

**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:**

Informal Working Group on the protection and preservation of the marine environment

**2. Name(s) of Delegation(s) making the proposal:**

Lead: United Kingdom. Supported by Germany, the International Marine Minerals Society, Ireland, Netherlands, Norway and the PEW Charitable Trusts

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

Section 2, Environmental Impact Assessment Process, Regulations 47 - 48bis inclusive

**4. Please indicate the rationale for the proposal.**

This text proposal is submitted jointly by Germany, the International Marine Minerals Society, Ireland, Netherlands, Norway, PEW Charitable Trusts and the United Kingdom, who are grateful to Norway and Germany for leading the IWG EIA restructure during the intersessional period Part I- Part II 28<sup>th</sup> Session ISA Council.

It should be noted that there was a shared view by members of the group that some details could be moved from the regulations to Standards; however, there was no agreement on whether some details should be moved to Guidelines.

Additionally, please be aware that since this proposal focuses on the re-structuring of the EIA provisions, the group members' substantial comments and or amendments to the current drafting of the content of the different provisions are not included here.

**General restructure proposal:**

The proponents of this text proposal agree with the general restructure for the regulations pertaining to EIAs proposed in the outcomes report of that IWG. We also consider the facilitator has presented an excellent first redraft based on the outcomes report in ISBA/28/C/IWG/ENV/CRP.2.Rev.1. We have considered the redraft structure in detail, and consider a few sections throughout the new Section 2 'Environmental Impact Assessment Process' could be further moved to fit better under the headings proposed in the outcomes report.

**Overall we see the structure and order of Section 2 should be:**

- **Reg 47: Environmental Impact Assessment Process:** outlines EIA purpose, including high-level requirements, and the steps included in the process (from scoping to decision).
- **Reg 47bis Scoping Report:** outlines requirements for scoping phase and Report, including submission and decision.
- **Reg 47ter: Environmental Impact Assessment:** outlines requirements for conducting an Environmental Impact Assessment
- **Reg 48: Environmental Impact Statement:** outlines requirements for content of Environmental Impact Statement

- **Reg 48bis: New Environmental Impact Assessment and [Revised] [additional] Environmental Impact Statement:** requirements for when a new Environmental Impact Assessment and a [new/revised/additional/supplementary] Environmental Impact Statement is required.

Our text proposal below implements the above structure, and [indicates where regulations have been moved from and to](#).

#### **Detail to be moved from Section 2 proposal:**

The proponents consider there is too much detail in some of the regulations in Section 2 on EIAs. In particular, the subparagraphs of (4) in DR47bis (Scoping, as drafted below) and DR48 (EIS, as drafted below).

We agree with the proposal of the IWG outcomes report to have much of the detail from these regulations, including the whole of Annex IV moved to the Standards.

We therefore consider it important for Council to now, as a first step, consider specifically what detail currently in Section 2 of the draft regulations is moved to the Standards and Guidelines. The proponents of this text proposal have begun to look into highlighting differing detail-levels within Section 2 to inform discussions about what should be retained or moved elsewhere. **Green highlight** is the highest level of detail. The group considers these highlights could either a) be kept in the regulations, b) be copied over and aligned with Standards. **Yellow highlights** are a finer level of detail, which should be removed from the regulations, and be copied over and aligned with the Standards and Guidelines as appropriate.

The proponents of this text proposal agree that all content moved from the EIA regulations and Annex IV which represent the minimum requirements for undertaking the EIA process must be in the Standard. However, discussion remained open on whether the basic 'form' or 'template' for an EIS should be Annexed to the Standard or Guideline.

We invite Council to consider which elements of detail it recommends should be retained, and which should be moved to the Standards and Guidelines (where we have provided the proposal below as a helpful basis for these discussions).

#### **Once this decision has been made, we recommend the following as next steps for Council consideration:**

- the process and requirements in the EIA Standards and Guidelines should be checked against and aligned with the process and requirements laid out in the EIA regulations as they now diverge<sup>1</sup>.
- Detail from the regulations should be moved over to Standards and Guidelines. All minimum requirements should be in Standards.
  - Some of the proponents of this text proposal consider the LTC and their working groups which were set up for the drafting of the Standards and Guidelines, with the assistance of the Secretariat, would be best-placed, given their extensive work on the documents, to check alignment and flag discrepancies to be considered by Council.
  - Other proponents of this text proposal consider an informal Intersessional Working Group could take the above work forward and present such work to Council for their consideration.

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<sup>1</sup> We note this task needs to be undertaken for all the draft Standards and Guidelines in light of how the regulations have changed since they were drafted, but this proposal focuses only on the EIA process.

We have included an annex to this text proposal collating all **yellow text** proposed to be removed, as we see great value in its content and do not want it to be lost when removed from the regulations for uptake in the Standards and Guidelines (via above outlined process). If the **high level detail** is decided to be moved to the Standards as well, then a record should also be kept to ensure it is taken into the Standards.

**Specific changes made to Regulations in text proposal below:**

Although we aimed to focus restructuring only, and not specific drafting on the content of the provisions, the group did make some specific proposals. Where additional explanation is required, it is listed below:

**DR47:**

**DR 47 2(a-e):** In DR47, we note that although the proponents of this text proposal agree to moving the content of original DR47bis (ISBA/28/C/IWG/ENV/CRP.2.Rev.1) outlining the purpose to the start of DR47, and support the text within paragraphs 2 (a-e), we highlight a need to align and streamline such paragraphs with the criteria in DR13. We note discussion by Council continues, and in particular, work is underway on DR13 and its criteria, led by Germany, and therefore flag the next steps will be to consider the appropriate content of DR47 para 2 in line with the outcomes on the criteria DR13, in particular whether a simple reference can be made to the criteria as decided in DR13 instead of duplicating detail in DR47 paragraphs 2 (a-e). We note the same consideration of alignment with DR13 criteria needs to be considered for DR47ter (1) (i-vi) as drafted in the text proposal below.

**DR 47 (3):** Regarding paragraph 3 of DR47, we propose amending wording on referring to the REMP, acknowledging that how REMPs are referred to needs to be standardised across the regulations, as to be decided by Council.

**DR47 (4)(i):** Wording has been added to this provision as the proponents agree an EIA is an iterative process, whereby a previous step/stage in the EIA may need to be revisited based on information gathered at a later stage. This is separate to the requirements of DR48bis, which is about review of the EIS after submission. We suggest further detail on this iterative process be provided for in Standards.

**47 (4) (b) (i):** we understand this paragraph is in relation to the environmental risk assessment undertaken in Scoping, and so have redrafted to make this clear. The ERA undertaken during scoping helps to identify the key issues to be dealt with in the EIA. The ERA is not static however, it should be regularly reviewed and updated as more knowledge is gained, including after the scoping stage during the full assessment of environmental impacts stage.

**47 (4) (b) (i-vi)** are too detailed for this section which is a high-level overview of the steps to undertake for during an EIA. We have proposed new paragraphs ii & iii, which have been based on content from the EIA draft Guidelines (Section C paragraph 8 (d & e)). These paragraphs represent a more useful high-level overview of what an EIA should include. We propose the detail of 47 (4) para b i-iv should be moved to new regulation 47 bis. In paragraph (iii) specifically, we have made reference to '[M][m]itigate', to acknowledge the conversation about appropriate application of the mitigation hierarchy is ongoing in Council.

**DR47bis**

**DR47bis (4)(d)** has been merged with (f) as including both paragraphs was duplicative.

**DR47bis 8:** redrafted to make clear the Commission assesses the Scoping Report, but makes a decision on the proposed terms of reference for undertaking the subsequent EIA, which is contained in the Scoping Report. This shall occur before the applicant can proceed.

**DR 47ter**

**DR47ter (3):** We suggest deletion of this paragraph as the requirement outlining when to review and update an EIS is outlined in DR48bis, making paragraph 3 duplicative.

**Consultation:** We note that we have not proposed any drafting changes on provisions relating to consultation and engagement, as changes to these provisions will be in light of the work of IWG Stakeholder consultation and consideration of such work by Council.

- 5. 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 text – text moved from other regulations in Section 2 for restructure purposes**

**Blue text – explanation of where text is moved from and to**

**Green text – proposed drafting changes**

## **Section 2 The Environmental Impact Assessment Process**

### **DR 47 Environmental Impact Assessment Process:**

***\*Purpose\*:***

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. *[paragraph 1 of original DR47 and original DR47bis merged]*
2. The purpose of an environmental impact assessment under this regulation shall be to 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 marine environment 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 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 Evidence Information, Best Environmental Practices, and Best Available Techniques *[paragraph 2 of original DR47bis moved up to DR47]*

~~2-3.~~ The Environmental Impact Assessment ~~Process~~ 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 relevant** Regional Environmental Management Plan,

(b) Be carried out by qualified, independent experts,

**(b)bis Be based on the best available science and scientific information, and, where available, relevant traditional knowledge of Indigenous Peoples and local communities.**

(c) Include an environmental risk assessment and a survey of the seabed to identify Underwater Cultural Heritage, that takes into consideration the region as a whole taking into account the objectives and measures of the relevant and applicable Regional Environmental Management Plan,

(d) Provide for Stakeholder consultation in accordance with Regulation 93bis, relevant Standards and taking into account the relevant Guidelines,

(e) Be subject to an independent scientific assessment prior to the submission of the proposed Environmental Impact Statement to the Authority,

(f) Take into account the results from test mining, if applicable, in accordance with Regulation 48bis,

(g) Be conducted in accordance with the terms of reference developed during ~~the~~ **scoping process in accordance with Regulation 47ter 4(o)**, and

(h) Identify scientific and other knowledge gaps or data uncertainties, and the degree to which these influence the assessment.

**(i) be an iterative process where specific stages are revisited and may be updated in the light of new information or new activity at a later stage**

***\*Steps included in EIA process\****

**3. 4.** The Environmental Impact Assessment ~~P~~process must follow certain procedural steps ~~to having the plan of work assessed~~ and entail the following elements:

(a) A scoping Stage and scoping report in accordance with Regulation 47~~ter~~**bis** to identify and risk assess the anticipated activities and potential impacts associated with the proposed **Exploitation mining operation** which are relevant to the **Environmental Impact a**Assessment.

(b) A **stage for** assessment of environmental impacts **including:**

**(l) 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] [mining operation] including residual impacts, also considering cumulative impacts, including other existing and foreseen mining operations, other activities and natural phenomena.**

~~This includes assessing:~~ **[list i-vi below moved to new DR47ter]**

~~(i) The intensity or severity of the impact at the specific site being affected;~~

- ~~(ii) The spatial extent of the impact relative to the availability of the habitat type affected;~~
- ~~(iii) The sensitivity/vulnerability of the ecosystem to the impact;~~
- ~~(iv) The ability of an ecosystem to recover from harm, and the rate of such recovery;~~
- ~~(v) The extent to which ecosystem functions may be altered by the impact; and~~
- ~~(vi) The timing and duration of the impact relative to the period in which a species needs the habitat during one or more of its life history stages affected for its long survival.~~

(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 [[M][m]itigate] [avoid and minimize] effects, and monitor residual impacts;

~~(ii) An analysis of reasonable alternatives to the planned activity under the jurisdiction or control of a State Party, including the no-action alternative,~~

~~©(iii) The Identification of measures envisaged to prevent, minimize, control, mitigate or, if possible, offset and manage Environmental Effects and risks to as low as reasonably practicable, while within acceptable levels in accordance with environmental Standards,~~

~~(d) (iv) The Identification of measures envisaged to offset, remediate, restore, or rehabilitate (where possible) the Marine Environment, including through the development and preparation of an Environmental Management and Monitoring Plan,~~

~~(f) (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,~~

~~(g) (d) The publication and review by the Commission of the Environmental Impact Statement, and publication of the report and recommendation by the Commission to the Council pursuant to Regulations 11 – 15~~

(e) A decision by the Council to approve, or not approve, the proposed activities or proposed modification to the Plan of Work that was the subject of the Environmental Impact Assessment, including any conditions imposed upon an approval, which decision shall be recorded and published in accordance with Regulation 16, and

(f) A proactive consultation by an applicant or Contractor with Stakeholders at all stages, in accordance with relevant Standards and taking account of Guideline, which includes:

- (i) Providing Stakeholders with access to up-to-date and comprehensive information about the proposed activities and environmental data and impacts,
- (ii) Using best efforts to obtain Stakeholder comments on the draft scoping report and draft environmental impact statement for a reasonable period.
- (iii) Provide a reasonable opportunity for Stakeholders to raise enquiries and to make known their views,

- (iv) Make publicly available Stakeholder comments received during the consultation process, including on the applicant or Contractor's own website, and
- (v) Record and address, in the scoping report and Environmental Impact Statement respectively, any substantive and relevant Stakeholder comments received.

### Regulation 47ter-47bis Environmental Impact Assessment Scoping Report

*[whole regulation moved up from 47ter to become 47bis]*

1. The applicant or Contractor shall prepare and submit to the Secretary-General a scoping report in accordance with this regulation and in the format prescribed in Annex IV.
2. An applicant or Contractor shall use environmental impact assessment scoping to identify and prioritize the main activities and potential impacts associated with the proposed mining operation, in order to focus the Environmental Impact Assessment and Environmental Impact Statement on the key environmental issues.
3. In undertaking the environmental impact assessment scoping process, the applicant or Contractor shall:
  - (a) Review available data and knowledge, and propose additional data to be collected and studies needed to complete an Environmental Impact Statement in accordance with these regulations,
  - (b) Undertake a preliminary impact analysis and environmental risk assessment which will be updated as the environmental impact assessment proceeds,
  - (c) Proactively identify Stakeholders in accordance with relevant Standards and taking into account any relevant Guidelines, and
  - (d) Identify and evaluate feasible alternative means of carrying out the project that will be examined in the environmental impact assessment.
  - (e) Use the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities.
4. An environmental Impact Assessment Scoping Report shall include the following:
  - (a) A brief description of the proposed Exploitation activities and any ancillary features, including what is known or anticipated about where the mining will occur within a Contract Area and the mining machinery to be used,
  - (b) A description and overview of tentative timelines and deadlines for the proposed environmental baseline studies and Environmental Impact Assessment (conducted under the Exploration contract) and any associated activities,
  - (c) A description of what is known about the environmental setting, including Underwater Cultural Heritage, for the project (Contract Area and regional setting),
  - (d) A description of data gaps, potential data gaps or data with a large uncertainty associated with it for the project, including environmental baseline data, and a plan describing the methodology for

collecting and analysing for gaining that information prior to commencement of the exploitation activities and to inform the Environmental Impact Assessment,

(e) A summary of existing environmental baseline studies, and, where available, relevant traditional knowledge of indigenous peoples and local communities including a description of methodology for collecting and analyzing the baseline data,

(f) A summary of gaps in environmental baseline including description of methodology for collecting and analyzing additional baseline data to inform the Environmental Impact Assessment,

(g) A description of the technical, spatial and temporal boundaries for the Environmental Impact Assessment,

(g) (gbis) A brief description of the socioeconomic and sociocultural aspects of the project, including sociocultural uses of the project area (e.g., traditional navigation routes, migratory paths of culturally significant marine species, sacred sites and waters associated with ritual or ceremonial activities of Indigenous Peoples and local communities),

(h) A list of any assumptions relied upon and identification and quantification of the uncertainties at this stage of the Environmental Impact Assessment, how they are being addressed, and assessment of their implications to the environmental risk assessment findings,

(i) A preliminary impact analysis which categorizes the important issues into high-risk, medium-risk and low-risk for the Environmental Impact Assessment to address and evaluates the need for further information, taking into account the environmental risk assessment,

(j) A preliminary environmental risk assessment, which includes:

(i) The identification of potential hazards,

(ii) The environmental consequence for each identified potential impact(s) (the magnitude of the impact(s), the duration of the impacts, and the receptor characteristics),

(iii) A description of the cumulative effects of the project, combined with other authorized, anticipated, or expected activities, actions, or natural phenomena,

(iv) The likelihood of the consequence occurring,

(v) The confidence levels of experts, in order to account for uncertainty and a precautionary approach,

(vi) A description of the methodology employed in the environmental risk assessment,

(k) A description of the results of the environmental risk assessment, including identification of high priority risks for local and regional ecosystem functioning over short and long term, requiring particular focus in the subsequent impact assessment phase of the Environmental Impact Assessment,

(l) A preliminary Stakeholder list that proactively identifies likely Stakeholders, and an indicative schedule and methodology for engagement with key Stakeholders throughout the Environmental Impact Assessment process, taking into account to not to publish personal information of identified stakeholders,

(m) A report of consultations undertaken during scoping.



(n) A consideration of reasonable alternative means of carrying out the project that will be examined in detail in the Environmental Impact Assessment, including a no-action alternative, and any others that have been not carried forward for further analysis at this stage, and the reasons for that selection,

(o) A draft Terms of Reference for the Environmental Impact Assessment, which identifies the activities and studies planned for the Environmental Impact Assessment, and any additional baseline data that will be required,

(p) An explanation for how the activities and studies planned for the Environmental Impact Assessment will be sufficient to determine likely environmental impacts, and to propose Mitigation and management strategies and monitoring methodology,

(r) A note describing and explaining any divergence from relevant ISA Guidelines.

5. Upon receipt of a scoping report from an applicant or Contractor, the Secretary General shall:

(a) Make the report available on the Authority's website, with an invitation for members of the Authority and Stakeholders to submit comments in writing within a period of 90 days;

(b) Following the close of the comment period under paragraph (1)(a), provide any comments received to the applicant or Contractor [within 2 weeks] [Russia] for their response within [60 Days];

(c) At the expiry of the timeframe specified in paragraph (1) (b), provide the Commission with the scoping report, any stakeholder comments received, and any responses to those comments from the applicant or Contractor.

6. The Commission shall consider a scoping report submitted in accordance with this regulation, and any comments and responses received, in accordance with any relevant Standards and taking into account Guidelines. Based on this review, the Commission shall approve a scoping report, disapprove it or make recommendations to the applicant or Contractor regarding the proposed environmental impact assessment, accompanied by a detailed rationale.

7. The Commission's recommendations under the previous paragraph [paragraph 6] may include recommendation:

(a) To revise the environmental risk assessment or other aspects of the scoping report based on different methodology or inputs,

(b) To amend the proposed terms of reference for the environmental impact assessment, or

(c) To re-submit a revised scoping report for further Stakeholder consultation and Commission review, in the case where uptake of any of the Commission's recommendations are likely to lead to a Material Change in the Scoping Report.

8. The applicant or Contractor shall, before proceeding with an environmental impact assessment process:

i) take full into account of the Commission's recommendations under this regulation,

ii) ~~before proceeding with an environmental impact assessment process. Furthermore, the applicant or Contractor shall~~ agree the final contents of the proposed terms of reference in the Scoping Report with the Commission.

## Regulation ~~47bis~~47ter Environmental Impact Assessment

1. The applicant or Contractor shall, in accordance with the Standards, and taking into account the Guidelines, undertake an impact assessment, based on the Terms of Reference agreed in the Scoping report, to describe the impacts on the marine environment and Underwater Cultural Heritage and to predict the nature and extent of the Environmental Effects of the mining operation, including residual impacts, on the marine environment and Underwater Cultural Heritage, also considering cumulative impacts, including ~~other~~ existing and foreseen mining operations, other activities and natural phenomena. This includes assessing:

- (i) The intensity or severity of the impact at the specific site being affected;
- (ii) The spatial extent of the impact relative to the availability of the habitat type affected;
- (iii) The sensitivity/vulnerability of the ecosystem to the impact;
- (iv) The ability of an ecosystem to recover from harm, and the rate of such recovery;
- (v) The extent to which ecosystem functions may be altered by the impact; and
- (vi) The timing and duration of the impact relative to the period in which a species needs the habitat during one or more of its life history stages affected for its long survival. *[paragraph 1 copied and modified from original DR47 (3b)]*

2. In undertaking the impact assessment, the applicant or Contractor shall complete:

*[moved from original DR47 (3e)]* (b) An analysis of reasonable alternatives *[remaining post Scoping]* to the planned activity under the jurisdiction or control of a State Party, including the no-action alternative,

*[moved from original DR47 (3d) (c) and merged with (3d) (d)]* Identification of measures envisaged to *[[M][m]itigate and manage][prevent, minimize, control, mitigate and manage]* Environmental Effects and risks to as low as reasonably practicable, while within acceptable levels in accordance with environmental Standards, including through the development and preparation of an Environmental Management and Monitoring Plan

*[moved from original DR47 (3d) (d)]* ~~Identification of measures envisaged to offset, remediate, restore, or rehabilitate (where possible) the Marine Environment, including through the development and preparation of an Environmental Management and Monitoring Plan,~~

*[copied from original 47ter 4j]* (f) An environmental risk assessment, which adds to the preliminary environmental risk assessment required during scoping by regulation 47bis (4j).

*[moved from original 47ter 4k]* (g) An analysis ~~description~~ of the results of the environmental risk assessment, including identification of high priority risks **for local and regional ecosystem functioning over short and long term,** requiring particular focus, including in the ~~subsequent impact assessment phased of the Environmental Impact Assessment~~ Environmental Management and Monitoring Plan.

*[moved from original DR47 (3i)]* (h)–A proactive consultation by an applicant or Contractor with Stakeholders at all stages, in accordance with relevant Standards and taking account of Guideline, which includes:

- (i) Providing Stakeholders with access to up-to-date and comprehensive information about the proposed activities and environmental data and impacts,

- (ii) Using best efforts to obtain Stakeholder comments on the draft scoping report and draft environmental impact statement for a reasonable period.
- (iii) Provide a reasonable opportunity for Stakeholders to raise enquiries and to make known their views,
- (iv) Make publicly available Stakeholder comments received during the engagement ~~consultation~~ process, including on the applicant or Contractor's own website, and
- (v) Record and address, in the scoping report and Environmental Impact Statement respectively, any substantive and relevant Stakeholder comments received.

3. A Contractor shall periodically, and in accordance with Regulation 48bis, review, and when needed revise, previously performed Environmental Impact Assessments. This shall include reviewing cumulative effects of activities covered by the assessment whenever a material change in the mining operation has occurred, there is relevant new information or when the review indicates that such changes warrant a revision. *[paragraph 3 of original DR47bis]*

## Regulation 48

### Environmental Impact Statement

1. An applicant or Contractor shall prepare an Environmental Impact Statement in accordance with this regulation. Such an Environmental Impact Statement shall be considered by the Authority in accordance with Part II or Regulation 57 and is required for an application for a plan of work pursuant to Regulation 7(3)(d).

2. The ~~purpose of the~~ Environmental Impact Statement shall ~~is to~~ document and report the results of the ~~e~~Environmental ~~i~~mpact ~~a~~Assessment carried out in accordance with Regulation 47~~terbis~~ and shall ~~to~~ provide the International Seabed Authority, its member States and other ~~s~~Stakeholders with unambiguous documentation of the potential Environmental Effects based on the Best Available Scientific Information, Best Environmental Practices, and Best Available Techniques, and Good Industry Practice on which the Authority can base its decision, and any subsequent approval that may be granted.

3. The Environmental Impact Statement shall be in a form prescribed by the Authority [in the relevant Standard and in accordance with the relevant Guideline] and must:

(a) Include a prior Environmental Risk Assessment prepared during the environmental impact assessment,

(b) ~~Detail~~ Describe the results of the environmental impact assessment including ~~of~~ the methodology used, and evaluation of the identified environmental impacts

(c) Demonstrate that the proposed Exploitation ~~activities and mining operations~~ is ~~are~~ in accordance with all relevant environmental Standards and the Authority's environmental objectives and in accordance with ~~take into account~~ the requirements of the relevant Regional Environmental Management Plan, environmental baseline data as well as any additional objectives as set by the Contractor and any results of the performed test mining study, where applicable,

(d) Identify substantive comments received through public consultation on the environmental impact assessment and explain how each comment has been incorporated or otherwise addressed,

(e) Be prepared in clear and non-technical language and in an official language of the Authority together with an English-language version, where applicable,

(f) Include a non-technical summary of the main conclusions and information provided to facilitate understanding of the nature of the activity by Stakeholders,

(g) Be peer reviewed by competent independent experts, before submission and include a description of the experts, their qualifications, and the results of their review.

4. The Environmental Impact Statement shall ~~have~~, but not limited to, entail the following elements, which are described in greater detail in [Annex IV/ Standard]:

a) An executive summary to provide an overview of the project and a summary of the content of the Environmental Impact Statement for non-technical readers, including a description of the proposed project, its objectives, alternatives analysed, anticipated benefits, anticipated impacts and measures to ~~Mitigate minimize~~ these, consultation efforts and linkage to the Environmental Monitoring and Management Plan and the Closure Plan,

b) An introductory section containing information on the project background and history, project viability and proponents as well as a description of the report, including its scope and structure,

b bis) A summary of the Commission's recommendations on the Scoping Report and the agreed terms of reference for the applicant's Environmental Impact Assessment submitted to the Commission, and justification for any deviation either from those terms of reference, or from the Commission's recommendations.

c) An outline of applicable national and international legislation, procedures and policies, for example the Convention including the 1994 Agreement relating, relevant rules from the International maritime Organization and International Law in general,

d) A description of the proposed project including information on location, associated activities, required infrastructure, mineral resources (type, size, shape, tonnage, volume, grade), technologies and (mining-)equipment to be used, project scale overview (spatial, temporal, operational depth), transport and handling of materials, on-site processing, commissioning, construction and operating standards, design codes, health and safety aspects, workforce, decommissioning and closure, other considered alternatives and a timetable for the entire operation,

e) Methodologies for assessing the Marine Environment, the Environmental Effects of the proposed project and collecting baseline data,

f) A description of the existing oceanographic, physiochemical and geological environment, including information on prior research/Exploration studies, meteorology, seabed and sub-seabed characteristics, natural hazards, noise, light and greenhouse gas emissions

g) A description of the existing biological environment, including information on biological properties and communities in the area, also taking into consideration studies and research on this,

h) A description of the ~~existing human activities~~ socioeconomic and sociocultural environment including existing human activities in the area, containing information on fisheries, marine traffic, submarine cables, tourism, ongoing scientific research, sociocultural use,

i) An assessment of impacts on the physical, chemical and geological environment and proposed Mitigation, including description of potential impact categories and pathways, as well as receptors and impacts,

j) An assessment of impacts and Environmental Effects on the biological environment and proposed Mitigation, including description of key impact source, potential impact categories and pathways, receptors and impacts and cumulative operation effects,

k) An assessment of impacts on the socioeconomic and sociocultural environment and proposed Mitigation, including description of potential impact categories and pathways and impact identification of existing use (fisheries, marine traffic, submarine cables, tourism, ongoing scientific research, sociocultural use, area-based management tools), gender impact and residual impacts,

l) An outline of hazards arising from natural, accidental and discharge events, for example related to extreme weather, natural hazards, accidental events, maritime safety, emergency response,

bis) An outline of waste management, including handling waste and ballast water,

m) A summary of key issues in the Environmental Impact Statement and how they will be addressed in the Environmental Management, and Monitoring Plan and Closure Plan,

n) A description of responsible product stewardship related to the intended use of the mineral-bearing ore once it leaves the Area, including how the Contractor will minimize effects on health, safety, environmental as well as socioeconomic and sociocultural impacts,

o) A summary of consultation and stakeholder engagement and methods,

p) A summary of the study team outlining the people involved in the environmental impact assessment studies and in writing the Environmental Impact Statement,

q) A list of glossaries, abbreviations, references, and appendices

5. The Environmental Impact Statement of every project, including any revisions, should be available [for at least 60 days] on the official website of the International Seabed Authority in the interests of transparency of the whole process in accordance with regulation 92.

## Reg 5 – When review/update of EIA needed

### Regulation 48 bis

#### New Environmental Impact Assessment and [Revised] [additional] Environmental Impact Statement

1. A Contractor shall conduct a new Environmental Impact Assessment in accordance with regulation 47ter and submit a[n] [additional] revised Environmental Impact Statement when:

a) A Material Change to an existing Plan of Work is proposed which is likely to increase the adverse Environmental Effects caused by the activities,

b) A Material Change in the Marine Environment is detected through monitoring or other data sources which would call for a new or reviewed Environmental Impact Statement,

c) An activity described in the Plan of Work is predicted to exceed the impact thresholds set out in the Standards on environmental thresholds,

d) A relevant Standard, and this activity or and predicted impact has not already been addressed by an Environmental Impact Statement, or

e) Otherwise deemed necessary by the Commission or Council, in accordance with applicable Standards and taking into account Guidelines, e.g., when changes to an existing Plan of Work is proposed other than the type described under sub-paragraph (1)(a) or when the Commission requests an applicant to change its proposed Plan of Work during the application stage under Regulation 14.

### Annex I: Repository of detail to be deleted from regulations and moved to Standards [[and] [or] Guidelines]:

#### **47bis:**

4. (a) including what is known or anticipated about where the mining will occur within a Contract Area and the mining machinery to be used,

(d) including environmental baseline data, and a plan describing the methodology for collecting and analysing for gaining that information prior to commencement of the exploitation activities and to inform the Environmental Impact Assessment,

(e) including a description of methodology for collecting and analyzing the baseline data,

(q) (gbis) including sociocultural uses of the project area (e.g., traditional navigation routes, migratory paths of culturally significant marine species, sacred sites and waters associated with ritual or ceremonial activities of Indigenous Peoples and local communities),

(j) An preliminary environmental risk assessment, which includes:

(i) The identification of potential hazards,

(ii) The environmental consequence for each identified potential impact(s) (the magnitude of the impact(s), the duration of the impacts, and the receptor characteristics),

(iii) A description of the cumulative effects of the project, combined with other authorized, anticipated, or expected activities, actions, or natural phenomena,

(iv) The likelihood of the consequence occurring,

(v) The confidence levels of experts, in order to account for uncertainty and a precautionary approach,

(vi) A description of the methodology employed in the environmental risk assessment,

(k) for local and regional ecosystem functioning over short and long term,

(l) taking into account to not to publish personal information of identified stakeholders,

#### **47ter**

(g) for local and regional ecosystem functioning over short and long term,

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3. (a) Include a prior Environmental Risk Assessment prepared during the environmental impact assessment,

(f) Include a non-technical summary of the main conclusions and information provided to facilitate understanding of the nature of the activity by Stakeholders,

(g) and include a description of the experts, their qualifications, and the results of their review.

a) including a description of the proposed project, its objectives, alternatives analysed, anticipated benefits, anticipated impacts and measures to [[M][m]itigate] [minimize] these, consultation efforts and linkage to the Environmental Monitoring and Management Plan and the Closure Plan,

b) An introductory section containing information on the project background and history, project viability and proponents as well as a description of the report, including its scope and structure,

b bis) A summary of the Commission's recommendations on the Scoping Report and the agreed terms of reference for the applicant's Environmental Impact Assessment submitted to the Commission, and justification for any deviation either from those terms of reference, or from the Commission's recommendations.

c) An outline of applicable national and international legislation, procedures and policies, for example the Convention including the 1994 Agreement relating, relevant rules from the International maritime Organization and International Law in general,

d) including information on location, associated activities, required infrastructure, mineral resources (type, size, shape, tonnage, volume, grade), technologies and (mining-)equipment to be used, project scale overview (spatial, temporal, operational depth), transport and handling of materials, on-site processing, commissioning, construction and operating standards, design codes, health and safety aspects, workforce, decommissioning and closure, other considered alternatives and a timetable for the entire operation,

e) for assessing the Marine Environment, the Environmental Effects of the proposed project and collecting baseline data,

f) including information on prior research/Exploration studies, meteorology, seabed and sub-seabed characteristics, natural hazards, noise, light and greenhouse gas emissions

g) including information on biological properties and communities in the area, also taking into consideration studies and research on this,

h) in the area, containing information on fisheries, marine traffic, submarine cables, tourism, ongoing scientific research, sociocultural use,

i) including description of potential impact categories and pathways, as well as receptors and impacts,

j) including description of key impact source, potential impact categories and pathways, receptors and impacts and cumulative operation effects,

k) including description of potential impact categories and pathways and impact identification of existing use (fisheries, marine traffic, submarine cables, tourism, ongoing scientific research, sociocultural use, area-based management tools), gender impact and residual impacts,

l) including handling waste and ballast water,

o) and methods,

p) A summary of the study team outlining the people involved in the environmental impact assessment studies and in writing the Environmental Impact Statement,

q) A list of glossaries, abbreviations, references, and appendices

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e), e.g., when changes to an existing Plan of Work is proposed other than the type described under sub-paragraph (1)(a) or when the Commission requests an applicant to change its proposed Plan of Work during the application stage under Regulation 14.