

Guiding questions for discussion on Potentially polluting wrecks

prepared by the Delegation of the Kingdom of Spain

Wednesday, 22 July 2026, 9:00 am

On 17 June 2026, the Kingdom of Spain (“Spain”), with the support of the Secretariat of the International Seabed Authority and the participation of The Ocean Foundation, organized a webinar during which Spain presented a non-paper addressing the environmental risks posed in the Area by potentially polluting wrecks (“PPWs”). The event was attended by several delegations and other stakeholders.

Before this webinar, Spain circulated a non-paper titled *Proposal submitted by the Kingdom of Spain to the Council of the International Seabed Authority on the environmental threats posed by potentially polluting wrecks in the Area* (June 2026).

Following the interest expressed by participants in the webinar, the Secretariat suggested that Spain submit a proposal in its capacity as a “Friend of the President”, regarding the possible discussion of a new DR35bis on “Potentially polluting wrecks”. This was done by the document Spain circulated titled *Proposal submitted by the Kingdom of Spain to the Council of the International Seabed Authority, under the modality of “Friends of the President”, on the environmental threats posed by potentially polluting wrecks in the Area* (July 2026).

Together, the two documents summarize key discussion points and identify shortcomings while offering textual proposals for DR 35bis.

For the Council’s discussion during the July meeting of the 31st Session of the Authority, we kindly request delegates to engage with the guiding questions below, indicating their agreement, areas of flexibility and red lines to facilitate progress. You can find detailed explanations and commentaries for each paragraph of the proposal in the table included in the second document referenced.

For clarity, the questions are presented in the general order of the draft proposal.

1. Under DR34 the Contractor is required to notify immediately its Sponsoring State or States, any State adjacent to the Contract Area that is likely to be affected, and the Secretary-General of the occurrence of a Notifiable Event. The Schedule on the Use of Terms and Scope includes among such events a “[s]ignificant leak of a hazardous substance [as determined in accordance with the applicable Standard and taking into consideration the applicable Guideline].” This provision refers to an *actual* release of a hazardous substance and does not extend to *potential* hazards arising from wrecks in the Area.

Do you consider that the Regulations on Exploitation of Mineral Resources in the Area should include a provision addressing PPWs?

If so, do you agree that such a provision should be inserted as draft regulation 35bis in Part III, “Rights and Obligations of Contractors,” Section 6, “Emergency Response and Contingency Plans, Incidents and Notifiable Events”?

2. Do you consider that the specific provision on PPWs should contain the definitions applicable to that provision (“potentially polluting wreck”, “removal”, “polluting substance”), or should those definitions instead be included in the Schedule on the Use of Terms and Scope of the Regulations?

The clause should use the term “hazardous” or, instead, “polluting” substances?

3. Do you consider a buffer zone with a radius of 500 metres around a PPW to be sufficient, or should that radius be increased?

Alternatively, would it be preferable to determine the dimensions and configuration of the buffer zone on a case-by-case basis, including, where appropriate, the establishment of an *ad hoc* perimeter adapted to the characteristics of the wreck and the surrounding area?

4. Do you consider the time limits proposed in the draft regulation to be appropriate?
5. Should the provision on PPWs refer to other treaties currently in force for the purpose of identifying, for example, the hazardous substances carried on board such wrecks?

In particular, should the 1973 Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other than Oil, as amended, be expressly cited as a relevant reference instrument?

Alternatively, would you prefer the identification of such hazardous substances to be left to the Legal and Technical Commission?

6. What, in your view, should be the consequences for a Contractor (if any) that, having failed to identify a PPW during the exploration phase, subsequently encounters such a wreck during the exploitation phase?
7. Do you consider that, at the appropriate time, the Regulations on Prospecting and Exploration should be amended to address PPWs?
8. What special responsibilities or stewardship obligations should be incumbent upon the flag State where the PPW is a non-abandoned sunken State vessel entitled to immunity under international law?
9. Bearing in mind that this draft clause is intended, to a significant extent, to address PPWs, do you consider that the proposed removal measures—namely, measures to prevent, mitigate, and eliminate the hazard—should be as effective as possible and proportionate to the hazard, and that such measures should not exceed what is reasonably necessary to remove the potential harmful consequences for the marine environment and should cease as soon as those potential consequences have been eliminated?

Do you consider the language used to be excessively ambiguous and in need of greater precision, or should it be retained in its current form so as to preserve the terminology and operative verbs expressly used in the 2007 Nairobi International Convention on the Removal of Wrecks?

10. Do you consider the Authority should establish guidelines and/or standards for the proper removal of PPWs at the appropriate time, potentially in collaboration with the IMO and other relevant international organizations?

Should these guidelines be prepared for adoption in Phase 1, 2, or 3?

Should the proposed provision explicitly reference these guidelines and/or standards?

11. In cases involving alleged conflicting interests—such as the protection of the natural environment *versus* the preservation of underwater cultural heritage or the respect for human remains—do you believe that merely including cross-references in DR35 and DR35bis is sufficient?
12. Do you think it would be a beneficial option for the Authority to compile a dataset mapping all known PPWs by interacting with other international or national databases?

Could this dataset be made available while ensuring necessary security measures and respect for national interests?