

Outcomes of the informal Intersessional Working Group on a Standardized Approach for Stakeholder Consultation

Intersessional period between Part II and III of the 28th Session of ISA Council.

Summary

1. The UK has been working informally with interested parties, on standardising Stakeholder consultation, since Part II of the 27th Session of the Council. At Parts I and II of the 28th Session of ISA Council, the UK conveyed on behalf of the group outcomes and proposed next steps for consideration of Council.
2. Council offered its comments and general support for the intent of the proposal, and at the request of the Facilitator of IWG Environment, the informal Intersessional Working Group (IWG) on a Standardized Approach for Stakeholder Consultation has undertaken further work during the intersessional period between Part II and II of the 28th Session of ISA Council.
3. The informal IWG currently includes (ACOPS, Australia, Canada, China, Costa Rica, DSCC, DOSI, Federated States of Micronesia, Fiji, Italy, The Metals Company, Morocco, Nauru, New Zealand, Netherlands, Norway, Portugal, Russia, Switzerland, United Kingdom, UK Seabed Resources, United States of America). Membership of the group is through the process established for informal IWG's, which comprises of a list of ISA delegations who expressed their interest to be a part of the group to ISA Secretariat or UK directly.
4. As coordinator of the group, the UK now submits the outcomes of this work for consideration by Council. This outcomes report includes an overview of group discussion on key topics and the outcomes of such discussions for Councils consideration. It is supplemented by Annex I, which presents a redraft of DR93bis, as well as other regulations relevant to Stakeholder consultation and engagement. We note this redraft is provided as a work in progress for information only, and not yet for incorporation into the regulations. The redraft represents significant drafting changes throughout the regulations in light of streamlining, which should not be implemented until Council has considered and offered its comment.
5. We would like to thank the group for its continued proactive engagement in this important work. We sent a call to the informal IWG asking for members to help with the redraft of Annex I, and would like to especially extend our gratitude to the Netherlands and NORI, who answered our call and helped in the redrafting of Annex I. We also thank Portugal for providing drafting on applying BBNJ principles in Article 32, paragraph 4 to consultation under these regulations, as requested by the IWG, as well for sharing their drafting proposal for informal IWG coastal states, to ensure it is linked with the work of this group.

Discussion of the group on standardisation of Stakeholder consultation

6. The current draft Regulations contain a number of obligations to undertake Stakeholder consultation. The group considers it important that there is a standardised approach to Stakeholder consultations to ensure a clear and consistent process that effectively consults all Stakeholders, including the public, in a transparent and open manner.
7. They observed that Stakeholder consultation is only one form of public participation, as an umbrella term. The group considers that public participation in the work of the Authority (e.g. representation of observers at Council), while important, is a more fundamental institutional issue beyond just the scope of the exploitation regulations, and therefore, beyond the scope of this group. The principles of public participation however, should inform the work of this group.
8. In the previous intersessional period, discussion focused on a range of views within the group on whether to require additional, mandatory consultation during the development of draft documents. Some group

members felt it was important to provide opportunities for early and ongoing consultation during these developmental stages, including to meet consultation requirements under DR4 regarding the rights and legitimate interests of coastal States. Other members felt that requiring full, formal consultation at these stages could be duplicative and disproportionate, and that it may not be practical to run a 90-day consultation without a clear document on which Stakeholders could provide written comments. The group therefore discussed the potential need for a more flexible and less prescriptive approach to allow the applicant/Contractor to conduct more targeted consultation during these stages. The group proposed to categorise ongoing consultations on the development of draft documents that take place outside of consultation under DR93bis as ‘engagement’. This would allow the applicant/Contractor greater discretion to undertake more flexible consultation than what is required under DR93bis. Engagement could include inter alia: targeted consultation on draft documents, Stakeholder data submissions, workshops, dialogues and other forms of outreach, and this should be detailed in Guidelines.

9. The group built on these discussions from the previous intersessional period, and worked to agree on the instances which require consultation, and which require engagement. There was consensus on the need for **consultation** in accordance with DR93bis on ‘final’ documents submitted to the Authority for a decision, and **engagement** during the ‘development’ of such documents before submission to the Authority. Some members of the group considered this engagement step should be ‘encouraged’, whereas others considered it ‘mandatory’. In particular, some group members very strongly felt it should be mandatory to conduct this ‘engagement’ with at least coastal states¹, and other members considered this should also include identified “potentially most affected” Stakeholders (see paragraphs 11&12 below).
10. There were differing views about the extent to which ‘engagement’ should be prescribed across regulations and associated Standards and Guidelines, ranging from core principles in the regulations to more operational detail in Standards and Guidelines. At a minimum, the group agreed that Article 32 paragraph 4 of the BBNJ Agreement text would form a good basis to draft some principles for consultation and engagement in these exploitation regulations. We thank Portugal for providing drafting for an introductory paragraph on such principles, to be included in DR93bis paragraph 1 (annex I).
11. The group continued to be broadly supportive of the concept of [key] Stakeholders and coastal states¹ that should be identified by applicants/Contractors and directly notified of Stakeholder consultations (in addition to notification of the general public), as well as targeted for engagement during the development of draft documents, particularly during the early stages. However, some group members continued to consider the term ‘key Stakeholder’ to be unclear and require definition. The term ‘potentially directly affected’ was proposed as a clearer reference to such Stakeholders.
12. The group discussed the potential need for further detail to support identification of these Stakeholders and coastal states¹, including to ensure equal access, a level playing field, and conformity with UNCLOS. The group considered a Guideline likely to be most appropriate for [potentially most affected] Stakeholders, including a list of [potentially directly affected] Stakeholders that could be updated semi-regularly, including with provision for such Stakeholders to self-identify. Specifically regarding coastal states¹, Portugal put forward a drafting proposal for ‘DRX’, which focuses on specific requirements for consultation and engagement with coastal states¹, to reflect the views raised by some group members

¹ References to coastal states in this document are without prejudice to the consultation requirements under DR4 regarding the rights and legitimate interests of coastal States, and subject to the outcomes of the discussions of the informal IWG coastal states. This includes outcomes on the conversations of how to appropriately refer to coastal states (wording TBC), and all references to DRX, as proposed by Portugal, whose content is for consideration by informal IWG coastal states. Our current understanding is that DRX will be submitted as a text proposal as DR93ter.

that some assurance is required as to the robustness and formality of the process. The group had a range of views as to whether specific requirements are needed on the face of the regulations or in Standards. It was agreed that links to the issue of consultations and engagement with coastal states¹ is required in the work of this group, however, the specific wording to refer to coastal states¹, as well as any potential specific requirements regarding consultation requirements under DR4 regarding the rights and legitimate interests of coastal states (including the content of proposed DRX) needs to be undertaken by informal IWG coastal states. The proposals have been shared with the chair of informal IWG coastal states, who also attended the meetings of this working group to ensure discussions between the IWG's are connected.

- a. In light of previous discussions of the group, as well as written comments received and comments raised during Part II of the 28th Session of ISA Council, there was a further discussion on the consultation period requirements in DR93bis. One member of the group considered that all consultations under DR93bis should be 45 days instead of 90 days. Some members considered that all consultations should be 90 days, with the exception of consultation on the Scoping Report. This was due to the Scoping Report being a single, smaller document that would be a smaller task to consider than the Environmental Plans submitted together in the application for approval of a Plan of Work under regulation 11. Other members of the group felt that, for the same reason as outlined for the Scoping Report, some other documents should also have a shorter consultation period, but that the consultation on the Environmental Plans when submitted to the Authority under regulation 11 should remain 90 days. Some group members outlined their additional reasoning for requiring a reduced consultation period on particular documents: Material Change - a group member noted that a 90-day consultation requirement on Material Changes made in light of the Feasibility Study may disincentivise a Contractor to make changes intended to have positive effects following the Feasibility Study e.g. reducing environmental impact of activities. They asked whether the group could explore an exception to this process if the Material Change is proposed for positive change/improvement. It was also highlighted that a Material Change intended to have a positive effect may not do so in practice and so further, careful consideration of this question is required.
- b. Closure Plan – as currently drafted, DR59 requires a final Closure Plan to be submitted annually for the final 5 years before the end of Commercial production for consideration under DR11. Some group members judged that conducting annual Stakeholder consultation in accordance with DR93bis would be too onerous, and that there would be insufficient time for a 90-day consultation and Authority decision before the next final Closure Plan had to be reviewed. It was noted that the IWG on Closure Plans outlined the need for Council to consider options to require a review of the Closure Plan 3 years before and then 1 year before Closure, or just 1 year before. This group considered that either of these options would allow sufficient time for Stakeholder consultation and Authority decision. The group's general agreement to apply DR93bis to consultation on the submitted Closure Plan is therefore to be considered in light of developments on the agreed frequency of review.
- c. Performance Assessment Report – some group members highlighted that if we require consideration of a Performance Assessment Report under DR11, and therefore a 90-day Stakeholder consultation under DR93bis, then the frequency requirement of undertaking a Performance Assessment needs to take this into account. This is to ensure there is a long enough gap between Performance Assessments to allow implementation of any new measures, and monitoring of such measures, before submission of the next Performance

Assessment. (**NOTE:** Council is currently choosing between 24 and 36 months for Performance Assessment).

13. One participant specifically highlighted they considered the following instances should require a shorter consultation period like the Scoping Report:
 - a. If Material Change made in light of Feasibility Study pursuant the regulation 25, once Environmental Plan(s) submitted to inform Authority decision
 - b. On Closure Plan review in final 5 years pursuant the regulation 59
 - c. If Environmental Plans updated throughout contract term due to Material Change(s) as required in the relevant regulations, once Environmental Plan(s) submitted to inform Authority decision
 - d. On Closure Plan, if Material Change pursuant the regulation 57

Outcomes for consideration by Council:

Fundamental Principles: Overarching

14. The group continues to agree that, due to its fundamental nature, the Council's broader consideration of public participation (as required in regulation 2), is beyond the specific scope of this group. Furthermore, the group agreed it should be provided for in high-level documents, such as the Rules of Procedure for the Organs of the Authority. Separate to the exploitation regulations, the group recommends the development of further guidance at the overarching ISA policy level for any public participation related to the activities of the Authority (noting this should be considered alongside the [draft ISA consultation and communication strategy²](#)). This includes (but not limited to) the development and review of the regulations and their associated Standards and Guidelines, and therefore the references in regulations 94, 95, 107, linking to the process in DR93bis have been removed from Annex I.
15. The group agreed that Article 32 paragraph 4 of the BBNJ text should form the basis for the minimum requirements for drafting some principles that should apply to consultation and engagement on the face of the exploitation regulations. These principles have therefore been drafted into the introductory paragraph of Annex I, DR93bis (para 1) to apply to consultation. References to engagement in Annex I have been drafted to link to DRX, where DRX (regarding targeted and proactive consultation and engagement, proposed by Portugal) has also been drafted to include such principles¹.
16. The group has also worked to integrate language on, and operationalise the principles of, transparency and inclusivity into the standardised process to consultation under DR93bis. In particular, reference has been added to bring DR93bis in accordance with the [joint proposal](#) by Norway, UK, USA and Canada on DR92 and DR92bis (link) to ensure ease of access by all Stakeholders to environmental documents, data and information regarding each contract.

When to undertake consultation and engagement:

17. There is consensus in the group that **consultation** in accordance with the process in DR93bis is required on 'final' documents submitted to the Authority for a decision. These instances are outlined in table 1 below, and Annex I aims to highlight all instances where a requirement needs to be added to the relevant provision to require consultation in accordance with DR93bis.
18. There is also consensus in the group that the applicant/Contractor shall [endeavor to] undertake **engagement** during the development of the documents outlined in table 1, before submission to the Authority, as well as during the consultation period under DR93bis (see table 1 below).

² We note we are unable to find a direct link to the draft strategy on the ISA website. A link should be added.

Table 1: “Stakeholder consultations” (in accordance with overarching provision DR93bis)	
<i>a) Scoping report, once submitted by applicant to Authority for decision (DR47ter)</i>	
<i>b) All Environmental Plans once application for PoW submitted to inform Authority decision (DR11, has also been drafted into EIA/EIS, EMMP and Closure Plan regulations)</i>	
<i>c) If Material Change made in light of Feasibility Study (DR25, direct ref to DR11), once Environmental Plan(s) submitted to inform Authority decision</i>	
<i>d) If Environmental Plans updated throughout contract term due to Material Change(s) (DR11, DR12, DR20, 25 (renewal) & DR57 ((2&3) EMMP and CP, now expanded to EIS) &/or DR52 8(b) ref. DR11 (EMMP)), once Environmental Plan(s) submitted to inform Authority decision</i>	
<i>e) i. On Closure Plan, if Material Change (DR57, see above c); or</i>	
<i>e) ii. On Closure Plan review in final 5 years (DR59)</i>	
<i>f) on Performance Assessment Report (PAR) submitted by Contractor for review to inform Authority decision (DR52)</i>	
<i>[g) on test-mining report when submitted to inform Authority decision (DR48ter)]</i>	
“Stakeholder engagement” (provided for in each relevant provision)	
<i>a) During development of Scoping report before submission to Authority for decision (DR47ter)</i>	
<i>b) During development of all Environmental Plans before submission to Authority for decision (DR46ter (EMMP), DR47 (EIA), DR47ter (Scoping), DR48 (EIS), DR48bis (review of EIA/EIS), DR52 (PAR), DR59 (CP), DR60 (FCP))</i>	
<i>c) During Stakeholder consultation period (DR93bis para 7)</i>	
<i>d) During development of Environmental Plans if Material Change made in light of Feasibility Study (DR25) before submission to Authority for decision</i>	
<i>e) During development of Environmental Plans if updated throughout contract term due to Material Change(s) before submission to Authority for decision (DR57&58 &/or DR48bis (EIA/EIS),)</i>	
<i>f) i. on Closure Plan if Material Change (see above c); before submission to Authority for decision or</i>	
<i>f) ii. On Closure Plan review in final 5 years before submission to Authority for decision (DR59)</i>	
<i>g) during development of Performance Assessment report before submission to Authority for decision (DR52)</i>	
<i>[h) during development of test-mining report (DR48ter)]</i>	

Consultation

Core principles

19. In addition to the aforementioned core principles in DR93bis (para 1), the group continues to agree that the core elements of consultation should be included in an overarching provision (DR93bis), where DR93bis should provide a process to standardise consultation, including **where** consultations are hosted, the **time** for which they are open, and **how** they are conducted, including **which party is responsible** for each stage of the consultation process. The details of these key policies are drafted in Annex I DR93bis.
20. Specifically regarding responsibilities, group members were in general agreement that the Secretary-General should have a role in administratively facilitating Stakeholder consultation, providing a ‘mailbox’ function and centralised location to ensure transparency, accessibility and consistency. At the same time, group members were clear that Stakeholder consultation should be driven by the applicant/Contractor. Such responsibilities are outlined in Table 3 below.

Table 3: roles and responsibilities for Stakeholder consultation (additional detail Annex III).	
Applicant/Contractor	Developing the documents for consultation
Applicant/Contractor	Identifying Stakeholders
Secretary General	Preparing and publicly circulating notice of consultation > Noting applicant/Contractor responsible for providing all documentation required to be consulted upon, and for identification of Stakeholders. Such

	<p>identification and notification of Stakeholders, including [potentially directly affected] Stakeholders, needs to be based upon Guidance, and regarding coastal states, in accordance with consultation requirements under DR4 regarding the rights and legitimate interests of coastal states (including the content of proposed DRX, subject to the outcomes of discussion of DRX proposal by informal IWG coastal states¹)</p> <p>> Also noting advance warning to Stakeholders and States required to enable all Stakeholders to mobilise resource to utilise full consultation period for consideration of issue.</p>
Secretary General	<p>Determine the length of consultation period and any extensions.</p> <p>> Based on regulated minimum of [45] [60] [90] days.</p>
Applicant/Contractor	<p>Engagement during consultation period, including as directed by Secretary-General</p>
Secretary General	<p>Receive and transmit comments from Stakeholder consultations to applicant/Contractor</p>
Applicant/Contractor	<p>Addressing comments from Stakeholder consultations</p>
Applicant/Contractor	<p>Preparing written response to comments from Stakeholder consultations</p>
Secretary General	<p>Maintain a permanent public record of all the consultation documentation</p> <p>> Which shall be in the Seabed Mining Register (DR92, see also joint proposal*).</p>

*Joint proposal from UK, Norway & USA (provisional support from Canada) was submitted Sept 2022 Part II 27th Session Council. It proposes edits to DR92, and new DR92bis and aims to ensure ease of access by all Stakeholders to environmental information for each contract.

21. The group reaffirms that where required in the Regulations, ‘Stakeholder consultation’ includes the public. On the understanding that the definition of ‘Stakeholders’ in the Schedule is inclusive of the public, the ‘general public’ therefore does not need to be explicitly referenced in regulations on Stakeholder consultation. All consultations under DR93bis shall also be with all States, as drafted in Annex I, DR93bis, and in accordance with DRX regarding coastal states (subject to the outcomes of discussions of DRX content in informal IWG coastal states¹).

Timing

22. Regarding duration of Stakeholder consultation under DR93bis, most of the group continued to agree that there should be a 90-day minimum comment period on the Environmental Plans submitted in the application for approval of a Plan of Work (regulation 11), given the need to scale up timeframes from domestic practices to allow for the expanded international Stakeholder base and differences in capacity. One member considers 45 days more appropriate, and so the time frame remains in square-brackets in Annex I, DR93bis paragraph 4. Given the concerns raised in paragraph 13 above, all members of the group agreed that consultation on the Scoping Report should be less than 90 days, but whether this should be 60 or 45 days was not agreed, and therefore also reflected by square-brackets in Annex I, paragraph 4. The views of some members of the group that other documents should also have a shorter consultation period (for the same reasons as the Scoping Report, see paragraphs 13 & 14 above), has also been drafted into Annex I, DR93bis paragraph 4, noting there is neither consensus on the timing or which documents, if any, should be included in such a list for shorter consultations, beyond the Scoping Report.
23. Additionally, given that the length of the required consultation period could have implications for documents that may require frequent review and consultation (e.g. Performance Assessments and Closure Plans), we recommend maintaining a watching brief and revisiting these areas as development of the Regulations progresses.

Engagement

24. The group agreed that reference to engagement should be drafted in each relevant provision, and not in an overarching regulation, for the engagement instances as listed in table 1. Discussion was not closed on whether engagement during the development of documents should be mandatory or encouraged with 'best efforts'. This discussion remained open, so Annex I provides the proposed drafting for engagement, including square brackets to mark this area where consensus not reached:

“shall [endeavour to] engage with [potentially directly affected] Stakeholders, and in accordance with [DRX,], Standards and Guidelines”.

Coastal states and potentially directly affected Stakeholders

25. The discussion remained open regarding reference to [potentially directly affected] Stakeholders and coastal states¹ for both consultation and engagement, in part due to comments flagging the need to ensure we find a way to achieve equal access for all Stakeholders and States.
26. The group agreed that if a decision to refer to [potentially directly affected] Stakeholders was made in the future, the development of a Standard(s) and/or Guideline(s) for both consultation and engagement must include detail on the identification of [potentially directly affected] Stakeholders. It was noted this could be informed by BBNJ Article 32.
27. The group agreed that the rights and legitimate interests of coastal states, as required by regulation 4, need to be ensured. Portugal submitted a draft proposal (DRX) regarding specific requirements for targeted and proactive consultation and engagement with coastal states, to be considered by informal IWG coastal states. Link to DRX is provided in DR93bis on consultation, as well as in provisions on engagement, to ensure consultation and engagement reflects the rights and legitimate interests of coastal states, as required by regulation 4. Whilst there were no objections to its inclusion, the reference is square-bracketed, to reflect that the link is provided without prejudice to, and subject to the outcomes of discussions of its content in informal IWG coastal states¹.
28. A written proposal to delete “direct, targeted and proactive engagement with [key] Stakeholders and States” in Annex I, DR93bis, paragraph 7, was received. This proposal was accompanied by the rationale that such wording lacks specific operational standards, making it ambiguous, and that the means of engagement are specified in this paragraph, including meetings and workshops. The wording in DRX includes 'targeted and proactive' with regard to coastal states¹. This question of deletion remains open, and it is therefore also square-bracketed in Annex I.

Standards and Guidelines:

29. The group proposes that Standards and/or Guidelines should be developed on Stakeholder consultation under the exploitation regime to complement DR93bis, recognising some information is already contained in draft Standards and Guidelines. The group also recommends the development of a Standard and/or Guideline for 'engagement', including detail on the identification of [potentially directly affected] Stakeholders which could be informed by BBNJ Article 32. Such Standards and Guidelines need to align with, be informed by/inform an overarching public participation strategy to be developed at the Authority-level (see paragraph 14 above).

Drafting of Annex I

30. Annex I aims to implement all the outcomes listed above. It furthermore proposes how to streamline the existing consultation and engagement requirement across the regulations, especially in light of the overarching process provided for in DR93bis.

31. The drafting approach has been to work with the current structure and drafting approach of the regulations. However, there are instances where the requirement for consultation and/or engagement is duplicative of the same requirement elsewhere. There was some support for removal of duplication.
32. A comment was raised whether it may be more appropriate for the Commission to provide its comments on the Environmental Plans in regulation 11 paragraph b after consultations with states and Stakeholders has taken place. However, another member noted the value of receiving the Commissions comments during the consultation period.
33. A comment was also raised recognising the deletion of regulation 11, paragraph 2ter for streamlining purposes, also removes the time period in which the applicant/Contractor has to submit any revised plans or responses. The proponent considered this was appropriate and a time period is not required in this circumstance, as the 120 day period for Commission consideration of the application under regulation 12 does not start until a written response and any revised documents are submitted as required by DR93bis paragraph 9, and an applicant or Contractor would already want to do such revisions as quickly as possible to start the process of consideration by LTC.
34. A comment was also raised as to whether when engagement and consultation is required due to Material Change, for example in regulation 25, if this can simply be a link to DR57 (2&3) instead of the detailed drafting provided in Annex I, regulation 25, paragraph 2. There was some support for this drafting approach.
35. We note a comment was raised in the group as to whether there should be consultation on the application for approval of a Plan of Work as a whole, instead of just on the Environmental Plans. This was raised as the proponent considered there was a need for Stakeholders and states to see the application for approval of a Plan of Work as a whole in order to provide comment on the Environmental Plans. Another members queried whether consultation was therefore required on the whole application, or whether it would suffice to maintain consultation on the Environmental Plans, but provide for the application as a whole to be made available publicly during the consultation period, subject to not sharing confidential information. The group thanked the proponent for raising the issue, and noted it was already flagged in the draft regulations by the alternative title to regulation 11, and the group members would therefore consider this matter and provide views at Council.
36. A comment was made that regulation 25, paragraph 3.bis is not relevant to DR25, but rather dealt with in the relevant provisions on applicant to renew an exploitation contract and so deletion has been proposed in Annex I.
37. A comment was made as to whether drafting of regulation 59 paragraph 7 needs drafting on the requirement for a review of revised Closure Plans by the Commission as included in Annex I, or whether the requirement is already covered by regulations 11-16 and therefore should just be a short reference to such regulations? Also whether this applies to other circumstances for review in light of Material Change. There was some support for this proposal.
38. We note comments flagging there is a preference for 'clear, defined' engagement and consultation points instead of phrasing such as 'throughout the process'. There are now two drafting options to consider in regulation 47ter paragraph 4 (i) in Annex I.

Next steps:

39. We invite the views of Council on the above outcomes of the working group and drafting proposed in Annex I. Should there be general Council consensus on the general direction of this work, we recommend uptake of the drafting into the draft regulations, taking into consideration views and comments of Council. We further note such drafting and future discussions of Council will need to take into consideration the outcomes of the informal IWG coastal states.

ANNEX I – DRAFT PROPOSAL FOR CONSULTATION AND ENGAGEMENT THROUGHOUT DRAFT REGULATIONS.

Wording used through regulations to require “engagement”:

“shall [endeavor to] engage with [potentially directly affected] Stakeholders, and in accordance with [DRX,] Standards and taking into consideration Guidelines”.

NB: Guidelines will need to explain that such engagement should include meetings, workshops, webinars and other forms of engagement necessary, and guidance on how to undertake such engagement.

Consultation required by link to regulation 93bis, where 93bis includes reference to DRX (Portugal proposal for specific requirements regarding consultation with coastal states, the content of which is to be discussed by the informal IWG Coastal States¹).

NB: “[DRX]” is a reference to Portugal's proposal regarding specific requirements for targeted and proactive engagement with [Coastal States], which will be discussed in terms of content by informal IWG coastal states. Link is provided in the drafting below to ensure DR93bis is conducted in accordance with proposed DRX, whilst acknowledging ongoing work and therefore without prejudice to the outcomes yet to be determined by the informal IWG on Coastal States. For reference, we currently understand DRX is to be submitted by Portugal as DR93ter¹.

NB: Drafting as proposed in IWG [outcomes report March 2023 \(Part I 28th Session of ISA Council\)](#) in green changes. Red and black as appears in Part II 28th Session of ISA Council, July 2023 draft exploitation regulations. [Square brackets] reflect positions of this informal IWG which have not yet reached consensus. [Tracked changes \(additions and deletions\)](#) include changes made in this intersessional period (Aug/Sept 2023) in light of written comment submission and discussion of IWG.

Regulation [93bis] Stakeholder consultation [Alt. Public notification and consultation]

1. Consultation with States and Stakeholders shall be inclusive and transparent, be conducted in a timely manner [and in accordance with DRX]

1bis. Where these Regulations require Stakeholder consultation with States and Stakeholders by an applicant, or a Contractor, [a Sponsoring State], the Secretary General or any other officer or organ of the Authority (the consulting party), consultation shall be conducted in accordance with this regulation and relevant Standards, and taking into consideration ~~or~~ Guidelines.

2. The applicant or Contractor consulting party shall provide the Secretary General with a list of [key] [potentially directly affected] Stakeholders [and States within scope of DRX].

3. At least two weeks before the consultation begins, the Secretary General shall correspond directly with all States and [key] [potentially directly affected] Stakeholders advising that that the consultation will occur, and shall publish such advice on the website of the International Seabed Authority.

4. The Secretary General shall determine the consultation period for each consultation, which shall begin on the date of the publication of a notice of consultation and may not be less than:

a) [45] [60] days for a consultation relating to:

i) a scoping report prepared pursuant to regulation 47ter

...?

b) [60] [90 days] for all other consultations-

5. The Secretary General shall prepare a notice of consultation. The notice of consultation shall invite- States and Stakeholders and members of the Authority or other states to make submissions to the consultation, describe the matters on which submissions are sought, include the documentation that is the subject of consultation and other relevant information, and specify the final date for submissions. The applicant or Contractor A consulting party, shall provide the Secretary General with all information and documentation required to prepare a notice of consultation.

6. The Secretary General shall publish the notice of consultation on the website of the International Seabed Authority and send written notice of consultation to States and [key] [potentially directly affected] Stakeholders and all States.

7. During the consultation period, the applicant or Contractor consulting party shall [endeavor to] conduct engagement with States and [potentially directly affected] Stakeholders public engagement, and in accordance with [DRX,] relevant Standards, and taking into [consideration] [account] relevant Guidelines. and carry out direct [, targeted and proactive] engagement with [key] Stakeholders and States. The Secretary General may direct the applicant or Contractor consulting party to conduct such meetings, workshops and engagement.

8. The Secretary General shall receive all submissions.

9. The Secretary General shall transmit all submissions to the applicant or Contractor consulting party. The applicant or Contractor consulting party shall consider the submissions received and may revise the documentation that was the subject of consultation. The applicant or Contractor consulting party shall prepare a written response to consultation that collates summarises and responds to the [substantive] comments expressed in submissions and includes an explanation of any revisions to the document and how those revisions respond to [substantive] comments expressed in the submissions. The applicant or Contractor shall submit the written response, with any revised documentation, to the Secretary-General for transmission to the Commission.

10. The Secretary General shall maintain a permanent public record of the notice of each consultation conducted under this Regulation, all submissions, and the written response to consultation, by publishing the notice, submissions and response on the website of the International Seabed Authority (except for confidential information which shall be redacted from documents before publication). The Secretary General shall ensure that such consultation records relating to a specific contract are included in, or are accessible from, the relevant entry in the Seabed Mining Register, in accordance with Regulation 92.

Regulation 11

Publication and review of the [Environmental Plans] [and Environmental Management Systems]

Alt. [Publication, notification, and review of the Application]

1. The Secretary-General shall, within seven Days after determining that an application for the approval of a Plan of Work is complete under regulation 10:

(a.alt2) Direct the applicant to begin the consultation process with all States and Stakeholders ~~consultation~~ required under subparagraph 1bis.

[(b) Request the Commission to provide its comments on the Environmental Plans [and the non-confidential parts of the test mining study] within the consultation period under regulation 93bis (4). ~~[90-Day] comment period.~~

1bis. The applicant shall conduct a Stakeholder consultation process on the Environmental Plans that accompany the application, with all States and Stakeholders in accordance with regulation 93bis.;

....

~~2. The Secretary-General shall, within seven Days following the closure of the comment period, provide the comments submitted by members of the Authority, [relevant adjacent coastal States], Stakeholders, [the general public,] the Commission, [the independent review team] and any comments by the Secretary-General to the applicant [for its consideration]~~

~~[2 bis. All comments provided pursuant to paragraph (2) shall be published on the Website of the Authority.]~~

~~[2 ter.] The applicant shall consider the comments provided pursuant to paragraph (2) and [may shall] revise the Environmental Plans [and the test mining study] or provide responses in reply to the [substantive] comments, [as appropriate], and shall submit any revised plans or responses [to the Secretary-General][to the Commission] within a period of [30] Days following the close of the comment period, [unless otherwise decided by the Secretary-General after considering a request by the applicant before the time period of 30 Days expires for an extension of the period due to the time required to revise the plans or responses. Notice of the extension of the period shall be posted on the Authority's website].~~

3. The Commission shall, as part of its examination of an application under regulation 12 and assessment of applicants under regulation 13, examine the Environmental Plans or revised plans [and the test mining study], taking into account the consultation submissions received under Regulation 93bis, the applicant or Contractor's written response prepared under DR93bis (9), in the light of the comments [submitted] made under paragraph 1(a) 2 above, together with any responses by the applicant [provided under paragraph 2 ter.], and any additional information provided by the Secretary-General.

4. Notwithstanding the provisions of regulation 12 (2), the Commission shall not consider an application for approval of a Plan of Work until the Environmental Plans [and the test mining study] have been published, and [reviewed, and if necessary, revised] in accordance with this regulation

5. The Commission shall prepare a report on the Environmental Plans [and the test mining study]. The report shall include details of the Commission's determination under regulation 13 (4) (e) as well as [a summary of] the consultation submissions comments [or and] responses [made received submitted] under DR93bis (8), the Commission's comments under regulation 11 (1(b)), the applicant or Contractor's written response prepared under DR93bis (9), regulation 11 (2) [as well as any further information provided by the Secretary-General under regulation 11(2)] [as well as the relevant rationale for the Commission's determination, with specific explanation as to any comments or responses that are disregarded]. The report shall also include any amendments or modifications to the Environmental Plans recommended by the Commission under regulation 14 [and changes subsequently made to application documents by the applicant]. Such report on

the Environmental Plans or revised plans shall be published on the Authority's website in accordance with DR92, and shall be included as part of the reports and recommendations to the Council pursuant to regulation 15....

Section 3 Consideration of applications by the Commission

Regulation 12 [General]

....

2. The Commission shall consider applications expeditiously and shall submit its reports and recommendations to the Council no later than 120 Days from the date on which the Secretary-General transmits the applicant's or Contractor's written response with any revised documentation, to the Commission ~~[the date of the completion of the requirements for review of the Environmental Plans, in accordance with regulation 11 [(1)(a)](4) and subject to regulation 14 (2) whichever date occurs later out of:~~

~~(a) the close of the comment period, in accordance with Regulation 11(1)(a), or~~

~~(b) the date of submission of a revised plan, in accordance with Regulation 11(2)ter.]~~

....

4. In considering the proposed Plan of Work, the Commission ~~[shall may]~~ take into account

~~[(a)bis. Any consultation submissions received under Regulation 93bis comments received following the publication of the Environmental Plans or the Commission's report on the Environmental Plans pursuant to regulation 11];~~

~~[(a)bis. alt. Any comments made by Stakeholders;]~~

Regulation 13 Assessment of Applicants **[and applications]**

1. The Commission shall determine ~~[under consideration of taking into account the consultation submissions comments made by States members of the Authority and Stakeholders under regulation 93bis, any responses by the written response provided by the applicant or Contractor under regulation 93bis (9), and any additional information or comments provided by the Secretary-General]~~ if the applicant:

...

Regulation 20 Term [and renewal] of exploitation contracts

...

3. The Contractor shall supply such documentation as may be specified in the [Standards and] Guidelines. If the Contractor wishes to make any changes to a Plan of Work and such changes are Material Changes, the contractor shall submit a revised Plan of Work. The Contractor shall conduct a consultation process on the revised Plan of Work, with all States and Stakeholders in accordance with regulation 93bis.

[3.Alt. The Contractor submitting an application to renew an exploitation contract shall supply a revised plan of work, including an updated EIA, as well as such documentation as may be specified in any applicable Standard and taking account of Guidelines. Submission of a revised Plan of Work for the purposes of this regulation is deemed to be a Material Change for the purposes of regulation 57. The Contractor shall conduct

a consultation process on the revised Plan of Work, with all States and Stakeholders in accordance with regulation 93bis.

4. The Commission shall consider ~~such the~~ application to renew an exploitation contract, along with any revised documents or responses prepared by the Contractor pursuant to regulation 93bis (9), at its next meeting [after submission of any revised plans or responses by the Contractor pursuant to regulation 11(2)], provided the documentation required under paragraph 3 or pursuant to regulation 93bis (9) has been circulated at least [30] [60] Days prior to the commencement of that meeting of the Commission.

Regulation 25 Documents to be submitted prior to production

2. Where, as part of a revised Plan of Work, the Contractor delivers a revised Environmental Impact Statement, Environmental Management and Monitoring Plan and Closure Plan under paragraph 1 above, regulation 57 (2) shall apply mutatis mutandis to such Environmental Plans [if the modification to the Environmental Plans constitutes a Material Change], ~~and such Environmental Plans shall be dealt with in accordance with the procedure set out in regulation 11.~~ If the modification to the Environmental Plans constitutes a Material Change, the Contractor shall [endeavor to] engage with all States and [potentially directly affected] Stakeholders, in accordance with [DRX,] the Standards, and taking into consideration the Guidelines, in its preparation of the modified Environmental Plans. The Contractor shall also conduct a consultation with all States and Stakeholders on the revised Environmental Plans in accordance with regulation 93bis.

3. Provided that, [where applicable], the procedures under regulation ~~11~~93bis has been completed, the Commission shall, at its next meeting, provided that the documentation has been circulated at least 30 Days before the meeting, examine [the Feasibility Study and] any revised Plan of Work supplied by the Contractor under paragraph 1 above, and in the light of any submissions received under regulation 93bis comments made by members of the Authority, Stakeholders and the Secretary General on the Environmental Plans.

~~[3.bis. An application to renew an exploitation contract shall be accompanied by updated Environmental Plans to be reviewed in accordance with the provisions of regulation 11.]~~

Regulation ~~48~~ [46 ter] Environmental Management and Monitoring Plan

1. Each applicant or Contractor for exploitation shall prepare an Environmental Management and Monitoring Plan in accordance with this regulation and Annex VII. Such an Environmental Management and Monitoring Plan shall be considered by the Authority in accordance with Part II or Regulation 57, [which includes a consultation with all States and Stakeholders on the Environmental Impact Statement, by the applicant or Contractor, and in accordance with regulation 93bis, and is required for an application for a plan of work pursuant to Regulation 7(3)(d)].

3. The Environmental Management and Monitoring Plan shall include all elements and matters ~~[in the form and deliver the contents]~~ prescribed by the Authority in Annex VII to these regulations and shall:

3bis. The applicant or Contractor shall [endeavor to] engage with [potentially directly affected] Stakeholders and in accordance with [DRX,] Standards, and taking into consideration Guidelines, during the development of the Environmental Management and Monitoring Plan.

Section 4

Regulation ~~4746bis~~

Environmental ~~Impact~~ Assessment Process

24. The environmental impact assessment ~~process~~ shall:

....

~~(de) Provide for stakeholder consultation in accordance with Regulation 93bis, relevant Standards and Guidelines include Stakeholder consultation on the draft scoping report, by the applicant and in accordance with regulation 93bis;~~

~~(d) [endeavor to] Provide for engagement with [potentially directly affected] Stakeholders and in accordance with [DRX,] Standards and taking into consideration Guidelines~~

~~Dbis) Provide for consultation with all States and Stakeholders in accordance with Regulation 93bis, relevant Standards and taking into account the relevant Guidelines.~~

~~[(dc bis) include Stakeholder consultation on the draft Environmental Impact Statement, by the applicant and in accordance with regulation 93bis]; and~~

3. The Environmental Impact Assessment Process must follow certain procedural steps to having the plan of work assessed and entail the following elements:

...

(g) 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,

....

~~(i) 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 47 ter Environmental Impact Assessment Scoping Report

3. In undertaking the environmental impact assessment scoping process, the applicant or Contractor shall:

....

c) ~~Proactively~~ identify [potentially directly affected] Stakeholders in accordance with relevant Standards and taking into account any Guidelines, and

[cbis] [endeavor to] engage with [potentially directly affected] Stakeholders, and in accordance with [DRX,] Standards and taking into consideration Guidelines

...

4. An environmental Impact Assessment Scoping Report shall include the following:

...

(l) A ~~preliminary Stakeholder~~ list of [potentially directly affected] that proactively identifies likely Stakeholders, [and States within scope of DRX], and an indicative schedule and methodology for engagement with such key Stakeholders and States [throughout the Environmental Impact Assessment process] [during the Environmental Impact Assessment and development of the Environmental Impact Statement], taking into account to not to publish personal information of identified Stakeholders,

(m) A report of any written consultations undertaken during scoping.

5. ~~Following Upon-submission receipt~~ of a scoping report in accordance with this regulation, report from an applicant or Contractor, the Secretary-General shall the applicant or Contractor shall conduct a consultation process on the Scoping Report, with all States and Stakeholders in accordance with regulation 93bis:

~~(a) Make the report available on the Authority's website [for a period of at least 60 days], 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] a specified timeframe 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 taking into account the consultation submissions any comments and responses received under regulation 93bis (8), the applicant or Contractor's written response prepared under regulation 93bis (9), any additional information provided by the Secretary-General, and 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: [The Commission may recommend that the applicant]:

(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. _~~ [c] [to] revise a Scoping Report and submit the report for further consideration;

[d] [to] consult under regulation 93bis on any revised scoping report, particularly if the recommendations are likely to lead to a Material Change in the Scoping Report

8. The applicant or Contractor shall take into account the Commission's recommendations under this regulation, before proceeding with ~~the an~~ environmental impact assessment process. Furthermore, the applicant or Contractor shall agree the final contents of the Scoping Report with the Commission.]

...

Regulation ~~48~~7

Environmental Impact Statement

2. An applicant or Contractor, shall prepare an Environmental Impact Statement in accordance with this regulation~~[and in consultation with relevant Stakeholders throughout the process in accordance with regulation 93bis].~~ Such an Environmental Impact Statement shall be considered by the Authority in accordance with Part II or Regulation 57, [which include a consultation with States and Stakeholders on the Environmental Impact Statement, by the applicant or Contractor and in accordance with regulation 93bis], and is required for an application for a plan of work pursuant to Regulation 7(3)(d).

3. The Environmental Impact Statement shall be in a form prescribed by the Authority and must:

(d) Include the applicant or Contractor's written response to the consultation with all States and Stakeholders on the scoping report, prepared under regulation 93bis (9), and identify substantive comments received through any additional public consultation on the environmental impact assessment and explain how each comment has been incorporated or otherwise addressed,

dbis. [demonstrate it has conducted] [include an overview of the] [demonstrate it has endeavored to conduct] [include an overview of how it has endeavored to] engage[ment] with [potentially directly affected] Stakeholders, in accordance with [DRX] and the Standards, and taking into consideration the Guidelines.

3bis. The applicant or Contractor shall [endeavor to] engage with [potentially directly affected] Stakeholders, and in accordance with [DRX] Standards, and taking into consideration Guidelines, during the development of the Environmental Impact Statement.

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

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

[Regulation 48 bis New Environmental Impact Assessment and Revised Environmental Impact Statement

2. In the course of conducting a new Environmental Impact Assessment and preparing a revised Environmental Impact Statement as required by any Material Change referred to in subparagraphs 1(a)-(b), a Contractor shall [endeavor to] engage with [potentially directly affected] Stakeholders, and in accordance with [DRX,] the Standards, and taking into consideration the Guidelines.

3. The Contractor shall also conduct a consultation regarding, the revised Environmental Impact Statement in accordance with regulation 93bis.

Regulation 52 Review of the Performance assessments of the Environmental Management and Monitoring Plan

1. A Contractor shall conduct performance assessments of their Environmental Management and Monitoring Plan in accordance with this regulation. The Commission shall review the performance assessments of the Environmental Management and Monitoring Plan undertaken by a competent and independent auditor hired by a Contractor in accordance with the relevant Standards and taking account of the relevant Guidelines. In conducting such a performance assessment of the Environmental Management and Monitoring Plan, the Contractor shall [ensure] [assess]:

4. The Contractor shall conduct a consultation regarding the Performance Assessment Report with all States and Stakeholders in accordance with regulation 93bis. [The Secretary-General shall publish the Performance Assessment Report and provide opportunity for Stakeholders to comment, and at the end of that consultation period shall transmit the report and any Stakeholder's comments to the Commission [and Compliance Committee / Inspector-General].] The Commission shall[, in consultation with the [Compliance Committee / InspectorGeneral]] review [a] [the] performance assessment report and any stakeholder comments received to it at its next available meeting, provided that the report has been circulated at least 30 Days in advance of such meeting. ~~[If the Commission does not possess sufficient expertise amongst its members, it shall consult independent experts to review the performance assessment.]~~ The Commission should, where necessary and appropriate, consult external experts to review the performance assessment. ~~[The Secretary-General shall publish the report and provide opportunity for Stakeholders to comment, and at the end of that consultation period shall transmit the report and any Stakeholders' comments to the Commission for review.]~~

5. Where the Commission upon review of the report and any Stakeholder-submissions ~~comments~~ received in relation to it under regulation 93bis, [and upon the advice of the [Compliance Committee / Inspector-General]] considers the performance assessment to be unsatisfactory or the report submitted to be inadequate, in relation to the applicable Standards, relevant Guidelines and the Environmental Management and Monitoring Plan, the Commission may require, after providing the Contractor with a reasonable opportunity to address any inadequacies, the Contractor to:

8. Where, as the result of a review by the Commission under paragraph 4 above, the Commission concludes that a Contractor has failed to comply with the terms and conditions of its Environmental Management and Monitoring Plan or that the plan is determined to be inadequate in any material respect, the Commission shall:

(a) Recommend to the Council to issue a compliance notice under regulation 103 or;

(b) Require the Contractor to deliver a revised Environmental Management and Monitoring Plan, taking into account the findings and recommendations of the Commission. ~~A revised plan shall be subject to the process under regulation 11.~~ If a revised Environmental Management and Monitoring Plan is required, the Contractor

shall conduct a consultation regarding the revised Environmental Management and Monitoring Plan with States and Stakeholders in accordance with regulations 93bis.

Regulation 57 Modification of a Plan of Work by a Contractor

3. Where the proposed modification under paragraph 2 above relates to a Material Change in the Environmental Management and Monitoring Plan, ~~or the Closure Plan,~~ or the Environmental Impact Assessment, the Contractor shall [endeavor to] engage with [potentially directly affected] Stakeholders and in accordance with [DRX,] the Standards, and taking into consideration the Guidelines, during its preparation of the modified plans. The Contractor shall also conduct a consultation on such the modified plans in accordance with regulation 93bis shall be dealt with in accordance with the procedure set out in regulation 11, prior to any consideration of the modification by the Commission.

~~Alt 1. 3. Where the proposed modification under paragraph 2 above may have a potential impact on the Environmental Management and Monitoring Plan, or the Closure Plan, or the Environmental Impact Assessment, the Contractors shall [endeavor to] engage with [potentially directly affected] Stakeholders and in accordance with [DRX,] the Standards, and taking into consideration the Guidelines, during its preparation of the modified plans. The Contractor shall also conduct a consultation on such the modified plans in accordance with regulation 93bis shall be dealt with in accordance with the procedure set out in regulation 11, prior to any consideration of the modification by the Commission.~~

Regulation 58 Review of ~~activities under~~ a Plan of Work

3. The Secretary-General shall report on each review to the Commission and Council, and the sponsoring State or States. Where, as a result of a review, the Contractor wishes to make any changes to a Plan of Work and such changes are Material Changes requiring the approval of the Council, based on the recommendation of the Commission, the Contractor shall seek that approval in accordance with regulation 57 (2) and, where applicable, regulation 57 (3).

~~Alt 1. 3. The organ in charge of the review shall report on each review to the Commission and Council, the sponsoring State or States and the relevant coastal states. Where, as a result of a review, material changes need to be made to the Plan of Work, the Commission shall recommend said changes to the Council, and the Contractor shall implement such changes as soon as viable. Where, as a result of a review, the Contractor wishes to make any changes to a Plan of Work and such changes are Material Changes requiring the approval of the Council, based on the recommendation of the Commission, the Contractor shall seek that approval in accordance with regulation 57 (2) and, where applicable, regulation 57 (3).~~

Regulation 59 Closure Plan

[1. A Contractor shall develop a Closure Plan, in accordance with Regulation 7 (3) (i), Annex VIII to these regulations, regulation 93bis, the Environmental Management System and other Environmental Plans of the Contractor, as well as applicable Standards, also taking into consideration Guidelines and the relevant Regional Environmental Management Plan.

2bis. The Contractor shall take steps to promote transparency during the Closure process and:

a) shall conduct consultation with all States and Stakeholders in accordance with DR93bis

b) during the development of the Closure Plan, shall [endeavor to] engage with [potentially directly affected] Stakeholders, and in accordance with [DRX,] Standards, and taking into consideration Guidelines -consult Stakeholders in the Closure Plan design, review, and implementation.

6. If a revised Closure Plan is required due to a Material Change of a Plan of Work, the Contractor shall demonstrate it has [endeavored to] engage[d] with [potentially directly affected] Stakeholders and in accordance with [DRX,] the Standards, and taking into consideration the Guidelines, in its preparation of the revised Closure Plan. The Contractor shall also conduct consultation with States and Stakeholders regarding the revised Closure Plan in accordance with regulation 93bis.

6alt. If a revised Closure Plan is required, the Contractor shall demonstrate it has [endeavored to] engage[d] with [potentially directly affected] Stakeholders and in accordance with [DRX,] the Standards, and taking into consideration the Guidelines, in its preparation of the revised Closure Plan. The Contractor shall also conduct consultation with States and Stakeholders regarding the revised Closure Plan in accordance with regulation 93bis.

[7. Provided that the procedure under regulation 93bis has been completed, the Commission shall, at its next meeting, provided that the documentation has been circulated at least 30 Days before the meeting, examine the revised Closure Plan in the light of any submissions received on the revised Closure Plan in accordance with regulation 93bis.]

Regulation 60 Final Closure Plan: cessation of production

1bis. The Contractor shall conduct consultation on the Final Closure Plan with all States and Stakeholders in accordance with regulation 93bis. The Secretary General shall make the final Closure Plan submitted pursuant to paragraph (1) available on the Authority's website [[for a period of at least 60 days]] and invite members of the Authority and Stakeholders to submit comments in writing [[within 90 days].]

[1 ter. The Secretary General shall, within [seven calendar days] [14 calendar days] following the close of the commenting period under paragraph 1bis, provide the comments submitted by members of the Authority and Stakeholders, to the applicant Contractor for its consideration and to the Commission. The Contractor shall consider the comments and provide responses to the comments and shall submit any revised plans and responses to the Commission within 90 days from receiving the comments from the Secretary General.]

Regulation 94

Adoption of Standards

Regulation 95

Issue of Guidelines

Regulation 107

Review of these regulations

We note the current wording in regulations 94, 95 & 107 requires consultation with Stakeholders which this group supports. However, we have not provided drafting on these regulations in Annex I as the group

recommends such consultation is undertaken in accordance with Guidance to be developed at the overarching ISA policy level for any public participation related to the activities of the Authority (see paragraph 14 above), and not in accordance with DR93bis.

Relevant definitions

(as of Part II 28th Session of ISA Council draft exploitation regulations)

“Stakeholder” 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, [knowledge] or expertise.

“Environmental Plans” means the Environmental Impact Statement, the Environmental Management and Monitoring Plan and the Closure Plan.

“Material Change” means a [substantial] [significant] change that affects ~~to~~ the basis on which ~~the~~ [an] original report, document or plan, including a Plan of Work, was accepted or approved by the Authority, and includes changes such as physical modifications, [changes to harmful effects of activities on the Marine Environment, [other environmental effects or effects on stakeholders], the availability of new knowledge or technology and changes to operational management that are to be considered in the light of the Guidelines

“Confidential Information” shall have the meaning assigned to that term by regulation 89.

