

**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.**

DR 47alt

**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. An applicant or Contractor shall carry out an Environmental Impact Assessment on the potential effects on the Marine Environment of the proposed operations and activities.
2. The purpose of an Eenvironmental Iimpact Aassessment under this regulation shall be to [inform the Authority’s assessment of an application of a Plan of Work under regulations 13 to 16, or a contract’s continued adherence to these Regulations] ~~predict environmental impacts anticipated from the proposed activities, to enable the Authority to assess the potential adverse Environmental Effects,~~ with the aim to:
  - (a) Ensure effective protection for the Mmarine Eenvironment from harmful effects which may arise from such proposed activities.
  - (b) Ensure that activities in the Area are carried out with reasonable regard for other activities in the Marine Environment.
  - (c) Avoid the risk of Serious Harm to the Marine Environment arising out of the proposed activities.
  - (d) Ensure, in accordance with article 142 of the Convention and Regulation 4, that the Sponsoring State and the Contractor, 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 and duties of affected coastal States by maintaining consultations and a system of prior notification to avoid infringement of their rights and legitimate interests, and
  - (e) Ensure that the proposed activities are carried out in accordance with the Rules of the Authority, general International Law, including the Convention and the applicable Standard and taking into account the relevant Guidelines as well as, Best Available Scientific Information, Best Environmental Practices, and Best Available Techniques

3. The Environmental Impact Assessment shall:
- (a) Be based on relevant environmental baseline data that captures temporal (seasonal and interannual) and spatial variation in accordance with relevant Standards and taking into account relevant Guidelines and the objectives and measures of the applicable Regional Environmental Management Plan,
  - (b) Be carried out by ~~qualified,~~ competent independent experts,
- (...)
4. The Environmental Impact Assessment ~~process~~ must follow certain procedural steps and entail the following elements:
- (a) A scoping Stage and scoping report in accordance with Regulation 47bis to identify and risk assess the anticipated activities and potential impacts associated with the proposed Exploitation which are relevant to the Environmental Impact Assessment.
  - (b) A stage for assessment of environmental impacts including:
    - (i) An update to the environmental risk assessment, as developed during scoping, describing the likely impacts on the marine environment and Underwater Cultural Heritage and predict the nature and extent of the Environmental Effects of the Exploitation including residual impacts, also considering cumulative impacts, including existing and foreseen mining operations, other activities and natural phenomena.
    - (ii) An evaluation of significant and harmful effects on the environment and ecosystem services, founded on clear and transparent assessment criteria and a robust evidence base, using best available science and scientific information;
    - (iii) The presentation and evaluation of potential mitigation measures, and subsequent statement of management and monitoring commitments (together with the EMMP), to monitor, ~~Mitigate,~~ and manage ~~avoid and minimize effects, and monitor~~ residual impacts;
  - (c) A stage on the preparation and submission to the Authority of the Environmental Impact Statement to document and report the results of the Environmental Impact Assessment in accordance with Regulation 47bis, the applicable Standards and taking into account the relevant Guidelines,
- (...)

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

Paragraph 2 is not creating a power or setting an obligation. We recommend amending it so that it is clear that the purpose of the EIA is to inform the ISA's decision-making, specifically, whether to approve a Plan of Work and to ensure contractor compliance. In addition, we believe it would be helpful for all assessment criteria, such as those items listed below, to be set out in earlier regulations (e.g. DR 13) and then to cross-reference those regulations here.

Regarding paragraph (3)(b), We suggest to amend this to 'competent independent experts' which is a term that has been used elsewhere in the regulations. To help inform the meaning of that term, and also how experts can be selected, we support a proposal that has previously been made for a new Annex pertaining to expert identification and selection.

Paragraph 4(b)(iii), We note that 'Mitigate' is a defined term which covers the measures identified here. We suggest it be inserted. Alternatively, another option would be here and throughout the regulations, to use the same terms as BBNJ such as 'prevent, mitigate and manage'.

