

**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.

1. Name of Working Group:

Protection and Preservation of the Marine Environment

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

The Pew Charitable Trusts

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

DR 47teralt

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.

- **Red font** are proposed amendments by the Facilitator in this revised text.
- Our proposed amendments and our questions or comments regarding the facilitator’s remarks are indicated as in-line edits in **blue**. Proposed deletions of text proposed by the facilitator appears in strikethrough and **bold**.

1. The applicant or Contractor, as the case may be, shall prepare and submit to the Secretary- General a scoping report in accordance with this regulation and in the format prescribed in Annex IV.
2. ~~An~~ The applicant or Contractor, as the case may be, shall use ~~E~~environmental ~~l~~impact ~~A~~assessment scoping to identify and prioritize the main activities and potential impacts associated with the proposed ~~Exploitation mining operation,~~ in order to focus the ~~Environmental Impact Assessment and Environmental Impact Statement on the key environmental issues.~~
3. In undertaking the ~~E~~environmental ~~l~~impact ~~A~~assessment scoping ~~process,~~ the applicant or Contractor, as the case may be, shall:
 - a. Review available data and knowledge, and propose additional data to be collected and studies needed to complete an Environmental Impact Statement in accordance with these regulations.
 - b. Undertake a preliminary impact analysis and environmental risk assessment which will be updated as the ~~E~~environmental ~~l~~impact ~~A~~assessment proceeds.
 - c. Proactively identify Stakeholders in accordance with relevant Standards and taking into account any relevant Guidelines,
 - d. Identify and evaluate feasible alternative means of carrying out the project that will be further examined as ~~in~~ the ~~E~~environmental ~~l~~impact ~~A~~assessment proceeds, and
 - e. Use the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities.
4. ~~An environmental Impact Assessment~~sScoping ~~r~~Report shall include the following:

- a. A brief description of the proposed Exploitation activities and any ancillary features [including what is known or anticipated about where mining will occur within a Contract Area and the mining machinery to be used]
- b. A description and overview of tentative timelines and deadlines for the proposed environmental baseline studies and Environmental Impact Assessment [conducted under the Exploration contract and any associated activities,
- c. A description of what is known about the environmental setting, including Underwater Cultural Heritage, for the project (Contract Area and regional setting),
- d. A description of data gaps, potential data gaps or data with a large uncertainty associated with it for the project, [including environmental baseline data, and a plan describing the methodology for collecting and analyzing that information prior to commencement of Exploitation activities and to inform the Environmental Impact Assessment]
- e. A summary of existing environmental baseline studies, and, where available, relevant traditional knowledge of indigenous peoples and local communities
- f. A description of the technical, spatial and temporal boundaries for the Environmental Impact Assessment,
- g. A brief description of the socioeconomic and sociocultural aspects of the project [including sociocultural uses of the project area (e.g., traditional navigation routes, migratory paths of culturally significant marine species, sacred sites and waters associated with ritual or ceremonial activities of Indigenous Peoples and local communities).]
- h. A description of any assumptions and how they are being addressed, and assessment of their implications to the environmental risk assessment findings,
- i. A preliminary impact analysis which categorizes the important issues into high-risk, medium-risk and low-risk for the Environmental Impact Assessment to address and evaluates the need for further information, taking into account the environmental risk assessment, [which includes:
 - (i) The identification of potential hazards,
 - (ii) The environmental consequence for each identified potential impact(s) (the magnitude of the impact(s), the duration of the impacts, and the receptor characteristics), and the likelihood of the consequence occurring
 - (iii) A description of the cumulative effects of the project, combined with other authorized, anticipated, or expected activities, actions, or natural phenomena,
 - (iv) The confidence levels of experts, in order to account for uncertainty and a precautionary approach, and
 - (v) A description of the methodology employed in the environmental risk assessment.]
- j. A preliminary environmental risk assessment,
- k. A description of the results of the environmental risk assessment, including identification of high priority risks for local and regional ecosystem functioning over short and long term, requiring particular focus in the subsequent impact assessment phase stage of the Environmental Impact Assessment,
- l. A preliminary Stakeholder list that proactively identifies likely Stakeholders, and an indicative schedule and methodology for engagement with key Stakeholders throughout the Environmental Impact Assessment process, [taking into account privacy concerns related to the publication of personal information of identified stakeholders]
- m. A report of consultations undertaken during scoping,
- n. A consideration of reasonable alternative means of carrying out the project that will be examined in detail as the Environmental Impact Assessment proceeds, including a no-action alternative, and any others that have been not been carried forward for further analysis at this stage, and the reasons for that selection,

- o. A draft Terms of Reference for the Environmental Impact Assessment, which identifies the activities and studies planned for the subsequent impact assessment stage of the Environmental Impact Assessment ~~Environmental Impact Assessment~~, and any additional baseline data that will be required.
 - p. An explanation for how the activities and studies planned for the subsequent impact assessment stage of the Environmental Impact Assessment ~~Environmental Impact Assessment~~ will be sufficient to determine likely environmental impacts, and to propose Mitigation and management strategies and monitoring methodology.
 - q. A note describing and explaining any divergence from ~~relevant~~ ISA Guidelines.
5. Upon receipt of a scoping report from an applicant or Contractor, the Secretary General shall:
 - a. Make the report available on the Authority's website, with an invitation for members of the Authority and Stakeholders to submit comments in writing within a period of 90 days;
 - b. Following the close of the comment period under paragraph (1)(a), provide any comments received to the applicant or Contractor [within 2 weeks] [Russia] for their response within [60 Days];
 - c. At the expiry of the timeframe specified in paragraph (1) (b), provide the Commission with the scoping report, any stakeholder comments received, and any responses to those comments from the applicant or Contractor.
 6. The Commission shall consider a scoping report submitted in accordance with this regulation, and any comments and responses received, in accordance with any relevant Standards and taking into account Guidelines. Based on this review, the Commission shall approve a scoping report, disapprove it or make recommendations to the applicant or Contractor regarding the proposed ~~E~~environmental ~~I~~impact ~~A~~assessment, accompanied by a detailed rationale.
 7. The Commission's recommendations under the previous paragraph [paragraph 6] may include a recommendation:
 - a. To revise the environmental risk assessment or other aspects of the scoping report based on different methodology or inputs.
 - b. To amend the proposed terms of reference for the environmental impact assessment, or
 - c. To re-submit a revised scoping report for further Stakeholder consultation and Commission review, in the case where uptake of any of the Commission's recommendations are likely to lead to a Material Change in the ~~s~~Scoping ~~r~~Report.
 8. The applicant or Contractor shall, before proceeding with an environmental impact assessment pursuant to regulation 47ter ~~process~~:
 - i. take full account of the Commission's recommendations under this regulation.
 - ii. agree the final contents of the proposed terms of reference in the Scoping Report with the Commission.

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

We generally support the content of this regulation. We do note that some of the text was not carried over on the basis that it would be more appropriate in the Standard or Guidelines. While we are fine with that text moving to a Standard, we believe that until the associated Standards and Guidelines are revised it would be helpful to retain it in the regulations with some mark indicating that it may be moved to subsidiary regulatory documents. As such, we recommend reinserting it back in with square brackets (or with some other marking). The LTC following its revision of S&Gs could then indicate what wording has been carried over to the S&Gs and provide recommendations to the Council on how the text should be dealt with (deleted, amended, etc.) in the regulations. We do note that the matrix suggests para 4 be moved to the EIA guideline. We would not support this and instead recommend that if this is moved it be moved to the Annex or EIA Standard.