

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 29TH SESSION:
COUNCIL - PART II**

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(s) of Delegation(s) making the proposal:**
SPAIN
- 2. Please indicate the relevant provision to which the textual proposal refers.**
Regulation 44
General Obligations
- 3. 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 44 [IWG ENV]

General Obligations

1. The Authority, Sponsoring States, the Enterprise, Contractors, flag [port States] [and the States of registry of or having authority over installations, structures, robots, and other devices] [where they are members of the Authority] shall take necessary measures to ensure effective Protection of the Marine Environment from harmful effects which may arise [directly or indirectly] from Exploitation in the Area, in accordance with Regulations as well as applicable Standards and taking into consideration Guidelines referred to in Regulation 45 and the relevant Regional Environmental Management Plan and to this end shall, as applicable in their respective areas of competence:

(a) Apply the precautionary approach and an ecosystem-based approach to [the assessment management and prevention of risk of harm [~~in order to prevent and reduce of risk of harm~~] [~~avoidance of risk of harm~~][~~the prevention, assessment and management of risk of harm~~] to the Marine Environment from Exploitation in the Area;

(b) Apply the Best Available Techniques and Best Environmental Practices [~~and ensure the availability of sufficient information~~];

[(c) Apply scientific-based approach and integrate Best Available Scientific Information and [where available, relevant traditional knowledge of Indigenous Peoples and local communities] in decision-making;

(d) Ensure accountability and transparency in the assessment, evaluation and management of Environmental Effects and risks from Exploitation in the Area, [including but not limited to stakeholder consultation and public access to environmental information;]

(e) Apply the polluter pays principle [~~approach~~] [~~having due regard to the public interest~~];

~~— [(e) Alt. Take into account the approach that the polluter should bear the cost of pollution, endeavour to promote practices whereby those engaged in Exploitation activities bear the cost of meeting the pollution prevention and control requirements for the authorized activities, having due regard to the public interest;]~~

[(f) Elaborate and implement measures to ensure that damage or hazards to the marine environment are not transferred, directly or indirectly, from one area of the environment to another or from one type of pollution into another one. Special attention should be paid to avoiding toxic, persistent and bio accumulative substances; and]

[(g) Apply the Mitigation hierarchy to avoid, minimize, restore mitigate, and offset ~~should it become feasible in the future, remediate and restore~~ the Marine Environment from harm caused by exploitation activities in the Area.]

[(h) Ensure that Exploitation in the Area under an Exploitation Contract is carried out with reasonable regard for climate change mitigation and safeguard ~~to minimise impact on~~ the ocean's capacity to function as a carbon ~~elimite~~ sink.]

~~— [(i) Apply the mitigation hierarchy to avoid, minimize, mitigate, and, should it become feasible in the future, remediate and restore the Marine Environment from harm caused by activities in the Area];~~

2. The Commission shall make recommendations [to the Council] on the implementation of paragraph 1 as required.

3. No Regulation in this Part shall be interpreted as preventing [sponsoring] States [Parties], the Enterprise and Contractors from taking, individually or jointly, more stringent measures in accordance with international law with respect to the prevention, reduction and where practicable elimination of detrimental effects on the Marine Environment.

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

1 (a) In our opinion, we believe that the expression in square brackets is repetitive, since it mentions "the risk of causing damage", so we prefer to eliminate it. This reflection extends to the next two brackets, because they refer to the same idea.

1 (b) We believe that it is not necessary to highlight the availability of sufficient information on the best techniques and practices available, or at least not at this point. We consider its elimination as appropriate, for the sake of greater clarity of the text.

1 (e) We would prefer to eliminate the term "approach" in brackets, since it is a principle as mentioned in Regulation 2, (4), in addition to this, we should maintain homogeneity with the way this term is referred to throughout.

As for the phrase bracketed at the end of this paragraph [having due regard to the public interest], we see no need to include it. We understand that this expression is part of Principle 16 of the Rio Declaration on Environment and Development, but given that the

principle is also accompanied by the phrase “and without distorting international trade and investment” and this has not been included, we would prefer to eliminate it, and leave it only as “Apply the polluter pays principle”, which is also the way in which it is included throughout the regulations.

(e) for the reason mentioned above we see no need to maintain this paragraph. We believe that it is redundant in what it indicates.

(f) In this paragraph we prefer that the expression "of the environment" be deleted, since it seems to us that it does not contribute anything to the meaning of the phrase. An area is evidently part of the environment.

(g) Our Delegation agrees with the inclusion of this paragraph, but we think it needs to be reviewed: 1st) The mitigation hierarchy follows the following scheme: avoidance, minimization, restoration and offset in order to reduce the impacts of development and control any negative effects on the environment. And 2nd) We believe that it is necessary to explicitly identify the type of activities that could cause harm to the marine environment in the Area, so the term "exploitation" should be added before activities, so that we make it clear. We should not forget that in the area there may be many other activities different to mining, such as telecommunications services and therefore there could be submarine cables that could potentially damage marine environment. For these reasons we think that the text could be as follows:

[(g) Apply the Mitigation hierarchy to [avoid](#), minimize, restore, and offset the Marine Environment from harm caused by [exploitation](#) activities in the Area.]

(h). Likewise, we prefer to eliminate the expression "to minimize impact on" in the following sentence, since we are assuming that the ocean's ability to function as a carbon sink will be affected. This delegation believes that it is more appropriate to indicate "and safeguard the ocean's ability to function as a carbon sink." Finally, we think it is more appropriate to say “carbon sink” than “climate sink”.

(i) This paragraph duplicates what is indicated in paragraph (g), therefore we understand that it should be eliminated