

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 29<sup>TH</sup> SESSION: COUNCIL -  
PART II**

*Please fill out one form for each textual proposal which your delegation(s) wish(es) to amend, add or delete and send to [council@isa.org.jm](mailto:council@isa.org.jm).*

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

United Kingdom

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

Regulations 46-48 – Environmental Impact Assessment Process

**3. Kindly provide the proposed amendments to the regulation or standard or guideline in the text box below, using the “track changes” function in Microsoft Word. Please only reproduce the parts of the text that are being amended or deleted.**

**Regulation 46 ~~7-ah~~. Environmental Impact Assessment Process**

1. An applicant or Contractor shall carry out an Environmental Impact Assessment on the potential [impacts and] effects on the Marine Environment of the proposed operations and activities.

2. The purpose of an Environmental Impact Assessment under this Regulation shall be to [identify and inform the Authority’s assessment of an application of a Plan of Work under Regulations 13 to 16, or a Contract’s continued adherence to these Regulations and] predict [and evaluate the potential] Environmental Impacts, [effects and risks] anticipated from the proposed activities [on the marine environment and identify necessary measures to Mitigate or manage such effects and risks], to enable the Authority to assess the potential adverse Environmental Effects [and risks], with the aim to:

...

(c) [~~Avoid Serious~~] [Prevent] 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 [or States] 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 [~~adjacent affected~~] ~~coastal States and~~ any ~~other~~ potentially most affected coastal State by maintaining, [targeted and proactive] consultations in accordance with Regulation 93 ~~ter~~ 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 Convention, the Agreement], ~~the~~ Rules, regulations and procedures of the Authority, [~~general International Law, including the Convention~~] and the applicable Standards and taking into consideration ~~account~~ the relevant applicable Guidelines as well as, Best Available Scientific Information, Best Environmental Practices, and Best Available Techniques.

...

3

...

(a) Be based on relevant and representative environmental baseline data ~~[that captures temporal, (seasonal and interannual) and spatial variation]~~ in accordance with ~~[relevant applicable]~~ Standards and taking into consideration ~~account~~ ~~[relevant]~~ Guidelines and the objectives and measures of the ~~[relevant applicable]~~ Regional Environmental Management Plan;

...

(b) Be carried out by ~~[competent qualified,]~~ ~~[independent]~~ experts;

(b) bis Be based on the best available ~~[science and]~~ scientific information, and, [if applicable, taking into account ~~where available,]~~ relevant traditional knowledge of Indigenous Peoples and local communities;

...

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

...

(h) Identify scientific and other knowledge gaps or data uncertainties, and ~~[assess]~~ the degree to which these influence the assessment; and

...

i) Be an iterative process where specific stages ~~[of the activities]~~ are revisited and may be updated in the light of new information or new activity at a later stage.

4

...

(b) A stage for assessment and evaluation of Environmental Impacts [in accordance with Regulation 47;] ...

(d) The ~~[development,]~~ publication and review by the Commission of the Environmental Impact Statement, and publication of the ~~[Commissions]~~ report and recommendations ~~[by the Commission]~~ to the Council pursuant to Regulations 11-15;

...

### **Regulation 47 – Environmental Impact Assessment**

1. The applicant or Contractor shall, in accordance with the Standards, and taking into consideration ~~account the~~ Guidelines, undertake an impact assessment, [as described in Regulation 46 (4),] 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 existing and foreseen mining operations, other activities and natural phenomena.]~~

This includes assessing:

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

(b) The spatial extent of the impact relative to the availability of the habitat type affected;

(c) The sensitivity and ~~✓~~vulnerability of the ecosystem to the impact;

...

(f) 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.

2. [In] Undertaking the impact assessment, the applicant or Contractor shall complete:

(a) 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;

(b) Identification of measures envisaged to [monitor,] mitigate and manage [~~prevent, minimize, control,~~] 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;

(c) An Environmental Risk Assessment, which adds to the preliminary Environmental Risk Assessment required during scoping by ~~this Regulation~~ Regulation 47bis (3) (b) (4j);

(d) An analysis of the results of the Environmental Risk Assessment, including identification of [~~high priority~~] risks requiring particular focus, including in the Environmental Management and Monitoring Plan;

### **Regulation 47bis – Scoping Report**

...

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 Exploitation activities, 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:

(c) Identify [potentially directly affected] Stakeholders in accordance with [the applicable] Standards and taking into consideration Guidelines;

(c bis) Endeavour to engage with potentially directly affected Stakeholders, and in accordance with [Regulation 93 ter,] Standards and taking into consideration Guidelines;

### **Regulation 48 – Environmental Impact Statement**

1. An applicant or Contractor shall prepare an Environmental Impact Statement in accordance with this Regulation, ~~Annex IV, relevant Standards and take into account Guidelines~~. ~~Such~~ The [an] Environmental Impact Statement [~~will~~][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).

...

2. The Environmental Impact Statement shall document and report the results of the Environmental Impact Assessment carried out in accordance with Regulation 47 ~~ter~~ and shall provide the [~~International Seabed~~] Authority, its member States and other 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 applicable relevant Standard and in accordance with the relevant Guidelines, [and shall]:

...

(b) Demonstrate that the proposed Exploitation is in accordance with all relevant environmental Standards and the Authority's environmental objectives and [taking into consideration] [~~in accordance with 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) Be prepared in clear ~~and non-technical~~ language and in an official language of the Authority together with an English-language version, where applicable,

(e) Be peer reviewed by competent independent experts, before submission,

...

5. The Environmental Impact Statement of every project, including any revisions, [~~shall should~~] be [made] available on the [~~official website of the International Seabed~~] Authority's website. [~~by the Secretary General~~] in the interests of transparency of the whole process in accordance with Regulation 92.

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

### **Regulation 46 – Environmental Impact Assessment Process**

**46(1)** Support text in square brackets being included as both impacts and effects need to be considered. We note however they are not consistently used across Section 2, sometimes only impacts, sometimes impacts, effects and risks, so that will need to be reviewed.

**46(2):** We are of the view that this introductory paragraph needs to be reordered to first show that the purpose of the EIA is to undertake an assessment to predict environmental impacts to then inform the Authority's assessment of the Plan of Work. This is because it follows the logical process of first what is done and then what that is used for.

We support the addition of regs 13-16 currently in square brackets, as those regulations set up that the Authority (through LTC recommendations) needs to assess the PoW and how.

We support the important addition of 'and evaluate the potential' in square brackets.

As for the remaining text in brackets in this paragraph we note our previous comments regarding the need for a consistent approach to impacts and effects, and also Mitigation across the Regulations, so suggest brackets are retained here.

**46(2)(d)** We note this paragraph needs to be reviewed in light of outcomes of discussions in coastal States group but the UK is not in a position to accept "adjacent" coastal states.

**46 (2) (e)** support all amendments in tracked changes in consolidated text in paragraph (e).

**46(3)(a):** add after the first "relevant" "and representative", so the sentence reads, "Be based on relevant and representative environmental data". That would cover the detail in the strikethrough content which was proposed by the EIA joint restructuring proposal to be moved to Standards.

*For clarification on the deletion of 3 (a) text on temporal and spatial variation – The intersessional work on restructuring did not propose deletion of this text from the Mining Code as a whole, but rather suggested these detailed requirements be moved to appropriate places in Standards and they are to be held in the Suspense Document until the Council decides upon the way in which Standards and Guidelines are to be updated.*

**46(3)(b):** the term ‘competent’ would most commonly be used here, and further detail should be provided in Guidance. This would include for example that the experts have the appropriate qualifications and experience, and understand the relevant legislation and technical parameters involved in carrying out an effective assessment and in the preparation of a high-quality report, and sometimes includes the concept of accreditation.

**46(3)(e):** In our view, at the point of submission to the Authority, the LTC reviews the application, and can obtain additional expertise where required. This paragraph includes an additional independent scientific assessment of the EIA process itself. We’d like to ask the proponent of this paragraph how they envisage independence being defined in this context? Who pays them? Is there a list of people who can be used? Are they reviewing the EIA process (the subject of this regulation) or just the EIS itself?

**46(3)(h) – support removing** brackets around ‘assess’.

**46(3)(i):** we don’t support the addition of ‘of the activities’. Our understanding is that this paragraph is highlighting that the EIA process is iterative, and specific stages of the EIA process need to be revisited and updated as detailed in the provision. We suggest the wording in square brackets be deleted as they add confusion.

**46(4)(b)** Suggest amending to “A stage for assessment of Environmental Impacts **and Evaluation**’ and agree with addition of reference to Regulation 47 so request removal of square-brackets.

**46(4)(d):** The addition of ‘development’ does not work as the Contractor develops the EIS, not the Commission, and it is the Commission which is the subject of this paragraph.

#### **Regulation 47: Environmental Impact Assessment**

**47(1)(a):** Additional detail on intensity and severity needs to be added to the Standards and Guidelines. We query the text on ‘specific site being affected’ and suggest “Impact Area” or ‘area being affected’ as more appropriate, as the EIA has to consider all impacts of PoW activities, not just those in Contract Area.

**47(1)(b):** Support para (b), but we note detail needs to be provided in Standards as to appropriate resolution that habitat types need to be described to, as this will then affect the magnitude of the resolved impact relative to the habitat disturbed. Without this detail, there are no clear parameters for this paragraph to be achieved.

**47(1)(c):** Support intent of (c) but the use of a forward slash merges two differing terms. Replace forward slash with ‘and’.

**47(1)(f):** The UK cannot support deletion of this paragraph as it is very important to consider temporal impacts and they are particularly important for cumulative effect assessments. Such information will be critical so mitigation measures can cover the variability and total length of impacts resolved. We therefore support this being retained but consider there may be a need for redrafting for clarity.

**47(2)(a):** The UK is of the view that the use of “under the jurisdiction or control of a State Party” is not relevant for this context. This should be deleted.

**47(2)(b):** Agree monitoring should be included, but the language does not flow here. This should be redrafted to be clear that you identify measures to monitor Environmental Effects, and then identify measures to mitigate and manage such effects. We consider the word ‘envisaged’ should be removed. All measures in a PoW are only ‘proposed’ prior to their approval, and so this is already implicit. Also consider ‘preparation’ can be removed – no different to ‘development’?

**47(2)(c):** the Environmental Risk Assessment requirement must build upon the preliminary ERA from scoping. This preliminary ERA is required under 47 bis 3(b) so that should be referenced here for the provision to make sense. The full ERA is required under this regulation.

**47(2)(c) & (d):** In conducting an EIA, the contractor must first undertake an ERA, and then move on to identifying measures to mitigate such risks. Therefore, we suggest paragraphs (c) & (d) should be before para b.

#### **Regulation 47bis – Scoping Report**

**47 bis (2):** Scoping should cast a wide net, identify **all relevant** impacts regardless of severity, then go through each one and scope in/out of further assessment. If scoping out, sufficient justification should be provided. This paragraph should be reworded to be clear that scoping needs to ‘identify all activities and potential impacts’ and then scope in ‘the main activities and potential impacts’.

**47 bis (3)(c)** Wording in square brackets needs to be considered in light of outcomes of coastal states working group. The same point applies to Reg. 47bis(3)(c)bis.

**47bis (6):** This Regulation will need to provide timeframes for the Commission to consider the Scoping Report, such timeframes will need to be considered in the round with other consultation timelines once agreed by Council to ensure there is sufficient time for consultation comments to be received and taken into account by the applicant and the Commission. Such timeframes for other Environmental Plans are provided for in regulations 12-16, so can either be detailed in this regulation, or if possible, links made to regulations 12-16.

### **Regulation 48 – Environmental Impact Statement**

**48 (1):** For clarity, suggest replacing “Such Environmental” with “The Statement”? Should be “shall” rather than “will”. We have also proposed adding text which makes it clear the EIS is prepared in accordance with this regulation, but also Annex IV ‘Environmental Impact Statement’, the Standards and taking into account guidelines.

**48(2):** Cannot agree with deletion of Best Available Scientific Information or Best Available Techniques. We agree the text in square brackets at the end can be removed as it is superfluous. The Authority decision-making and approvals is covered elsewhere in these Regulations, including in Part II and Regulation 57 as referenced in Regulation 48(1).

**48(3):** We support removing the brackets around ‘and shall’ as (a) – (e) are requirements).

**48 (3)(b):** Support the wording ‘in accordance with’ in relation to the REMPs. However, placement of ‘environmental baseline data’ needs to be reconsidered, as a Contractor does not act in accordance with baseline data, but rather its Plan of Work is informed by it

**48(3)(d):** Technical language cannot be avoided in the full EIS – it is a highly technical document reviewed by the LTC. However, can agree that the executive summary of the EIS should avoid technical language which is currently detailed in Annex IV.

**48(3)(e):** language on experts should be consistent here and in Regulation 46(3)(b), we suggest Guidelines are used to provide further detail on what competent and independent experts means.

**48(5):** Support removing the brackets around ‘shall’. The UK also prefers retaining reference to Regulation 92.