

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 30<sup>TH</sup> SESSION:  
COUNCIL - PARTS 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(s) of Delegation(s) making the proposal:**

Republic of Nauru

**2. Please indicate the relevant provision to which the textual proposal refers.**

Regulation 44

**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.**

(c) bis Ensure the availability of sufficient science and scientific information for the purpose of decision-making;

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

(i) Apply the Mitigation hierarchy to avoid, reduce, remediate and offset, as applicable, impacts on the Marine Environment.

[4. Exploitation in the Area and obligations relating to the Marine Environment shall be interpreted and applied in a manner that does not undermine relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies and that promotes coherence and coordination with those instruments, frameworks and bodies.]

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

**New sub-paragraph 1(c)bis:** as stand-alone language, it is vague and unclear as to how and who will determine that the information is “sufficient”. Further parameters will be needed to ensure an objective assessment as to what constitutes “sufficient” for the purpose of this sub-paragraph and set out in a relevant guideline document.

**Sub-paragraph 1(e):** we prefer one of the earlier language proposals that clearly outlines the requirements for the Authority to regulate pollution prevention and control for activities in the Area. The term “polluter pays principle” is less clear and can be applied in a variety of ways, giving the Authority less meaningful direction.

With respect to the President’s comment regarding whether a mitigation hierarchy should be included in regulation 44, we consider that there is no issue with including such language as long as it is appropriately drafted, as was the case in earlier iterations of this regulation. We suggest the above wording for sub-paragraph 1(i).

With respect to the President’s comment on a new paragraph 4, we are concerned that this language attempts to copy and paste language from a wholly different treaty and context and insert it into the regulations. The drafting and rationale of this language might make sense in the context of the BBNJ Agreement, but we are concerned it would introduce a significant degree of uncertainty into the Authority’s regulatory regime.

In particular, it is not clear what it would mean for exploitation to “undermine” other legal instruments or frameworks or bodies, as opposed to breaching or being inconsistent with them. Further, it would not be appropriate for a multilateral institution such as the Authority to effectively be found by “regional, subregional and sectoral” bodies – given their more limited membership.

We would propose that paragraph 4 be deleted.

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