

TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH SESSION: COUNCIL - PART I

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.

The facilitators' proposed amendments are reflected in **red**.

Pew's proposed amendments and our questions or comments regarding the facilitator's remarks are indicated as in-line edits in **blue**. Where we propose deletions of the facilitator's text this is shown **in strikethrough and bold**.

1. Name of Working Group:

IWG Environment

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

Pew Charitable Trusts

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

DR 46bis

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.

2. The environmental impact assessment process shall include the following steps:

(a) A scoping ~~process~~ Stage and scoping report in accordance with Regulation 46ter and annex IVbis to identify and ~~prioritize~~-risk assess the ~~main~~ anticipated activities and potential impacts associated with the proposed mining operation which are relevant to the assessment, and identify reasonable alternatives to the proposed activity, including a no-action alternative, to Mitigate Environmental Effects as well as to identify and engage with Stakeholders, in order to focus the Environmental Impact Statement on the key environmental issues. ~~The outcome will result in an~~ agreed Scoping Report that shall be followed by the applicant or Contractor in carrying out its EIA. ~~binding document for all the parties in the mining operation.~~ It should include assessment of the available baseline data and their compliance with the relevant Standard, an environmental risk assessment, and the results of the consultation process with Stakeholders in line with the relevant Standards and Guidelines and set out the terms of reference for the environmental impact assessment.

(vi) The timing and duration of the impact relative to the period in which a species needs the habitat **during one or more of its life history stages affected for its long survival during one or more of its life history stages**

(c) The Identification of measures **of the mitigation hierarchy** envisaged to prevent, **reduce, and control,** mitigate or **if-where** possible, ~~offset~~ avoid, minimize, remediate, rehabilitate and restore ~~offset~~ or, as a last resort and if approved, ~~or if possible,~~ offset ~~or if possible, offset~~ and manage **harmful** Environmental Effects and risks to as low as **reasonably** practicable, and **within acceptable levels in accordance with environmental quality objectives Standards** including through the development and preparation of an Environmental Management and Monitoring Plan;

(c)alt The identification of measures envisaged to prevent, Mitigate, and manage harmful Environmental Effects and risks to as low as practicable, and within acceptable levels in accordance with environmental quality objectives and Standards, including through the development and preparation of an Environmental Management and Monitoring Plan;

(c) bis Consultation and Stakeholder engagement, in accordance with para 8

DR 46bis Scoping Report

a. ~~Following the close of the comment period under paragraph (1)(a), provide any comments received to the applicant or Contractor with a specified timeframe for response;~~

b. _____

New para 7: The applicant or Contractor shall agree the final contents of the Scoping Report with the Commission.

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

Para 2: We support that the scoping process will result in a binding outcome. However the wording proposed here does not align with DR46bis bis. It should also clarify that the scoping report only applies to the conduct of the EIA, not the mining operation that may come subsequently to the EIA.

Para vi: The amended drafting in sub-para (vi) does not appear to make sense. “During one of more of its life history stages” seems more appropriate here

New paras c alt and c bis: This proposed edit will highlight the specific relevance here of environmental threshold Standards as proposed under DR 45, and cross referenced in DR 48 (EMMPs)

We also believe the term “Offsetting” in para c should be deleted. While a part of the mitigation hierarchy, based on current scientific evidence offsetting the impacts of environmental harm in unique and vulnerable deep ocean ecosystems will not be possible. Ecosystems are not fungible, and the preservation of one cannot offset the destruction of another.

DR46bis on the scoping report: We believe this regulation is mis-labelled ‘alt’. It should be included in addition to DR46bis (perhaps as DR 46 ter). We strongly support this inclusion, as the scoping part of an EIA process is very important to determine what an individual EIA will cover, and the Regulations need to provide at least this level of detail to ensure it takes place effectively.