



**Template for the review of the draft standards and guidelines  
associated with the draft regulations on exploitation of mineral resources in the Area**

<i><b>Document reviewed</b></i>	
<b>Title of the draft being reviewed:</b>	Draft Standard and Guidelines for environmental impact assessments
<i><b>Contact information</b></i>	
<b>Surname:</b>	
<b>Given Name:</b>	
<b>Government (if applicable):</b>	
<b>Organization (if applicable):</b>	AFRICAN GROUP
<b>Country:</b>	
<b>E-mail:</b>	<a href="mailto:C6ghanaun@aol.com">C6ghanaun@aol.com</a> , <a href="mailto:hackman.khalilah@gmail.com">hackman.khalilah@gmail.com</a>
<i><b>General Comments</b></i>	
<p><b>Standard and Guideline Development</b></p> <p>At the outset we would like to reiterate that developing standards and guidelines (S&amp;Gs) while the consultations on the draft exploitation regulations remain in flux pose numerous and significant challenges. We therefore believe this exercise to be premature.</p> <p>In all instances where these S&amp;Gs refer to provisions of the draft regulations as settled language, we raise objections, as it is our understanding that the draft exploitation regulations are in draft form, and currently under negotiation and consultation themselves.</p> <p>As an example, paragraph 3 of the “Background” states,</p> <p>“The Commission noted that the inclusion of stakeholder consultation in the standard for an environmental impact assessment process <b>would be inconsistent with the draft regulations</b> on exploitation of mineral resources in the Area (ISBA/25/C/WP.1) as the draft regulations on exploitation <b>recommends but does not require</b> stakeholder consultation during the preparation of an environmental impact assessment.” - emphasis added</p> <p>Similar to the Commission, we also believe that stakeholder engagement represents best practice and should be included as a mandatory component in the EIA standard. We do not believe that its absence in the draft regulations should be a factor in determining whether or not the EIA standard can make reference to them.</p>	

## **Stakeholder Consultation and Scoping**

The draft regulations lack requirements relating to public review and stakeholder comments, in the EIA process. We propose that the scoping report be open for stakeholder consultation through the Authority's website., recalling that States, in line with Agenda 2030 for Sustainable Development, have committed to "ensure responsive, inclusive, participatory and representative decision-making" at all levels and that the right to information and participation, declarations addressing environmental decision-making in particular, are internationally protected rights.

Consultation mechanisms are important because they lead to better decisions and higher public confidence. The ISA should therefore take a lead not only in conducting its own consultations, but also in requiring best practice from its contractors. Such detail (and more) could be included in a Standard, rather than the Regulations. While we appreciate that Stages of the Scoping process have been provided in greater detail in the Environmental Impact Assessment Guideline, we think that there should be more guidance for Step 3 (Scoping Consultation) regarding what constitutes as sufficient consultation. We recommend that Contractors be required to submit a draft scoping report to the Authority to be published for a 60-day comment period. Following the comment period, the Commission could look at the report and comments and provide recommendations to the Contractor, which will enable them an opportunity to make any necessary revisions prior to submitting their Plan of Work and instill greater confidence that their submission will be considered complete by the Commission.

The inclusion of greater stakeholder review will also help to establish the development of the EIA/EIS/EMMP as an iterative process that evolves through stakeholder consultation.

We have made edits to the EIS guideline and EIA Standard and Guideline (S&G) to address these issues.

## **Review and Decision-Making**

The S&G, similar to the draft exploitation regulations, fail to set out adequate review and decision-making processes for the Scoping Report, EIS, and EMMP. Clear procedures and responsibilities for review and decision-making are fundamental to ensuring effective protection of the marine environment. See suggested changes in the specific comments below.

## **Access to Essential Documents for Reviewing an EIS**

This document regularly refers to information that appears in the Plan of Work. Our understanding is that the EIS is likely to be a public document, while the Plan of Work is likely to be confidential. This leads to a strong concern about transparency in the EIS. If the EIS relies on the Plan of Work, it may make the EIS very difficult to review by stakeholders, such as not having enough information about the project information. The project/mining plan of the EIS should contain sufficient detail (even if it repeats elements of the Plan of Work) for independent assessment to be made without seeing the Plan of Work. This is a typical approach in other industries.

Additionally, as the EIS will only be as good as the data it is based on, there should be a requirement for all baseline data to be submitted to the Authority prior to the submission of the EIS, possibly during the EIA scoping process. This should be uploaded to DeepData and should include coding used to analyze the data and independent reviews associated with any predictive models used.

### **Impact vs. Effect**

Where definitions are available in EIA guidance, the general consensus is that impacts are defined as the changes resulting from an action, and effects are defined as the consequences of impacts. This is reflected in the terminology section (with proposed amendments) and we have amended the text accordingly.

### **Analysis of Alternative Operations Considered**

An EIA should include a robust alternatives analysis that “present[s] the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public.” Identification and assessment of alternatives should be a fundamental requirement of any EIA, to enable the regulator to determine whether the least harmful approach for the environment and human health (see reference below) has been identified. This is a standard practice in many international EIA systems (see textbook reference below). An important part of the EIA will be assessing the Environmental Effects of these alternative operations. Justifications for not choosing these alternative approaches and differences from proposed mining operations should be clearly described in the EIS to allow stakeholders and members of the Authority to be able discern the financial and environmental cost/benefits of each approach. We have proposed edits to the EIS and EIA S&G to make it clear that a robust alternative analysis is an essential requirement of an EIA/EIS.

### **Impact Area**

The current draft regulation no longer includes the term “impact area”, but rather we are left with the terms “mining area” and “contract area”. From scientific literature, it is still unclear whether the impact area will stay within the bounds of the contract area, due to the dispersal of sediment through collector and dewatering plumes and distance traveled by light and noise. It would be helpful for the EIS to address the predicted impact area (defined horizontally and vertically) and incorporate discharge information into site- and region-specific circulation models to calculate the predicted impact area. It is possible that the impact area would be within boundaries of the contract area, or the regulations would require impacts be localized to the contract area, but until that is determined it is critical that the regulations (or Standard, if it is determined this content is more appropriate there) require Contractors to collect baseline information, provide an environmental risk and impact assessment, and develop an environmental monitoring and management plan for the impact area, regardless of whether that is inside or outside the “contract area”. We have added the term ‘Impact Area’ to the terminology section below, as previously included in the 2017 version of the draft Exploitation Regulation, and have made amendments to the text accordingly.

### **Addressing Uncertainty**

The uncertainty in predictions has the potential to radically change the conclusions of the EIS (for example in comparisons between options, risk assessment etc.). At present there is little treatment of this. Identifying, and taking steps to resolve uncertainties should be an essential feature of an EIA for deep-sea mining in the Area. We therefore propose a standalone section in the EIS guideline (2.1.6bis) focused on this important aspect.

As well as a specific section on the uncertainty, the EIA/EIS should include a clear and explicit treatment of uncertainty in each relevant section, with an attempt made to quantify the magnitude of uncertainty. This should split the uncertainty by source, for example measurement error, environmental variation (in space and time), model variation, environmental change (e.g., climate change), uncertainty in the extent and sources of impacts etc. etc. A clear assessment of the consequences of the uncertainty on the predictions, potential outcomes and decision making should be made for each relevant section. The approach used in the IPCC reports provides a good example of how this could be done.

### Mitigation hierarchy

The Guideline suggests both restoration and biodiversity offsets as relevant to the seabed mining context, despite scientific literature demonstrating that restoration is currently unknown and most likely unrealistic for nodules and crusts and that offsets may also be inappropriate. We recommend that focus instead be on the first two steps of the mitigation hierarchy: avoid and minimize. See details in the specific comments table below.

### *Specific Comments*

Page	Line	Comment
<b>Draft Standard for Environmental Impact Assessment Process</b>		
1	20-21	Replace para. 1 with (changes in red) “This Standard is issued by the Council of the ISA pursuant to [Regulation 94] of the Exploitation Regulations and is legally binding on Contractors. This Standard sets out the requirements for the Environmental Impact Assessment (EIA) under Regulation 47 of the Exploitation Regulations. This Standard is supported by guidelines to its implementation, the ‘Guidelines for ISA Environmental Impact Assessment’ which can be found [...].”
1	27	Add “required” after “structure and content”  Also point of clarification regarding “all EIAs prepared” - Does the standard apply to EIAs prepared under exploration reg? If no then change wording
1	29	Regarding “The Standard shall be read in conjunction with the Exploitation Regulations” - There should be a statement about which document has precedence in the event of a conflict and a reference to the relevant regulation.
1	30	Add two bullets: “

		<ul style="list-style-type: none"> <li>● Standard or a guideline setting environmental objectives, indicators and thresholds for the ISA;</li> <li>● Standard or guideline in relation to stakeholder consultation;”</li> </ul>
1	38	<p>Replace “read” with “applied”.</p> <p>The REMP is another planning document – which has an undefined relationship to the EIA, although the EIA is expected to need to comply with the relevant REMP if it contains specific prescriptions. If the intent is that the proponent is to account/have regard to the contents of the REMP in preparing EIA – then this should be in content or scoping section and the language here should be stronger than “read”</p>
1	40-49	<p>Delete “Principles and”</p> <p>Replace 4 points with (changes in red):</p> <ol style="list-style-type: none"> <li>1) protect and preserve the marine environment;</li> <li>2) anticipate and avoid or minimize all harmful environmental effects of exploitation activities;</li> <li>3) prevent serious harm to the marine environment arising out of exploitation activities;</li> <li>4) ensure that activities in the Area are carried out with reasonable regard for other activities in the marine environment</li> <li>5) ensure that there is consistency of EIAs and EISs among different applicants and Contractors;</li> <li>6) ensure that environmental considerations are explicitly addressed and incorporated into the ISA decision-making process.</li> </ol> <p>It is unclear where this list came from. It seems selective. It looks like objectives, not principles. We have suggested two additions, but think there are other relevant principles and objectives, including those contained in the Regs (DR2, DR47). It might be good to cross-reference to those.</p> <p>Also, will there be objectives and principles identified by the ISA in a standalone Standard or Council decision or some such document? If so, it might be good to mark this for a later review when the latter</p>

		document is prepared. Or delete this section altogether, as unnecessary (especially because the listed objectives are already duties from UNCLOS and from the Regs).
2	Flow Chart	<p>Suggest deleting the flow-chart from the Standard. An ISA Standard is supposed to set legally binding requirements. It is unclear what this flowchart does legally. (Is the intent that the proponent adheres to each step? Does it require consultation where indicated or is this just an illustration?)</p> <p>Would also be better not to use a generic flow-chart, but to show the steps specifically required in the ISA EIA process, and to make clear that these steps are mandatory e.g.</p> <p>“An environmental impact assessment undertaken by an applicant or contractor must include the following iterative elements:</p> <ul style="list-style-type: none"> <li>a) A scoping process,</li> <li>b) A scoping report,</li> <li>c) An impact analysis,</li> <li>d) An analysis identifying mitigation measures</li> <li>e) An uncertainty assessment [and add a new bit to the Standard explaining this will assess data quality/integrity, gaps or deficiencies in knowledge, and any other uncertainties regarding anticipated impacts and identified mitigation measures, and will provide analysis of methods to address those gaps, deficiencies or uncertainties];</li> <li>f) A consultation process;</li> <li>g) An environmental impact statement;</li> <li>h) A review, and recommendation to the Council, but the Commission;</li> <li>i) A decision (to approve or reject) by the Council.”</li> </ul>
3	86-94	<p>The Screening section provides no prescriptive direction.</p> <p>What this section could usefully do is identify that all plans of work for exploitation are subject to EIAs.</p> <p>Also, changes to existing plans of work should be addressed. We would argue that all changes are subject to an initial EIA – the requirements of which will need to be specified. If the initial EIA shows that the changes in the plan of work has the potential to give rise to new adverse effects – then it ought to be subject to full EIA.</p>

		<p>Below is language to address the comments above:          Replace para. 7 with</p> <p>“All applications for a Plan of Work for Exploitation must include an EIS based on a prior EIA. A subsequent EIA and EIS is also required when:</p> <ul style="list-style-type: none"> <li>● a Material Change to an existing Plan of Work is proposed, or</li> <li>● an activity described in the Plan of Work will exceed the impact thresholds set out in the Commission’s Recommendations for the Guidance of Contractors [ISBA/25/LTC/6/Rev.1] and has not already been adequately covered by an EIS.</li> </ul> <p>A subsequent EIA and EIS may also be required from a Contractor when:</p> <ul style="list-style-type: none"> <li>● when the Commission requests an applicant to change its proposed Plan of Work during the application stage under Regulation 14, or</li> <li>● any other time that a Contractor has cause to consider that the contractor’s activities may be causing effects that were unanticipated by a prior EIA/EIS for those activities.</li> </ul> <p>In the event that a subsequent EIA and EIS may be required in accordance with the above circumstances, the applicant or Contractor must contact the Commission without delay [may be worth specifying a time here] with details of the proposed changes or unanticipated effects, and request notification of whether an EIA and EIS are required. In responding to a request in connection with a proposed change, the Commission must consider whether the changes give rise to the likelihood of new adverse environmental effects not included in any previous EIA.”</p>
3	95-125	<p>The section about the Scoping report should be restructured to expressly require an applicant or Contractor to produce a Scoping Report, outline the review process (with public consultation), and then set out what that Report must entail, including:</p> <ol style="list-style-type: none"> <li>1) Consideration of alternative options in the EIA, as well as a "no action" option; and</li> <li>2) Identifying uncertainties.</li> </ol>

Therefore, we propose additional language to meet these standard EIA/scoping practices.

Replace para. 8 and 9 with (additions in red):

“8. The applicant or Contractor must prepare a scoping report in order to:

- identify the issues and impacts that are likely to require consideration in EIA and, to the extent practicable, rank them according to the environmental risks posed;
- define the focus of the EIA studies; and
- identify key issues that shall be studied in more detail.

9. The applicant or Contractor must

- undertake scoping at the outset of the EIA process;
- submit a Scoping Report to the Authority, in accordance with the requirements of section (V)(Cbis) of this Standard.
- conduct stakeholder mapping, and identify a list of stakeholders, in accordance with the requirements of section 7 of this Standard.
- include, as part of their scoping activities, an Environmental Risk Assessment (ERA) aimed to ensure that all relevant activities and associated impacts are identified, and their importance for consideration in the EIA is assessed so that the impact assessment methods and the development of mitigation measures are in proportion to the most important risks associated with the project;

**Content of Scoping Report and Process for Submission and Review**

9bis. The Scoping Report must:

- demonstrate that scoping is undertaken with a reasonable understanding of the environmental setting for the project (i.e., Contract area and regional setting), existing environmental baseline studies, and the project proposals (e.g. where mining will occur within a Contract area, the mining technology);
- establish the technical, spatial and temporal boundaries for the EIA;
- communicate any assumptions relied upon and identify and quantify the uncertainties at this stage of the EIA and how they are being dealt

		<p>with, and include assessment of their implications to the ERA findings;</p> <ul style="list-style-type: none"><li>● report on the methodology and results of the ERA, including identification of high priority risks requiring particular focus in the subsequent impact assessment phase of the EIA;</li><li>● include a report of consultations undertaken during scoping;</li><li>● include consideration of alternative means of carrying out the project that are economically and technologically feasible, and evaluate the environmental effects of using those alternatives. This should include alternatives to elements of the planned project already provisionally decided upon (e.g. the type of mining technologies to be used), as well as aspects that will be considered and decided through the EIA (e.g. details of environmental mitigation measures and mining operation plans);</li><li>● identify the activities and studies planned, and any additional baseline data required, for the EIA, including a description of preparers and contributors to the scoping report and EIA and their qualifications;</li><li>● explain how the activities and studies planned for the EIA will be sufficient to determine likely environmental impacts;</li><li>● identify any divergence from relevant ISA Guidelines; and</li><li>● be submitted in accordance with 5.2.2, along with a draft Terms of Reference for the EIA .</li></ul> <p>9ter. The Scoping Report must be submitted by the applicant or Contractor to the Secretary-General of the Authority.</p> <p>The Secretary-General must make the Scoping Report available on its website for a period of at least 60 days and invite members of the Authority and other stakeholders to submit to the Authority comments on the Report in writing.</p> <p>The Secretary-General must, within seven days following the close of the comment period, provide the comments submitted to the Commission, and to the applicant or Contractor. The applicant or Contractor may provide responses to those comments to the Commission and must confirm to the Secretary-General whether or not it intends to provide responses within 14 days of receipt of the comments.</p> <p>The Commission must review, in accordance with this Standard and relevant Guidelines, the Scoping Report and the accompanying Terms of Reference for the EIA, any comments submitted during the consultation, and any responses to those comments received from the applicant or Contractor.</p> <p>On its basis of this review and taking into account the comments submitted</p>
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		<p>during the consultation, the Commission must make recommendations to the applicant or Contractor for consideration before the applicant or Contractor proceeds with the EIA. These recommendations must be accompanied by a detailed rationale.</p> <p>The recommendations may include:</p> <ul style="list-style-type: none"> <li>● revising the ERA or other aspects of the Scoping Report based on different methodology or inputs;</li> <li>● amendment to the proposed Terms of Reference for the EIA;</li> <li>● re-submission of a revised Scoping Report for further stakeholder consultation and LTC review, in the case where uptake of any of the LTC’s recommendations are likely to lead to a Material Change in the Scoping Report.</li> </ul> <p>The Contractor must take into account the Commission’s recommendations before proceeding with the EIA. The applicant or Contractor must also notify the Commission if the Terms of Reference for the EIA is revised by the applicant or Contractor as a result of the Commission’s recommendations (but the Scoping Report is not re-submitted to the Commission).”</p> <p>Of note, many of the provisions we suggest above should actually be included in the draft regulations.</p>
3	127	Replace “assessment of impacts is the core of the EIA process. This component brings together” with “impact assessment shall bring together)”
4	131	Regarding “enhanced EIA” It isn’t clear that this is a separate ERA from that presented at scoping. The scoping ERA tends to be higher level and less detailed than the ERA in the EIS (which can use more detailed information on the description of the project.
4	132	Regarding “significance” The UNCLOS (162(x) refers to “serious” harm. We think it is a viable concern that there will be disagreement over whether significant harm is a lower threshold or how these two thresholds interact. This should be resolved in the draft regulations.
4	133	Replace “the development of mitigation” with “inform avoidance and minimization measures to limit unavoidable impacts”

		<p>The proposed language above recognizes the potential incompatibility of offsets with deep-sea environments and clearly sets the first two stages of the mitigation hierarchy (avoidance and minimization) as the necessary focus for impact management (see further comments below on the mitigation hierarchy and general comments).</p> <p>This section may also benefit from referencing the precautionary principle and how this has been applied in assessment of avoidance and minimization.</p>
4	138	<p>Replace “severity” with “effect”</p> <p>see general comments regarding impact vs effect</p>
4	141	<p>Replace “routine and non-routine” with “Planned and non-planned impacts”</p>
4	143	<p>add another bullet “Alternative activities”</p> <p>See general comment - “Analysis of Alternative Operations Considered”</p>
4	149	<p>This sentence is unclear</p> <p>Recommend replacing “evidence base for such information and how it has been used to assess the impacts” with “underlying data used in the Contractor's parameterization”</p>
4	150-153	<p>Replace para 14 with (edits in red)</p> <p>“The applicant or Contractor must identify the impacts (including cumulative effects alongside other existing projects or marine users where feasible) of the project at a regional scale. The applicant or Contractor must, in its assessment of impacts, adduce enough information to demonstrate the significance of each impact in such a way to allow mitigation of harmful effects, at the regional level, to be considered.”</p>
4	155	<p>Propose adding “and Management” to “Mitigation”, given the Environmental Management and Monitoring Plan is the document which lists management strategies.</p>
4	161	<p>replace “establish the most” with “identify”</p> <p>The better way might be to require the examination of economically and technologically feasible alternatives -as opposed to requiring the</p>

		<p>identification of the “most” feasible alternative - which may not be the most environmentally sound – but the purpose of alternatives is to require the proponent to justify why they have not chosen the least harmful alternative.</p>
4	164-169	<p>The Reporting section should have more information and reference the appropriate regulations/standards for preparing and submitting the EIS. As stated in the EIS guideline, we believe the EIS template in Annex IV and elaborated in the guideline should be mandatory.</p> <p>Below is proposed text to improve the content of this section following para. 17. Ideally this paragraph would just reference the relevant regulation and standard for reporting. But, until then, we have provided some necessary components below.</p> <p>“The applicant or Contractor must prepare the EIS, and submit it to the Authority, in accordance with the Regs/Standards [insert references?]. The Contractor /applicant must also consult the relevant Guidelines.</p> <p>The EIS must also include:</p> <ul style="list-style-type: none"> <li>● a description of any consultations undertaken as part of the environmental impact assessment, and a description of how comments received under consultation have been taken into account, or why they have not been taken into account;</li> <li>● a description of any national processes followed, and permits received from the sponsoring State in relation to the environmental impact assessment;</li> <li>● a description and justification for any deviation from the Terms of Reference submitted to the Commission with the Scoping Report, and any recommendations from the Commission pertaining to the EIA/EIS</li> <li>● a summary of the management and monitoring commitments, which will be reflected in the Exploitation Contract and the EMMP</li> </ul>
5	170-172	<p>Regarding the Review section:</p> <p>The issue for the Standard is whether the draft regulations require elaboration. Until the regs are finalized it is difficult to discern what the appropriate amount of content should be in this section (similar</p>

		<p>problem for the reporting and decision-making section).</p> <p>For now, we have suggested some examples of provisions below that are not covered in the current Regs but which seem essential.</p> <p>Proposed language to be added after para. 18:</p> <p>“The Commission must undertake a comprehensive review of the EIS in accordance with Regulations 12 and 13. This review should determine:</p> <p>Firstly, whether the EIS was prepared in accordance with Regulation 47 and this Standard. In this regard, the Commission must check for completeness, accuracy and statistical reliability, in accordance with the requirements of this Standard, and [the Standard on Baseline Data?]</p> <p>Secondly, whether the impacts can be minimized to an acceptable degree. In this regard, the Commission must confirm that the criteria of Regulation 13(4) are met. This must include a determination by the Commission that:</p> <ul style="list-style-type: none"><li>● the anticipated environmental impacts fall beneath relevant thresholds, in accordance with [the Standard on environmental objectives? the Standards which set specific performance and environmental thresholds, taking into account relevant Guidelines? A Standard on ‘serious harm’? Any thresholds included in REMPs?], and</li><li>● the proposed mitigation measures and monitoring framework appear to be in accordance with [the Standard on EMMP?],</li></ul> <p>The Commission may draw upon external independent expertise in conducting this review and may invite the Contractor or any other stakeholder to provide the Commission with more information in writing.</p> <p>Where the Commission determines that the proposed Plan of Work does not meet any of the relevant criteria detailed in this section, the Commission must either make recommendations to the applicant or Contractor for amendments to the EIS or must not recommend approval of the proposed Plan of Work. If the Commission makes recommendations for amendments to the EIS, it must defer making a</p>
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		<p>recommendation on the Plan of Work until a revised EIS has been submitted pursuant to Standard.”</p> <p>Other points, which we have not included in the suggested text below, but could also be addressed in the Standard:</p> <ul style="list-style-type: none"> <li>• should there be a process of peer review for the EIS?</li> <li>• the publication of the submitted EIS and EMMP together, does not appear to allow for an iterative process in which the EIS evolves in line with consultations, and an EMMP can then reflect those evolutions – could there be some procedure described in the Standard to accommodate that?</li> </ul> <p>For completeness, also just flagging here a couple of other points that need further consideration in the Regs, but which we do not think can be addressed via the Standard:</p> <ul style="list-style-type: none"> <li>• DR 89 raises the possibility that elements of EIS could be deemed confidential. DR 89(3)(e) addresses environmental information but restricts exemption to information ‘necessary for the formulation by the ISA of rules, regulations and procedures’, not information required for other environmental decision-making. Typically, confidentiality exceptions are very narrow for EIAs. So, this provision in the Regs should include e.g., ‘necessary for the formulation of... ISA decisions’</li> <li>• The 60-day time period for public consultation on an EIS is too short for proper review of such complex documents. This should be extended (e.g., 90 days)</li> </ul>
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5	173-175	<p>Review comment applies as well for the Decision-making section</p> <p>Recommended text additions after para. 19:</p> <p>“The Commission’s report under Regulation 11(5) and recommendation to the Council must include:</p> <ul style="list-style-type: none"> <li>● an initial determination as to whether the EIS was prepared in accordance with the requirements of Regulation 47 and this Standard.</li> <li>● the Commission’s determination under regulation 13(4), including: <ul style="list-style-type: none"> <li>- a detailed rationale, including its findings with regard to the proposed activities’ compliance with relevant thresholds;</li> <li>- an indication of any uncertainties associated with the</li> </ul> </li> </ul>

		<p>EIS;</p> <ul style="list-style-type: none"> <li>- whether the proposed work would cause “any effect...which represents:...loss of scientific or economic values which is unreasonable in relation to the benefit derived from the activity in question” as was suggested by the ISa Preparatory Commission (LOS/PCN/SCN.3?WP.6/Add.5( 8 February 1990), article 2(2));</li> <li>- whether the applicant has demonstrated the required monitoring capabilities, including the capacity to monitor key environmental parameters and ecosystem components, to determine the actual environmental effects during activities in the Area, in line with the [Regional Monitoring Plan and Standard for EMMP?]</li> </ul> <ul style="list-style-type: none"> <li>● A summary of comments arising from the Stakeholder public consultation conducted by the Authority under Regulation 11.</li> <li>● The Commission’s recommendation with regards to the proposed exploitation activities in the Plan of Work which are the subject of the EIS.</li> <li>● Sufficient information to give the Council the requisite information and understanding to make a fully informed and prudent decision about the proposed activity.</li> </ul> <p>Where the Commission’s recommendation is to approve the activities that are the subject of the EIS, the Commission will also recommend to the Council relevant terms and conditions for implementation of the project, to be included in the contract / Plan of Work. Such terms will reflect, at a minimum, the management and monitoring commitments summarized in the EIS.</p> <p>Having taken into account the Commission’s report and recommendation, the Council must make its own decision whether to approve or reject the EIS (and other Environmental Plans), and must provide a written record and the rationale for that decision.”</p>
5	176-182	<p>Comments regarding the “Monitoring and EIA Audit Steps”</p> <p>1) This section needs some direction to link the thresholds of impact – whether it’s the amount of sedimentation; plume dispersal; bio-diversity impacts – used to determine significance in the EIA process and EIS conclusions to the actions under the EMMP.</p> <p>The way this is written suggests the response to non-compliance is “to improve the processes” – but it is unclear whether this is a general</p>

		<p>recommendation or something specific to the project. While compliance orders are another subject – the standard should not undermine that process.</p> <p>2) Monitoring impacts in non-contract areas and areas of particular environmental interest will need to be done, which cannot be the sole responsibility of the contractor. An independent monitoring programme is needed, e.g., funded by contractors collectively and organized by the ISA using its powers under UNCLOS, art 165(2)(h). The directions for this independent entity may come in a separate standard or in the draft regulations but should be mentioned here as it would interact with the contracts survey through the regional environmental assessment.</p>
5	177-180	<p>Replace para. 20 with  “ A contractor must undertake monitoring as outlined in the EMMP submitted as part of the Plan of Works and in support of the EIS. Monitoring results must inform adaptive management processes, and the robust and transparent reporting of environmental performance to the ISA.”</p>
5	182	<p>Recommend new section on Stakeholder Consultation and merging some content from Section XI of the EIA guideline - see general comments on “Stakeholder Consultations”</p> <p>“VII. 7 Stakeholder Consultation</p> <p>Stakeholder consultation and participation is an essential part of EIA to ensure the EIA is comprehensive, complete and takes into account various stakeholder perspectives as well as scientific evidence.</p> <p>‘Stakeholder’ is a defined term in the Regulations and means a natural or juristic person or an association of persons with an interest of any kind in, or who may be affected by, the proposed or existing Exploitation activities under a Plan of Work in the Area, or who has relevant information or expertise.</p> <p>The applicant or Contractor must conduct a stakeholder mapping exercise during the Scoping phase, which must be reported in the Scoping Report. This exercise must identify all stakeholders who may</p>

		<p>have any interest, or relevant expertise, in the activities. The stakeholder mapping exercise must include (but is not limited to):</p> <ul style="list-style-type: none"> <li>● The organs of Authority, including the Secretariat, the Legal and Technical Commission and the Council.</li> <li>● Member states of the Authority, and Observers to the Authority.</li> <li>● Relevant government agencies and civil society groups or communities of the Sponsoring State.</li> <li>● Any persons or entities that hold, operate, or regulate other activities within the region in which the proposed mining activities are located.</li> <li>● Coastal States adjacent to the region in which the proposed exploitation are located.</li> <li>● Non-governmental organizations with an interest in environmental or social/cultural factors relevant to the proposed activities;</li> <li>● Intergovernmental organizations which will provide oversight for any aspect of the proposed activities; and</li> <li>● <del>Traditional Custodians.</del> Holders of traditional knowledge.</li> </ul> <p>Stakeholder consultation needs to be conducted in a meaningful manner. The applicant or Contractor must:</p> <ul style="list-style-type: none"> <li>● proactively consult with stakeholders throughout the phases of the EIA, including at: <ul style="list-style-type: none"> <li>- the scoping stage;</li> <li>- the conclusion of the environmental baseline studies;</li> <li>- the development of management and mitigation measures;</li> </ul> and <ul style="list-style-type: none"> <li>- the development of environmental conditions.</li> </ul> </li> <li>● Make the draft scoping report and draft EIS open for stakeholder consultation for a reasonable period, and take any comments received into account, before finalizing and submission.</li> <li>● Make stakeholder comments received during consultation processes publicly available, including on the applicant or Contractor's website.</li> <li>● provide appropriate access to up-to-date and comprehensive information to all stakeholders about the mining plans and environmental data and impacts;</li> <li>● provide reasonable opportunity for those consulted to raise enquiries and to make known their views;</li> </ul>
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		<ul style="list-style-type: none"> <li>● record those any non-written comments views in written form and take into account where appropriate those views in the EIS.</li> <li>● record in the EIS: <ul style="list-style-type: none"> <li>- the nature, extent, participants, and outcomes of stakeholder engagement conducted at different stages of the EIA process, such as</li> <li>- Stakeholder groups consulted (with their agreement, although names and contact details of individuals consulted might not be included;</li> <li>- Type of engagement undertaken (e.g., provision of written materials and facilitation of written feedback, webinars, face to face meetings, telephone discussions);</li> <li>- Description of the manner in which the engagement has been tailored to the stakeholders’ needs, (e.g. presentation of information in multiples languages, or in a manner which is effective for stakeholders with disabilities, reading impairments or cultural barriers that may prevent effective transfer of information);</li> <li>- Date and time engagement was conducted; and</li> <li>- Issues raised (at each engagement stage).</li> <li>- a summary of stakeholder comments received, and</li> <li>- a description as to how the applicant or Contractor has addressed those comments, or how it justifies choices it has taken in light of those comments.”</li> </ul> </li> </ul> <p>Additional comments on stakeholder consultation:</p> <p>It is our understanding that the most instructive guidance documents provide specific (time bound) points for stakeholder engagement throughout the permitting process, and are either facilitated by the regulatory body, or provide strict requirements in relation to the logistic requirements for stakeholder engagement. While we have not specified time ranges in our proposed edits here for the stakeholder mapping exercise, we do believe they should be provided, possibly as a range based on the length and complexity of the document. Additionally, providing more specific guidance to the contractor about what stakeholder consultation activities may look like at each of the phases of the EIA would help to ensure that the contractors are clear about requirements and there is consistency across contractors for stakeholder consultation. Here is a reference document that can help serve as a tool to provide more specific detail in the EIA Standard and Guidelines document -</p>
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		<a href="https://www.industry.gov.au/sites/default/files/2019-04/lpsdp-community-engagement-and-development-handbook-english.pdf">https://www.industry.gov.au/sites/default/files/2019-04/lpsdp-community-engagement-and-development-handbook-english.pdf</a>
<b>Draft Guidelines for Environmental Impact Assessment Process</b>		
6	250	Add another bullet “Standard for Environmental Impact Assessment”
6	258	replace “should” with “must” While noting that the guidelines are not prescriptive, there are regulatory requirements to consider the REMP.
7	265	Add “and justify” after “evaluate”
7	266	Add “and to present any such evaluation as part of the contextual information presented in the EIS” after “process”
7	266-269	Delete last sentence - The guidelines as currently drafted do not necessarily present “options available”.
7	Workflow	As provided in the EIA Standards comments, It would be more helpful to give a more detailed workflow of each of the steps and the estimated amount of time to complete those steps. Here is an example from the Canadian Environmental Assessment Agency for reference: <a href="https://www.gov.mb.ca/mit/wms/lmbblsmoutlets/images/ceea_processes.jpg">https://www.gov.mb.ca/mit/wms/lmbblsmoutlets/images/ceea_processes.jpg</a>
7	283	However implies an “either/or” situation. We propose replacing “However” with “In addition,”
8	287-290	As stated in the general comments and in the EIA Standard in-line text suggestion - It is of critical importance that the ISA (through either the LTC or the Secretariat) make formal comment on the scope of an EIA. It is unreasonable and inappropriate to expect that a contractor will spend potentially millions of dollars on a process with an unapproved scope. We suggest adding to the end of the final sentence: “ and submitted to the [LTC/Secretariat] for review.” or Referencing the EIA standard with the new text additions we proposed
8	292-293	Replace “during the scoping” with “in the Scoping Report, in accordance with the relevant regulation [or EIA Standard?]”
8	300	add “accessible” after “robust” - see general comment on “Access to Essential Documents for Reviewing an EIS”
8	321	Suggest adding after EMMP “, the management and monitoring commitments made in the EIS,”
8	323-332	See comments from EIA Standard Screening section.

		<p>Overall this section needs much more information to describe the screening process should there be changes to the existing plan of work, in particular how decisions are made.</p> <p>Additionally pointing contractors to another report (European Commission) is not helpful, as it makes it difficult to discern what is required or recommended. Instead it would be better to pull those useful processes and methodologies from this or other reports to this section. Or at the very least be more specific about what elements may be gleaned from the report.</p>
9	343-347	<p>In the EIA standard we proposed additional content that should be included in the scoping report. We have added them here for consistency.</p> <p>“This stage involves identification and collation of the information that the applicant or Contractor must provide to prepare a Scoping Report. This includes project information and definition, identification of studies and description of methodologies that will inform risk assessment and understanding of the extent and nature of impacts associated with the potential mining operation and consideration of alternative means of carrying out the project, and identification and description of any divergence from the relevant regulations, REMP, and Standards, taking into account relevant Guidelines.”</p>
9-10	358-378	<p>This section (“Project Information and Definition”) would benefit from providing a greater level of detail on requirements for outlining/describing the proposed activities and alternative activities considered</p>
10	384-389	<p>Recommend replacing the first two bullets with the bullets below (changes in red):</p> <p>“</p> <ul style="list-style-type: none"> <li>● a review of the current environment (including social and economic) baseline values and systems based on data collected by the applicant or Contractor to date and other relevant data collected by third parties and highlighting those aspects most vulnerable to the impacts of the project. This review, in accordance with the EIA standard, must demonstrate a reasonable understanding of the environmental setting and describe the data collection methodologies;</li> <li>● a review of the intended project’s activities and other alternative activities considered to carry out the project, including identifying</li> </ul>

		those likely to have Environmental Effect;”
10	397-398	As stated in the EIA Standards above, the Standard (not the Guideline) should require the contractor/applicant to assemble a team for the scoping and EIA consisting of internationally recognized EIA practitioners and scientists with relevant disciplinary background (deep ocean ecology etc).
10	403-404	This bullet does not refer to risk. In order to remedy this, you could either change the heading of this section to Risk and Impact or change the text of this section to reflect the risk associated with impacts being in excess of those predicted.
10	405	replace “may” with “will” - Uncertainty will always exist in the EIA process, but especially for the deep-sea  Also, suggest replacing “over” with “in relation too”
10	408	recommend replacing “determine the probability factor in establishing environmental risk” and “will assist with determining the probability of each risk materializing. The consequences of uncertainty should be included in the assessment”
11	411	We believe it is more appropriate for the guideline to refer to another regulatory guideline, rather than the example of an incident or even document related to a specific oil company.
11	427	Suggest inserting “either fail to acknowledge a particular material risk, or” before “spend”
12	455	Add “alternative operations considered” after “project activities” - see general comment regarding “Analysis of Alternative Operations Considered”
12	474-475	Delete para. 27 - This whole section relates to scoping, so we do not think this sentence is necessary
13	Table 1 (a-c)	Regarding “Such matrices are very common in a range of risk assessments”  These risk matrix approaches tend to be applied in industries where a well-developed evidence base already exists for both ‘severity’ and ‘probability. Seabed mining is only beginning to develop its evidence base and its mining technology so it would be very onerous on contractors to attempt to allocate five levels of probability and five levels of severity at the early stages of an EIA.

		<p>It could be enough to say that contractors should:</p> <ul style="list-style-type: none"> <li>• Identify their project activities that will have impacts on the environment;</li> <li>• Identify what those impacts will be, and estimate their magnitude;</li> <li>• Include mitigation measures as appropriate (i.e. they are relatively proven, and the project will be incorporating them);</li> <li>• Identify the important receptors that will be affected and how they are likely to respond to particular impacts (their sensitivity); and</li> <li>• Take into consideration the level of certainty (or confidence) over impact magnitude, receptor importance and sensitivity.</li> </ul> <p>Based on the above, identify and rank the most important issues for the EIA such that large magnitude impacts on highly important and highly sensitive receptors require the most attention in the EIA and so on. Where there is higher uncertainty over the initial estimate of impact magnitude or the receptor importance or the receptor sensitivity, then an issue is accordingly ranked of higher importance for attention in the EIA in accordance with the precautionary principle.</p> <p>Additionally, given that these matrices include not only scientific considerations but value-judgments and political decisions about how much harm to the common heritage is deemed “acceptable”, there needs to be clearer guidance to contractors on how to assess consequences of risk.</p>
16	513-522 (Table 2 para. 31, figure 3)	<p>We don’t believe this level of detail is warranted – we believe it would be more relevant to simply note that the Contractor must provide a summary of the level of confidence and/or uncertainty associated with the data, and the assumptions drawn from the data, as well as a pathway forward (in the form of scoped studies) to increase confidence and decrease uncertainty.</p> <p>It would be encouraged to have an example of a rating that includes the level “moderate” confidence and to be taken into consideration in accordance to the figure 3 on page 20.</p>
17	526-527	Replace “has subsequently been resolved” with “will be resolved by the studies identified in the Scoping Report and presented in the EIS”
17-18	529-550	Recommend deleting para. 33-35. The details of this section have been addressed above.
18	557-560	Propose deleting para. 37 ad this content is covered in the summary

		section below
18	577	Add Another bullet: “Scope the EIA studies in a manner which specifically addresses the scale and magnitude of predicted impacts, and likelihood and consequence of risks, and to reduce uncertainty in relation to these issues; and”
18	578	Replace bullet with: “Identify information that was found to be missing that would have enabled more effective decision making and how that impacts the level of confidence of the above factors”
18	580-588	Recommend deleting para. 41&42 as the content is covered already in this section
18	589-591	Recommend moving para. 43 to after 39 (before the “4. summary” section)
19	592-621 and Part XI	Recommend changing title to “Stakeholder Consultation” and replacing lines 593-621 and part XI with a reference to the scoping and Stakeholder Consultation section (V)(C-Cbis) &(VII) we proposed in the EIA Standard above (page 3 line 95-125 and page 5 line 182 comments)
19	623	Recommend adding “, in addition to the requirements provided in the EIA standard,” after “may”
20	648-658 & 669-670	Recommend deleting these bullets as they should be a requirement of the Scoping Report, which is reflected in our text suggestions in the EIA Standard
21	695-701	For this section it may be more relevant to insert some guidance on the manner in which baseline data should be presented both as technical reports and non-technical summaries (the same comment has been made in the EIS Standard).  Themes such a section could cover include: <ul style="list-style-type: none"> <li>• Baseline review and gaps analysis during scoping</li> <li>• Aligning baseline data acquisition effort with the importance of EIA issues identified by the ERA and scoping</li> <li>• Characterizing the baseline both in terms of ecosystem functioning and how it might respond to different pressures (i.e., sensitivity) which in turn feeds into the assessment of impacts</li> <li>• Other interpretation of the baseline covering such matters as context with the wider region, geographic variations within the Contract Area, seasonal and interannual variations, projected future trends over the</li> </ul>

		project lifetime
21	716	<p>Regarding “Impact Hypotheses”</p> <p>This seems a good approach except that it implies a project could be approved even though important aspects of the impact assessment are being pushed into the EMMP to be validated during operation. Logically the scoping exercise would set up the impact hypotheses and the impact assessment would further develop and test them to the point of maximum practicable certainty. Testing would then continue during the EMMP implementation with a focus on areas of residual uncertainty from the impact assessment process.</p>
22	746-747	<p>Replace “These can require a lot of data and expertise in mathematical modelling without which hidden errors can arise” with “(See section 3 below)</p>
22	760-762	<p>Replace lines with “Where an applicant or Contractors uses predictive models for the purpose of informing an EIA, the applicant or Contractor must refer to the evidence base to enable a robust assessment of the model outputs, in accordance with the EIA standard. These should include:”</p> <p>The draft EIA standard requires that when a model is used there must be supporting material to verify that the model is robust. That requirement was unclear in this paragraph, so we have added language to make it clear that the supplementary material for model robustness is a requirement.</p>
23	773-774	<p>Regarding “strongly encouraged to have predictive models reviewed by independent scientific experts” - As stated previously, this may want to be a requirement. This also brings up a previous point we made regarding the need for a peer review process for the entire EIS independent of the LTC.</p>
24	816	<p>Recommend moving “Will socio-economic conditions, health or amenity be impaired” to Legal issues section above as this is not a “stakeholder view”</p>
	840	<p>Have another figure where frequency factor is included and showed clearly before the evaluation of the magnitude of the impact. Because even if the consequences are minimal and the sensitivity to receptor is low, with repetitive events/ impact, the magnitude would get bigger as the resistance of the receptor would get weaker.</p>
25-26	864-866 (para. 65 and Table 4)	<p>Recommend removing this content. It is not a particularly strong example, and the paragraph above regarding the implementation of quantitative or qualitative site-specific criteria is perhaps more</p>

		appropriate.
27-28	914-920 (Table 6 and para. 70)	Suggest this be removed – it does not add significant value, and in some ways confuses the situation as two different categories are used in a single box. Suggest keeping the text on major, moderate and minor significance in the following paragraphs and removing this section.
28	945	Regarding “Uncertainty” - This should be a mandatory section of the EIS. In the EIS guideline (EIS template) we have proposed language for the addition of an Uncertainty assessment section - see also general comment - “Addressing Uncertainty”
29	962-967	Recommend Replacing para. 76 with a statement made in relation to the requirement of Contractors to refer to uncertainty identified in the Scoping Report, and to describe in the EIS how and to what extent the EIA process has reduced that uncertainty, and how that uncertainty will continue to be reduced through the implementation of the EMMP.
29	968-978	Suggest this be removed – the text on describing uncertainty above is sufficiently guiding, and the concept of assigning a statistical value to a qualitative understanding of uncertainty is impractical
29	1000	Recommend replacing “evaluating” with “applying”  Also, regarding “EIA thresholds” - Shouldn’t this sentence also point to the "Guidelines (generic) for a risk-based approach to the development and assessment of environmental thresholds and indicators", which are currently slated to be finished as part of Phase 2 (before any applications for PoW are submitted)? It seems like it would be helpful for contractors to know that there will be Guidelines (and Standards and REMPS?) coming out later that will be more detailed about assessing and meeting threshold requirements.... <a href="https://isa.org.jm/files/files/documents/c19-add1-e.pdf">https://isa.org.jm/files/files/documents/c19-add1-e.pdf</a>
30	1015-1016	Suggest removing “where appropriate” – all management and monitoring strategies should be included in the EMMP.
30	1018-1032	Regarding “Evaluating Alternatives” This should be a mandatory component of the EIA/EIS. In the EIS guideline (EIS template) we have proposed language for the addition of a subsection to list and describe alternative activities considered, which would then be discussed in the impact assessment section of the EIA along with the proposed operations.  Recommend replacing “should” with “must” in line 1019 and referencing proposed edits to EIS guideline and EIA standard

30	Line 1042-1044	<p>We recommend deleting any reference to offsets, or at the very least deprioritizing its application even more than it currently is, as offsets are likely inappropriate in the seabed mining context.</p> <p>The CBD has published (23rd April) an updated document on the scientific and technical information to support the review of the proposed goals and targets in the updated zero draft of the post-2020 global biodiversity framework (CBD/SBSTTA/24/3/ADD2/REV1). It refers extensively to ‘no net loss’ and ‘net gain’ concepts and highlights the risks of using those concepts without setting measurable biodiversity targets and applying adequate safeguards (paragraph 21). This document clearly states: “safeguards would be needed to, among other things, ensure that any loss is replaced by the same or similar ecosystems and that critical ecosystems and functions are not lost.” It also is explicit in its recognition of the need for special consideration for ecosystems “currently impossible to restore, such as some marine ecosystems.”</p> <p>See also general comment - “Mitigation hierarchy”</p>
31	1066	<p>We suggest that the first two steps of the mitigation hierarchy (avoidance and minimization) receive all, if not most, of the focus for mitigation strategies.</p> <p>See also general comment - “Mitigation hierarchy”</p>
32	1076	<p>Suggest referring to the UNEP guidance on offsets at <a href="https://www.unepfi.org/fileadmin/documents/biodiversity_offsets.pdf">https://www.unepfi.org/fileadmin/documents/biodiversity_offsets.pdf</a></p>
32	1084-1088	<p>There seems to be a misunderstanding of what offsets may be for deep-seabed mining. PRZs or APEIs cannot serve as offsets as these are not under threat and do not provide new and additional biodiversity benefits and thus do not actually offset residual losses of biodiversity that might be incurred by a mining project.’ (See Niner et al, ‘Deep-Sea Mining With No Net Loss of Biodiversity—An Impossible Aim’ (2018) 5 <i>Frontiers in Marine Science</i> 53 <a href="http://journal.frontiersin.org/article/10.3389/fmars.2018.00053/full">http://journal.frontiersin.org/article/10.3389/fmars.2018.00053/full</a>)</p> <p>An example for an averted loss offset would be the removal of another marine activity affecting biodiversity in the area, such as bottom trawling.</p>
32	1090-1098	<p>The environmental criteria for offset sites fail to list equivalence and</p>

		<p>additionality as key criteria. In any event, the list should be deleted and replaced with a statement saying that offsets are inappropriate given current knowledge of the deep ocean. This may change in the future.</p>
32	1105	<p>Recommend adding “and monitoring” after “treatment”</p>
32	1112-1113	<p>Regarding the EIS Template - The Annex IV provides a "recommended format". We agree with the phrasing here that the Annex IV template should be seen as a requirement and have made comments to the EIS guidelines to address this issue. Also recommend here replacing expected with standardized.</p>
33	1120	<p>Regarding “Standard and Guideline on the EIS” - Is there going to be a Standard? We believe there should be, but the phased S&amp;G flow chart on the ISA website makes it sound like there will not be.</p>
33	1136	<p>The structure used here is difficult to comprehend. Suggest adding the word “considerations” after “Process-Specific”</p>
33	1145-1149	<p>Recommend rewording this section so it easier to comprehend.</p> <p>Suggest changing the heading to “Scientific Considerations” and the bullet points amended to read:  “Best available scientific evidence has been used to inform the EIA;  Practical, actionable outputs have been presented;  The assessment, and findings therein, were subject, where practicable, to independent review, verification and validation.”</p>
33-34	1151-1157	<p>Suggest adding “by” after “development”: and then amending following bullet points to read:  Including...  Aligning...  Demonstrating...</p>
34	1159	<p>Suggest changing to “best” given there is little to determine at this stage what is “right”</p>
34	1179-1182	<p>Regarding “External Review” - We have provided comments and proposed language to the EIA Standard's review section to specify what this review will look like, referencing the appropriate regulations (12&amp;13). We recommend referencing that section and, if needed, expanding on it further here.</p>
34	1183-1185	<p>Regarding “Decision-Making” - We have provided comments and proposed language to the EIA Standard's decision making section to specify what this should look like, referencing the appropriate regulations. We recommend referencing that section and, if needed, expanding on it further here.</p>
34-35	1186-1191	<p>Regarding “Monitoring” - This paragraph refers more to the EIS.</p>

		Suggest it be removed/amended to simply state : “The EIA must consider, and present as part of the EIS and EMMP, appropriate monitoring technology, methodology and regimes, in order to both confirm the nature and extent of the impacts occurring (including validation of any impact models), and the ongoing performance of the operation in relation to management commitments
35	1192-1998	Regarding “EIA Audit” - This section is not relevant to the EIA process, or the drafting of an EIS. If the concept is to remain, suggest that instead a statement be made in section VI(A) above regarding statement of management and monitoring commitments that “Contractors should, as part of the EMMP , outline a process by which the management and monitoring commitments will be audited and reported to the ISA on an annual basis.”
35	1199-1228	Delete Stakeholder Involvement Section - Have merged this with the new Stakeholder Consultation section we proposed above (see page 19 and line 592-621 comments above)

*Additional rows can be added to this table by selecting “Table” followed by “insert” and “rows below”*

*Comments should be sent by e-mail to [ola@isa.org.jm](mailto:ola@isa.org.jm)*