

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

Introduction

1. On 17 June 2026, the Kingdom of Spain (**Spain**), with the support of the Secretariat of the International Seabed Authority (the **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.
2. As explained during the webinar, according to the International Maritime Organization (**IMO**), the United Nations Environment Programme, the International Union for Conservation of Nature, and the United States National Oceanic and Atmospheric Administration, PPWs constitute a significant threat to the marine environment. Globally, an estimated 8,500 wrecks may contain hazardous substances, including oil, heavy metals, chemical agents and unexploded ordnance, with approximately 1,000 considered at high risk of leakage due to corrosion and structural deterioration. Several incidents have already demonstrated the environmental, economic and social consequences of such leaks. While most PPWs are located within areas under national jurisdiction, around 100 are estimated to be located in the Area. Although relatively few in number, these wrecks may pose a disproportionate risk to deep-sea ecosystems, which are characterized by high levels of endemism, slow recovery rates and significant scientific uncertainty. Disturbance of PPWs through exploitation activities could result in the release of toxic substances, long-term contamination of benthic habitats, biodiversity loss and other potentially irreversible impacts. Given the fragility of deep-sea ecosystems and the limited availability of baseline scientific data and proven mitigation measures, the precautionary approach provides the most appropriate framework for managing the environmental risks associated with PPWs in the Area.
3. Spain reaffirms its long-standing position in favour of a precautionary pause and a rigorous scientific approach with respect to all activities conducted in the Area. This stance necessarily entails delaying the transition to the exploitation phase until such time as the Council adopts the draft Regulations —currently under negotiation— alongside the corresponding standards and guidelines, including those establishing environmental thresholds. In this context, Spain emphasizes the necessity of addressing the impact of PPWs in the Area.
4. 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” under paragraph 22 of the Statement of the President on the work of the Council of the International Seabed Authority during the first part of the thirtieth session, to collaborate with interested delegations to refine specific topics or draft regulations, on a voluntary, informal and time-limited basis, and ensuring that progress is made without introducing new procedural complexities (Doc. ISBA/30/C/5).
5. Spain thus proposes the inclusion of a new topic in the future Regulations on Exploitation, addressing the environmental threats in the Area arising from PPWs. To that end, Spain submits a

tentative draft provision for consideration (see *infra*, paragraph 9) and expresses its readiness to fully cooperate with the President, interested delegations, and other relevant stakeholders, as appropriate, with a view to achieving a balanced and technically sound formulation for possible incorporation into the Regulations.

6. As expressed during the webinar, Spain considers that the future regulation be clear, practicable, generally acceptable by member States, consistent with UNCLOS and the rest of regulations, and in line with existing maritime general agreements. New regulation could be inserted into Part IV on environmental protection of the Regulations. It should be grounded in inter-State cooperation, informed by the technical advice of competent organizations and scientific bodies, and aligned with internationally recognized standards. It must also account for the multifaceted nature of PPW, particularly where they constitute non-abandoned public property, qualify as underwater cultural heritage, and/or serve as maritime gravesites. In such instances, the new regulation should reference the provisions of current Draft Regulation 35 (**DR35**) also prepared by Spain and discussed in the Intersessional Working Group on Underwater Cultural Heritage, as well as DR35 includes a cross reference to this proposed new regulation on PPWs.
7. Although the proposed definition of the “removal” of PPWs encompasses measures aimed at mitigating or eliminating threats to the marine environment (to some extent partially covered by DR34 and Appendix I addressing a “significant leak of a hazardous substance”), Spain wishes to emphasise that particular attention should be given to preventive measures. This is why the regulation refers to *potentially* polluting wrecks.
8. It should be recalled that, during the exploration phase or while preparing its application for approval of a Plan of Work, the Contractor should have identified the possible presence of any PPW. To ensure internal coherence, it is therefore recommended that the Exploration Regulations be amended accordingly; however, this should occur only when Member States deem it necessary, rather than during the negotiation of the Regulation on Exploitation.
9. In light of the foregoing, Spain proposes the following draft text for inclusion as a regulation:

DR [XX]

Potentially polluting wrecks in the Area

1. Upon discovering a potentially polluting wreck within its Contract Area, the Contractor shall immediately cease all exploitation activities within a radius of 500 metres of the wreck. The Contractor shall notify the Secretary-General in writing of the discovery and the precise location of the wreck as soon as practicable and, in any event, no later than 48 hours after the discovery.
2. For the purposes of this regulation:
 - (a) “potentially polluting wreck” means a sunken ship, any part thereof, including any polluting substance that is or has been on board such ship, or any object lost from a ship and sunken at sea, where exploitation activities may reasonably be expected to disturb the wreck and thereby cause major harmful consequences to the natural or cultural marine environment in the Area;
 - (b) “polluting substance” means any substance included in the list established by the International Maritime Organization (IMO) Marine Environment Protection Committee pursuant to paragraph 2(a) of Article I of the 1973 Protocol relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other than Oil, as amended, and any other substance which the Legal and Technical Commission considers liable to create hazards to human health, harm living resources, marine life or cultural resources, or interfere with other legitimate uses of the sea;

- (c) “removal” means any action to prevent, mitigate or eliminate the hazard created by a potentially polluting wreck, and “remove”, “removed” and “removing” shall be construed accordingly.
 - 3. Within five (5) days of receiving a notification under paragraph 1, the Secretary-General shall transmit the information to all member States, the President of the Council, the Director-General of the IMO, any other competent international organization, and any competent observer.
 - 4. Member States shall cooperate with the Authority, the Contractor, the registered owner of the wreck, where known, the IMO, and any competent international organization or competent observer in removing hazards posed by a potentially polluting wreck. Measures taken by the member States, the registered owner of the wreck and the contractor shall be as much effective as possible and proportionate to the hazard. Such measures shall not go beyond what is reasonably necessary to remove the possible harmful consequences to the marine environment and shall cease as soon as these possible consequences has been removed.
 - 5. Without prejudice of paragraph 4, where the potentially polluting wreck is a sunken State vessel:
 - (a) no activity directed at, or incidentally affecting, the wreck shall be undertaken or authorized without the consent of the flag State; and
 - (b) the flag State shall bear primary responsibility for the removal of the potentially polluting wreck and shall inform the Secretary-General of the measures adopted for that purpose.
 - 6. Where the potentially polluting wreck contains human remains or constitutes underwater cultural heritage, regulation [35] shall also apply.
 - 7. Any measure taken pursuant to this regulation shall be implemented in accordance with applicable standards and taking into account relevant adopted guidelines.
 - 8. The Contractor shall not be entitled to compensation for any measure taken or required pursuant to this regulation.
10. A commentary paragraph by paragraph can be found in next table:

DR [XX]
Potentially Polluting Wrecks

TEXT	COMMENTARY
<p>1. Upon discovering a potentially polluting wreck within its Contract Area, the Contractor shall immediately cease all exploitation activities within a radius of 500 metres of the wreck. The Contractor shall notify the Secretary-General in writing of the discovery and the precise location of the wreck as soon as practicable and, in any event, no later than 48 hours after the discovery.</p>	<p>First paragraph establishes a twofold obligation for the contractor: (1) to cease the exploitation and establish a buffer zone where no activity is permitted since the finding, and (2) to notify the Secretary-General of the finding of a PPWs in its contract Area.</p>
<p>2. For the purposes of this regulation:</p> <p>(a) “potentially polluting wreck” means a sunken ship, any part thereof, including any polluting substance that is or has been on board such ship, or any object lost from a ship and sunken at sea, where exploitation activities may reasonably be expected to disturb the wreck and thereby cause major harmful consequences to the natural or cultural marine environment in the Area;</p> <p>(b) “polluting substance” means any substance included in the list established by the International Maritime Organization (IMO) Marine Environment Protection Committee pursuant to paragraph 2(a) of Article I of the 1973 Protocol relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other than Oil, as amended, and any other substance which the Legal and Technical Commission considers liable to create hazards to human health, harm living resources, marine life or cultural resources, or interfere with other legitimate uses of the sea;</p> <p>(c) “removal” means any action to prevent, mitigate or eliminate the hazard created by a potentially polluting wreck, and “remove”, “removed” and “removing” shall be construed accordingly.</p>	<p>Second paragraph defines the terms used in the Regulation —“PPW”, “polluting substance” and “removal”. The definitions of “PPW” and “removal” have been adapted from the 2007 Nairobi International Convention on the Removal of Wrecks (WRC), while the definition of “polluting substance” has been adapted from the 1973 Protocol relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other than Oil, as amended.</p> <p>It should be noted that neither convention has yet attained the widespread level of ratification enjoyed by other IMO instruments, such as SOLAS, MARPOL, or STCW. As of 9 June 2026, the 1969 Intervention Convention had been ratified by 92 States, its 1973 Protocol by 61 States, and the WRC had 75 Contracting Parties. Nevertheless, these States represent more than 77%, 60%, and 80% of the world’s merchant fleet tonnage, respectively.</p> <p>The LCT’s role in compiling and maintaining an up-to-date list of polluting substances is proposed.</p> <p>Alternatively, these terms and their definitions could be included in the Schedule. However, it appears preferable to set them out in the Regulation itself.</p>
<p>3. Within five (5) days of receiving a notification under paragraph 1, the Secretary-General shall transmit the information to all member States,</p>	<p>Third paragraph established the Secretary-General’s duty to notify within five days to all stakeholders that should cooperate in the removal of PPW,</p>

<p>the President of the Council, the Director-General of the IMO, any other competent international organization, and any competent observer.</p>	<p>with references to competent IOs (most particularly IMO) and other observers.</p>
<p>4. Member States shall cooperate with the Authority, the Contractor, the registered owner of the wreck, where known, the IMO, and any competent international organization or competent observer in removing hazards posed by a potentially polluting wreck. Measures taken by the member States, the registered owner of the wreck and the contractor shall be as much effective as possible and proportionate to the hazard. Such measures shall not go beyond what is reasonably necessary to remove the possible harmful consequences to the marine environment and shall cease as soon as these possible consequences has been removed.</p>	<p>Fourth paragraph is the core of the DR, establishing the duty to cooperate among member States to remove the harmful consequences posed by PPW. This paragraph uses the wording of art 2(3) WRC to limit the responsibility of stakeholders to remove PPW but adding “effective” to “proportionate” efforts to underline the relevance of adopt all possible methods to remove the harmful consequences of PPW.</p> <p>In cases of environmental urgency, reference to Rule 53(4) of the LTC rules of Procedure should be considered.</p>
<p>5. Without prejudice of paragraph 4, where the potentially polluting wreck is a sunken State vessel:</p> <ul style="list-style-type: none"> (a) no activity directed at, or incidentally affecting, the wreck shall be undertaken or authorized without the consent of the flag State; and (b) the flag State shall bear primary responsibility for the removal of the potentially polluting wreck and shall inform the Secretary-General of the measures adopted for that purpose. 	<p>Fifth paragraph refers to PPW which are sunken State vessel, trying to balance, first, the public property of flag States and therefore its prior consent to any activity directed to such PPW but, second, as a consequence, the primary responsibility of flag State in the removal of PPW. This twofold compromise is without prejudice to the process of consultation envisaged in paragraph 4.</p>
<p>6. Where the potentially polluting wreck contains human remains or constitutes underwater cultural heritage, regulation [35] shall apply.</p>	<p>Sixth paragraph addresses the possibility (quite common) that PPW contain human remains (most sunken warship are in this situation) or be considered as underwater cultural heritage. Then, the application of DR35 is necessary.</p>
<p>7. Any measure taken pursuant to this regulation shall be implemented in accordance with applicable standards and taking into account relevant adopted guidelines.</p>	<p>As with other DR of the Regulation, applicable international standards and guidelines are the reference in any decision-making process regarding PPW. Although not expressly mentioned in this seventh paragraph, it is to be considered (as with underwater cultural heritage in DR35) the possibility to draft specific guidelines for PPW.</p>

8. The Contractor shall not be entitled to compensation for any measure taken or required pursuant to this regulation.

The final paragraph clarifies that the Contractor should have taken appropriate measures to identify the presence of any PPW during the exploration phase or when preparing its application for approval of a Plan of Work. Accordingly, the Contractor is not entitled to compensation for costs or losses arising from its failure to do so. This does not, however, impose on the Contractor the obligation to remove a hazard created by PPW for which it bears no prior responsibility.