

**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:**
Singapore

2. **Please indicate the relevant provision to which the textual proposal refers**
Draft Regulation 31; newly proposed Draft Regulation 31 bis.

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 31 *[President's Text]*

Reasonable regard for other activities ~~and infrastructure~~ in the Marine Environment

1. Contractors shall, consistent with any applicable Standards and taking into consideration Guidelines, carry out [Exploration and] exploitation [activities] 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, [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].~~

~~1. bis Each Contractor shall exercise due diligence to ensure that it does not cause damage to known submarine cables or pipelines or interfere with other activities in the Contract Area or surrounding Marine Environment. In particular, the Contractor shall:~~

~~(a) Comply with the measures it agreed with the operators undertaking other [activities in the Contract Area and of submarine cables and pipelines] to reduce the risk of damage to any in-service cables and pipelines;~~

~~(a) bis Identify current and planned uses or activities in the Marine Environment transiting, overlapping, or proximate to the Contract Area through publicly available data and resources and any other reasonable means, including but not limited to marine scientific research, submarine cables or pipelines, fishing, navigation, activities related to marine genetic resources, and environmental protection measures and area based management tools established or proposed by competent international organizations;~~

~~(a) ter Coordinate directly with the responsible organisations for, or operators of, these activities in the Marine Environment in order to reduce the~~

~~risk of interference and damage to any structure or the Marine Environment; and~~

~~(b) Ensure that any activities it conducts will not interfere with the route of a planned submarine cable or pipeline, recognized sea lanes essential to international navigation, or areas of intense fishing activity.~~

~~2. To further the due and reasonable regard obligations in Articles 87 and 147 of the Convention, the [Secretary General], in conjunction with member States, shall facilitate early stage coordination between the Contractors and the proponents of the other known activities in the marine environment, including through the identification of other marine users in the relevant Regional Environmental Management Plan, which shall be periodically updated. Where the relevant other activities involve competent international, regional, or sectoral bodies, the Authority shall, in conjunction with member States, cooperate with such bodies to coordinate activities in the Marine Environment.~~

Regulation 31 bis

Reducing risk of damage to submarine cables and pipelines

1. The Contractor shall endeavour to reduce the risk of damage to submarine cables or pipelines, including, as appropriate, through:

- a) Complying with the measures that the Contractor has agreed with the operators of submarine cables or pipelines in the Contract Area to reduce the risk of damage to any in-service submarine cables and pipelines;
- b) Identifying current and planned uses or activities relating to submarine cables or pipelines in the Marine Environment transiting, overlapping, or proximate to the Contract Area through publicly available data and resources and any other reasonable means;
- c) Coordinating directly with the responsible organisations for, or operators of, submarine cables or pipelines in the Marine Environment;
- d) Promoting awareness of Exploitation activities, including but not limited to using geospatial alert systems; and
- e) Other measures in accordance with the applicable Standards, and taking into consideration Guidelines.

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

For Draft Regulation 31, we propose to:

- Delete the word 'infrastructure' as it is not consistent with the language in Article 147(1) of the Convention, which Draft Regulation 31 is intended to reflect.
- Delete references to UNCLOS Article 87 in sub-paragraph (1) as Article 87 is a general provision dealing with freedom of the high seas. In this context, Article 147 is the specific provision stipulating that activities in the Area are to be carried out with reasonable regard for other activities in the marine environment.
- Move Draft Regulation 31 (1bis) and (2) to a new standalone Draft Regulation 31 bis.

- The reasons are as follows:
 - The reduction of risk of damage to submarine cables and pipelines is conceptually distinct from the obligation to have reasonable regard for other activities in the marine environment. The former relates to protection against damage to existing submarine cables and pipelines, whereas the latter addresses how the balance should be struck between seabed mining activities and other activities. Conceptually, it is neater to deal with the two different imperatives in separate regulations.
 - Draft Regulation 31 is intended to reflect how the balance should be struck between activities in the Area and other activities in the marine environment. As reflected in Article 147 of UNCLOS, users of the marine environment are specifically required to exercise reasonable regard for each other's activities. The reasonable regard obligation in Article 147 is a two-way obligation. Article 147(1) provides that activities in the Area shall be carried out with reasonable regard for other activities in the marine environment while Article 147(3) provides that other activities in the marine environment shall be conducted with reasonable regard for activities in the Area. In other words, UNCLOS does not stipulate that a certain type of activity must prevail or must not be interfered with.
 - The need to reduce the risk of damage to submarine cables and pipelines (i.e., infrastructure) is conceptually distinct from the balancing exercise set out in Article 147 of UNCLOS. We understand that this is the reason why a number of delegations have raised concerns with conflating the two in the existing draft Regulation 31. To address these concerns, we thus propose setting out the measures relating to reducing risk of damage to submarine cables and pipelines in a new standalone regulation, Regulation 31bis. Where necessary, further specific protection measures can be set out in the Standards and Guidelines, which can be reviewed and revised periodically.
- We remain open to other ways of incorporating specific obligations for protection of submarine cables or pipelines and other uses of the sea.