

**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:**

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.**

Annex Xter

**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.

Alt 2. ["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, in accordance with the applicable Standard, taking into account the ~~guidance set out in the applicable~~ relevant Guidelines.]

“Best Environmental Practices” means the application of the most appropriate combination of environmental control measures and strategies for purposes of ensuring the effective protection of the Marine Environment, and [based on the Best Available Scientific Information and Best Available Technology which] [that] will change with time in the light of improved knowledge, understanding or technology, [as well as the incorporation of the relevant traditional knowledge of Indigenous Peoples and local communities] and in accordance with the ~~taking into account the [guidance set out in the]~~ applicable [Standards, taking into account the relevant ~~and~~] Guidelines ~~[including traditional knowledge and international best practices].~~

[["Damage to the Marine Environment" means [—]]

[["Ecological Balance of the Marine Environment" means the equilibrium between, and harmonious coexistence of, organisms and their environment.]

[["Effective Protection" means [—]]

[Alt 1. "Environmental Effect" means any ~~material~~ consequences in the Marine Environment arising from Environmental Impacts caused by the conduct of Exploitation activities, whether positive, negative, direct, indirect, cumulative, temporary or permanent.]

["Environmental Impact" means [.]changes (physical and or chemical) to the environment resulting from Exploitation activities.]

Environmental Management System [Alt. 2 means the part of the overall management system applied by a Contractor that includes organizational structure, planning activities, responsibilities, practices, procedures, processes and resources for developing, implementing, achieving, reviewing and maintaining environmental policy, goals, objectives and environmental performance.]

**["Environmental Objectives" means a specific statement of desired environmental outcomes that represent the achievement of a Goal.]**

["Environmental Risk" means the potential of an event happening that will have an adverse effect measured in terms of the severity of the environmental consequences and the likelihood of those particular consequences occurring.]

**"Environmental Impact Assessment"** is the process of identifying, predicting, evaluating and mitigating the physicochemical, biological, socioeconomic, and other relevant effects of development proposals prior to major decisions being taken and commitments made. This includes all potential effects, both positive and negative, and encompasses natural and anthropogenic receptors.

**"Environmental Impact Statement"** is the documentation of the Environmental Impact Assessment, which describes the predicted effects of the project on the environment (and their significance), the measures that the applicant is committed to taking to avoid, minimise and reduce them where possible, and the remaining effects that cannot be avoided.

**["Facilities-maritime infrastructure-floating platforms" means [...]]**

Good industry Practice Alt 1. 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 and includes meeting the performance requirements under the Rules of the Authority.

**["Interference with the Ecological Balance of the Marine Environment" means [...]]**

**["Resource Category" means [.] polymetallic nodules, polymetallic sulphides, or cobalt crust**

**["Restoration" means] [a return to pre-disturbance conditions, implying complete re-creation of a system]**

**[Alt. "Serious Harm to the Marine Environment" means an Environmental Effect that, individually in combination or cumulatively meets any of the following criteria:**

- \_(a) it is not likely to be redressed through natural recovery within a reasonable period;
- \_(b) it impairs the ability of affected populations to replace themselves;
- \_(c) it degrades the long-term natural productivity of habitats or ecosystems;
- \_(d) causes, on a more than temporary basis, a significant loss of species richness or biological diversity, including community structure, genetic connectivity among populations, ecosystem functioning and ecosystem services on the seabed, at the sea surface, and in midwater and in the benthic boundary layer, or habitat; or
- \_(e) any other criteria for significance contained in the relevant Regional Environmental Management Plan, or Standards.]

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

Regarding **Best Available Techniques**, the definition in alt 1 seems to have been taken from the European Union's Directive on Industrial Emissions. For the purposes of defining this term in the seabed mining context, where environmental performance levels might have other indicators (in addition to emission levels) the more general alt 2 paragraph (with some minor amendments that we will submit in writing) is preferred.

We recommend deleting the term '**damage to the marine environment**'. This term appears infrequently in the Regulations, and a commonsense meaning can be applied where it is used.

We recommend deleting "**ecological balance of the marine environment**". It seems unhelpful to try and develop a definition that sufficiently explains this term in the Schedule. However, we do believe that it should be fleshed out in an environmental policy document that elaborates how Art 145 will be operationalized in practice including what level of harm the ISA deems permissible.

For **Environmental Effects**, we prefer the alternative language. We do note that EIA definitions generally include that impacts are defined as the changes resulting from an action, and effects are defined as the consequences of impacts. As such, we recommend that the term Environmental Impact be inserted into this definition to make the connection between these two terms. We will submit this in writing.

**Environmental Impact Assessment** and **Environmental Impact Statement** no longer appear as defined terms. We recommend these be reinserting and will provide proposed definitions in our written submissions.

We support the alternative text on **good industry practice**, noting that the LTC determined that, rather than incorporate 'Best Environmental Practices' within the definition of 'Good Industry Practice,' it would be better to develop the two concepts independently.

Lastly, regarding **Serious Harm**, We believe this term along with '**environmental objectives**' have not received sufficient discussion and additional criteria may be needed. Along these lines, we do support the additional para (e) though note that no such mention of criteria is in the CCZ REMP, so the CCZ REMP will need to be revised accordingly. The original definition alone is woefully deficient as 'significant adverse change' does not provide any clearer or more actionable definition.