

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

**1. Name of Working Group:**

**Marine Environment**

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

**African Group**

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

**Reg 44**

**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. ~~This, includ adoption, implementation and modification relates to all forms of marine life including ing~~ 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 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 Guidelines referred to in regulation 45 and the applicable Regional Environmental Management Plan. To this end:

....

~~(a)(v) Include Underwater Cultural Heritage in the definition of marine environment. Thus, references to the environment include references to these objects which hereinafter are referred to as underwater cultural heritage (UCH) which has been more precisely defined in the UNESCO 2001 Convention on the Protection of the Underwater Cultural Heritage.~~

...

(c) In taking necessary measures to prevent, reduce and control pollution and other hazards to the Marine Environment, including the coastline, arising from Exploitation in the Area, the Enterprise and Contractors shall implement, mutatis mutandis, the measures set out under paragraph (a)(i) to (iii) above and demonstrate accountability and transparency in the assessment, evaluation and management of Environmental Effects and risks from Exploitation, including through Stakeholder participation and the timely public release of environmental data and information on their respective activities at regular intervals and in an accessible format. In so doing, the Enterprise and Contractors shall ~~Mitigate harm to the marine environment and adapt the necessary measures to newly obtained information and data. apply a priority order [as per the Mitigation Hierarchy] to avoid, minimize, mitigate, and remediate, and, as a last resort, offset, where agreed, harm to the marine environment and shall Mitigate harm to the Marine environment mitigate, and remediate restore, and as~~

~~a last resort, offset where agreed, harm to the Mmarine Eenvironment. as well as and These necessary measures should be adapted the necessary measures to newly emerged obtained information and data.~~

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

**Para 1.** It is important to retain the wording “*rare and fragile ecosystems*” in the regulations as this highlights the need for preserving and protecting the most vulnerable habitats, compared to the many other references that focus on species. This would assure the need for including impact to habitats in both EIAs and EMMPs. We have made a slight textual amendment.

We further suggest that definitions are needed for “rare or fragile ecosystems” and also for “depleted, threatened or endangered species”. Definitions could be provided by reference to already tested definitions and vocabulary, such as the VME and VME indicator language provided by FAO (2009). Alternatively, the ISA could develop a specific list based on objectively assessed and evidential criteria with a range of results that match the range of habitats seen in the deep sea.

We support the need for wording to cover processing and transport of the material but question the extent to which reference should be made to areas outside of the ISA’s jurisdiction and mandate.

**Para 1(a)(v).** It is clearly important that the definition of the Marine Environment encompasses all elements to be preserved and protected. We agree that Underwater Cultural Heritage could be one of these elements, however, we do not feel the need for elaboration of this in subpara 1(a)(v) and a number of other paragraphs through the regulations, and instead suggest the definition of Marine Environment is altered to include underwater cultural heritage. We suggest this sub para to be deleted.

**Para 1(c).** This paragraph would benefit from streamlining. “Mitigation” is a term that is used in several places in the regulations. It is a defined term in the Schedule. We suggest that a standard way of referring to mitigation is agreed and then used where appropriate throughout the Regulations. We propose three options for the council’s consideration:

- 1) Simply using the word “*Mitigation*” which is capitalised indicating it is a defined term, or
- 2) Slightly expanding it to say “*Mitigation as defined in the Schedule*” or
- 3) Full elaboration by saying “*Mitigation, that is, avoid, minimize, rectify, reduce, and, as a last resort, offset, where agreed*”

We would be open to other suggestions but feel that having consistency in referring to the definitions in the schedule throughout the Regulations is important.