWG on the Protection of the Marine Environment) further revised text, made available on 3 March 2023:

<https://www.isa.org.jm/wp-content/uploads/2023/03/ENV-Facilitator-further-revised-text.pdf>

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*multiple places

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

- The requirement for a scientific review of the EIS prior to an application being made is mentioned in multiple places. We note that such a scientific review may not necessarily be needed if the Contractor in question consults with and/or engages the scientific community during EIA development. This consultation and/or engagement should be outlined in the EIS. We also note that the LTC can reach out to experts / engage in a scientific review as and when they deem such a review to be necessary.

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Definition of "Rehabilitation" from President's Text – Schedule – Use of terms and scope

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.

"Rehabilitation" occurs when an ecosystem recovers certain characteristics of, or resemblance to, its natural state, such as the presence of certain species, functions or services, without necessarily achieving "restoration."

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

- Suggested Definition: Rehabilitation occurs when an ecosystem recovers certain characteristics of, or resemblance to, its natural state, such as the presence of certain species, functions or services, without necessarily achieving restoration.
- Comment: We suggest further discussion by the Council, based on this draft definition.