

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 27<sup>TH</sup> 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.jm](mailto:council@isa.org.jm).*

**1. Name of Working Group:**

IWG - Environment

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

Republic of Nauru

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

Regulation 44(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 Authority, sponsoring States, the Enterprise, Contractors ~~and States competent for vessels, installations, structures and other devices flying their flag or of their registry or operating under their authority~~ shall each, within their respective competence ~~plan~~, adopt, implement and modify measures necessary for ensuring effective protection of the Marine Environment, including rare or fragile ecosystems ~~all forms of marine life~~ as well as the habitat of depleted, threatened or endangered species from harmful effects directly ~~or indirectly~~ resulting from Exploitation in the Area, including from shipboard ~~dewatering immediately above a mine site of minerals derived from that mine site~~ processing ~~and from transportation of minerals to inland facilities, which may include inland processing~~ in accordance with the Rules of the Authority, ~~Standards~~ and ~~taking into account~~ referred to in regulation 45 and the applicable Regional Environmental Management Plan.

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

We consider the phrase “all forms of marine” too vague and unnecessary given that the defined term for the Marine Environment is sufficiently broad to cover marine life in the Area. We suggest this phrase is deleted.

While fully supporting the rules, regulations and procedures to be drawn up to secure the effective protection of the marine environment, we are concerned that expanding the scope to “indirect” effects arising from activities in the Area may be inconsistent with the Convention, specifically Article 17(2)(f) of Annex III to the Convention which expressly limits such RRP to secure effective protection from harmful effects directly

resulting from Activities in Area. That said, the definition of Environmental Effect in the Schedule does refer to “indirect” consequences. There needs to be an understanding of, and clarity on what constitutes “indirect” in order that there is certainty in the necessary environmental assessment and management requirements.

We note that it is not within the ISA’s jurisdiction to prescribe general obligations concerning inland facilities and inland processing of minerals transported from the Area. The ISA’s jurisdiction is limited to regulating “activities in the Area”. The Seabed Disputes Chamber in its advisory opinion, confirmed at paragraph 84 that transportation, marketing, and processing of minerals recovered from the Area do not fall within “activities in the Area”. We therefore suggest that the additions concerning processing and transportation of minerals in paragraph 1 be deleted.

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Regulation 44(1)(a)(i)

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(i) Apply the precautionary approach ~~principle as reflected in principle 15 of the Rio Declaration on Environment and Development~~ and the ecosystem-based management approach to the assessment ~~and~~ and management ~~and prevention~~ of risk of harm to the Marine Environment from Exploitation in the Area;

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

The reference to “and prevention of risk of harm” in paragraph 44(1)(a)(i) is incorrect and the words “and prevention” should be deleted. All risk cannot be prevented; this would be impracticable if not impossible. Risk must be assessed and be managed within levels consistent with the as low as reasonably practicable principle, as set out in regulation 46bis(2)(c).

We must ensure there is consistency in terminology relating to risk and other approaches to ensure that contractors have a clear understanding of their obligations. The Commission’s Draft guidelines on the tools and techniques for hazard identification and risk assessments (document ISBA/27/C/8) addresses matters relevant to the risk assessment and management process, including the ALARP approach.

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Regulation 44(3)

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The Legal and Technical Commission shall ~~make recommendations on~~ issue Guidelines to support the implementation of paragraphs 1 and 2 above.

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

It will be helpful for the Commission to provide guidance on the implementation of paras 1 and 2. However, this should be through the issue of Guidelines rather than recommendations – unless the intention of the paragraph is/was to make recommendations to the Council.