

**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 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.**

~~1 bis. In the conduct of the environmental impact assessment, the Sponsoring State and Contractor shall, with respect to resource deposits in the Area which lie across limits of national jurisdiction, conduct the environmental impact assessment with due regard to the rights and legitimate interests of any coastal State whose jurisdiction is adjacent to the resource deposit in the Area, across whose jurisdiction the resource deposits lie, including through maintaining consultations and a system of prior notification, in accordance with Regulation 4.~~

2(a) A scoping Stage and scoping report in accordance with Regulation 46ter and Annex IVbis to identify and risk assess the 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, in order to focus the Environmental Impact Statement on the key environmental issues. ~~The outcome will result in a 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. ~~The report shall provide binding requirements for the Environmental impact assessment.~~

~~(c)bis An analysis of reasonable alternatives to the planned activity under the jurisdiction or control of a State Party, including the no-action alternative;~~

~~4(d) Be subject to an independent scientific assessment prior to the submission of the proposed Environmental Impact Statement to the Authority.~~

8. In conducting an environmental impact assessment for the purposes of these regulations, an applicant or Contractor shall proactively consult with Stakeholders at all stages, in accordance with relevant Standards and taking account relevant Guidelines; and in the course of such consultations, ~~the applicant or Contractor~~ shall:

(a) Provide Stakeholders with access to up-to-date and comprehensive information about the proposed activities and environmental data and impacts;

(b) Use best efforts to obtain Stakeholder comments on the draft scoping report and draft environmental impact statement for a reasonable period.

(c) Provide a reasonable opportunity for Stakeholders to raise enquiries and to make known their views;

(d) Make publicly available Stakeholder comments received during the consultation process, including on the applicant or Contractor's own website;

(e) Record and address, ~~in the scoping report and Environmental Impact Statement respectively, any~~ Stakeholder comments received.

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

**1bis**, we note that this new paragraph duplicates para 7 of regulation 46bis and we feel that one of these paras should be removed. Considering the facilitators intension of keeping sub para 2 to be 'purpose' paragraphs, we feel that para 1bis could be deleted and our attention can be focused on the wording of sub-para 7.

**2(a)**, we generally support the revised text. However, we question the sentence: *"The outcome will result in a binding document for all the parties in the mining operation."* Perhaps some further clarity is needed, but it is our understanding that the Scoping Report should be binding only until the development and approval of the EIA/S, and does not extend past that step. The EIS will from that point be the binding environmental document. We suggest that this sentence be moved to the end of the paragraph.

**2(c)bis**, we consider that alternatives analysis should be included in the EIA stage as well as the Scoping stage. – this is consistent with the recently agreed BBNJ agreement. We therefore suggest for this sub para to be reinserted.

**4(d)** we remain unsure as to how or why an 'independent scientific assessment' of the EIA arranged by the Contractor is either necessary or helpful for the assessment of a Plan of Work. The EIA will have gone through an open stakeholder consultation as per Regulations and Standards, and the LTC will be conducting their own independent assessment, which may include arranging external experts to review and we would not want to undermine this process. We propose to delete this sub-para.

**8.** We are supportive of its inclusion. We have a couple of minor text amendments.