

SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH 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.im.

1. **Name of Working Group:** President's Text
2. **Name(s) of Delegation(s) making the proposal:** Australia
3. **Please indicate the relevant provision to which the textual proposal refers:**

Regulation 31 - proposed amendments are in green text

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.**

Regulation 31

Reasonable regard for other activities and infrastructure in the Marine Environment

[1. Contractors shall, [consistent with ~~the~~ any relevant Standards and taking into account any relevant Guidelines, carry out exploitation under an exploitation contract with reasonable regard for other activities and infrastructure in the Marine Environment, [~~including but not limited to submarine cables and pipelines in the Contract Area, fishing activities and other activities~~], in accordance with articles 87 and 147 of the Convention, the Plan of Work, and the approved Environmental Management and Monitoring Plan, [Regional Environmental Management Plan] and Closure Plan. ~~[and any applicable international rules and standards established by competent international organizations]~~

Alt. 1. [Contractors shall, consistent with ~~the~~ any relevant Standards and taking into account any relevant Guidelines, carry out Exploitation under an exploitation contract with reasonable regard for other activities and infrastructure in the Marine Environment in accordance with articles 87 and 147 of the Convention and the ~~[and structures] approved Environmental Management and Monitoring]~~ Plan of Work[, the applicable Regional Environmental Management] ~~[and Closure]~~ Plan and any applicable international rules and standards established by competent international organizations, and relevant national laws and regulations of Sponsoring States and flag States.]

1.bis. Each Contractor shall exercise due diligence to ensure that it does not ~~[cause damage to submarine cables or pipelines]~~ or ~~[interfere with other uses of the sea]~~ in the Contract Area. In particular, the Contractor shall:

- (a) comply with the measures it agreed with the operators ~~[undertaking other uses of the sea]~~ and ~~[of the submarine cables and pipelines]~~ to reduce the risk of damage to any in-service cables and

pipelines ~~[(such as an easement, or a mining exclusion zone within a reasonable radius)]; and~~

(b) ensure that any actions it takes will not interfere with the route of a planned submarine cable or ~~pipeline~~ ~~pipe~~ ~~pipeline~~.

~~[1.bis.alt. Each Contractor shall exercise due diligence to ensure that it does not interfere with other uses of the sea in the Contract Area. In particular, the Contractor shall:~~

~~(a) identify current and planned uses of the sea transiting or proximate to the Contract Area through publicly available data and resources and any other reasonable means — [(b 1) — coordinate directly with the operators undertaking other uses of the sea in order to reduce the risk of interference with those uses as a result of the Contractor's activities].~~

~~(b) coordinate directly with the operators undertaking other uses of the sea in order to reduce the risk of interference with those uses as a result of the Contractor's activities.~~

~~(c) comply with the measures it agreed with the operators undertaking other uses of the sea to reduce the risk of damage to any in-service cables and pipelines; and~~

~~(d) ensure that any actions it takes will not interfere with the route of a planned submarine cable or pipeline].~~

~~[1 alt ter. [Contractors shall carry out Exploitation under an exploitation contract with reasonable regard for climate mitigation carried out by ecosystem in the area, such as carbon burial and sequestration and nutrients recycling.]~~

~~2. — [The Authority, in conjunction with member States, shall take measures to ensure that other activities in the Marine Environment shall be conducted with reasonable regard for the activities of Contractors in the Area.~~

2. Alt. To further the due and reasonable regard obligations in Articles 87 and 147 of the Convention, the Authority, in conjunction with member States, shall facilitate early-stage coordination between the Contractors and the proponents of the other activities in the marine environment.

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

Australia proposes:

- Including references to both articles 87 and 147 of the Convention which set out the due and reasonable regard obligations.
- Replacing the word 'structure' with 'infrastructure'. Use of the word 'structure' here is not consistent with its use in the Convention and the term 'infrastructure' also ensures consistency with the proposed title of this regulation.
- Including references to Standards and Guidelines.
- Including reference to the Plan of Work as any measures agreed between Contractors and other users of the marine environment should be set out in the Plan of Work.

Australia prefers 1.bis, over 1.bis. alt.

The specific reference to 'submarine cables and pipelines' alongside 'other uses of the sea' should be retained to ensure consistency of approach and terminology with other regulations, particularly regulations 13, 15 and 48ter.

Australia prefers 31.2 Alt over paragraph 31.2, because:

- Regulation 31.2 suggests the Authority has jurisdiction with respect to other activities in the marine environment, when its jurisdiction is limited to activities in the Area. The alternative suggestion addresses this by referring to the Authority *facilitating* early-stage engagement.
- Ensuring early coordination will give effect to *both* the due regard and reasonable regard obligations in articles 87 and 147 of the Convention.