

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS FOR THE 28<sup>TH</sup> 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](mailto:council2022@isa.org.jm).

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

Submitted by World Organization of Dredging Associations (WODA)

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

President's text

**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.**

**Original text**

**Material Change**" means a change to the basis on which the original report, document or plan, including a Plan of Work, was accepted or approved by the Authority, and includes changes such as physical modifications, [changes to environmental effects or effects on stakeholders] the availability of new knowledge or technology and changes to operational management that are to be considered in the light of the Guidelines.

**Proposed text to replace whole of the original text**

"Material Change" means a substantial or significant change to the basis on which the original report, document or plan, including a Plan of Work, was accepted or approved by the Authority.

**Original text**

**Alt. 1 "Best Available Techniques"** means [the latest stage of development, and state-of-the-art processes, [within reasonable technical and economic constraints,] of facilities or of methods of operation that indicate the practical suitability of a particular measure for the 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]

**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:

(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;]

**Proposed text to replace whole of the original text**

“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 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.

#### **Original text**

“**Environmental Effect**” means any consequences in the Marine Environment arising from the conduct of Exploitation activities, [whether] [being] positive, [negative], direct, indirect, temporary or permanent, or **Cumulative 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].

#### **Proposed text to replace whole of the original text**

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

#### **Original text**

“Mitigate” and “Mitigation” includes:

- (a) Avoiding an effect altogether by undertaking or not undertaking a certain activity or parts of an activity;
- (b) Minimizing effects by limiting the degree or magnitude of the activity and its implementation [to the extent practicable and necessary to ensure protection of the Marine Environment];
- (c) Rectifying the effect by repairing, rehabilitating or restoring the affected Marine Environment; and
- (d) Reducing or eliminating the impact over time through preservation and maintenance operations during the life of the mining activity.

#### **Proposed text**

Add:

- (d) Offsetting, only as a last resort.

#### **Definitions with no original text**

n/a

#### **Proposed text**

**Environmental Objectives** – a specific statement of desired environmental outcomes that represent the achievement of a Goal.

**Good Industry Practice** –the exercise of the degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected to be applied by a skilled and experienced person engaged in the marine mining industry and other related extractive industries worldwide.

**Guidelines** – Use definition for Guidelines in DR95: “Guidelines will support the implementation of the Regulations from an administrative and technical perspective. Guidelines will also clarify documentation requirements for an application, detail process requirements (e.g. for the public consultation process, annual reporting and periodic review), and provide guidance on the interpretation of regulatory provisions.

**Rehabilitation** - 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 aiming at exhaustiveness.

**Restoration** - A return to pre-disturbance conditions.

**Standards** – methodological, procedural, technical or environmental rules that are necessary to implement the regulations and to ensure a coherent approach to monitoring and assessment, including performance and process requirements, adopted pursuant to regulation 94. Standards are legally binding on Contractors and the Authority.

**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.

- Mitigation – should make reference to significance.
- BAT – should focus on appropriateness to address the environmental impact of concern.
- Environmental effect – to focus the term on materiality and adhere more closely with EIA practice.
- Mitigation – to reflect the whole mitigation hierarchy
- There are a number of other terms that need definition and wording is proposed.