

Key Guiding Questions on Draft Regulation 44ter

- 1. Regarding paragraphs 5 and 6, how should the Authority's Strategic Environmental Goal and Objectives relate to other environmental management measures, including REMPs and thresholds?**
- 2. For the Strategic Environmental Objectives in paragraph 4, should examples be included in the text?**
 - a. Keep examples in DR44ter but preface them with "*including but not limited to*";
 - b. Move the examples to the relevant definitions in the Schedule;
 - c. Move the examples into a standard (noting that it remains unclear whether there will be a standard and/or guideline on environmental goals and objectives).
- 3. Which version of paragraph 4(e) does your delegation prefer?**
- 4. Which version of paragraph 4(f) does your delegation prefer?**

Suggestions from the Facilitator on Draft Regulation 44ter

A. We suggest merging paragraphs 1 and 7 as they overlap in content.

Paragraph 1 could then read:

- 1. In performing their roles and obligations under these Regulations, including in relation to Plans of Work, Contractors, Applicants the Enterprise, the Authority and its organs, and Sponsoring States shall be guided by and implement the Strategic Environmental Goal and Objectives set out in this regulation.*

B. We suggest deleting paragraph 8 as the review of such regional objectives is governed by the review of REMPs, as set out in the Standardized Procedure in ISBA/30/C/21 (para 27-31). We note that amendments to DR44ter would still be possible via the process specified in DR 107.

C. We propose to capture all points made regarding paragraph 4(j) in two separate paragraphs:

(j) prevent damage to areas of special biological, scientific, archaeological, or historical significance in the Area or the Marine Environment;

(j.bis) protect and preserve vulnerable and unique as well as rare or fragile marine ecosystems;

[Regulation 44 ter]

[Strategic] Environmental Goal and Objectives

1. [In performing their roles and obligations [under the Convention, the Agreement, and all relevant rules, regulations and procedures of the Authority,] [under these Regulations] [in relation to exploitation] Contractors, the Enterprise, the Authority and its organs, and Sponsoring States shall be guided by [, and implement and act consistently with,] the Strategic Environmental Goal and Objectives, set out in this regulation.

2. The Strategic Environmental Goal and Objectives in this regulation contribute to [Alt provide guidance for] ensuring the Effective Protection [Alt. effective protection] for the Marine Environment from harmful effects that may arise from activities in the Area, in accordance with article 145 of the Convention.

3. The Strategic Environmental Goal is to conserve and sustain Ecosystem Integrity of the Marine Environment.

The Strategic Environmental Objectives are to:

(a) prevent loss of biological diversity, [including but not limited to genetic, species or functional diversity, habitat or community types, and structural complexity];

(b) maintain the ability of populations to replenish themselves, [including but not limited to ensuring population connectivity and the preservation of suitable habitat];

(c) prevent [significant] [any discernible] changes in the distribution, abundance, behaviour or productivity of species;

~~(d) — [Alt 1. prevent further risk to] [Alt 2. protect] [Alt.3 prevent further deterioration of] endangered or threatened species or populations of said species, including those for which the conservation status is unknown;~~

(d) Protect and prevent further risk to endangered or threatened species or populations of said species, including those for which the conservation status is unknown.;

(e) prevent the degradation of ecosystem functions and ecosystem services [including but not limited to carbon sequestration] [recognising that many ecosystem services are yet to be discovered];

(e) [Alt. Sustain ecosystem functions and prevent the degradation of ecosystem services, recognising that many ecosystem services are yet to be discovered.]

(f) ~~prevent~~ contamination by pollutants, damage to species, or other harmful effects to the Marine Environment [, including the coastline] during all stages of Exploitation and Closure;

(f) [Alt.1 Prevent contamination by pollutants, and reduce the risk of harmful effects of pollution on the Marine Environment;]

(f) [Alt.2 Prevent, reduce and control pollution and other hazards to the marine environment, with particular attention being paid to the need for protection from harmful effects of such activities as drilling, dredging, excavation, disposal of waste, construction and operation or maintenance of installations, pipelines and other devices related to such activities;]

(g) prevent, reduce and mitigate adverse effects on air and water quality as well as significant changes [in the atmosphere, climate and weather patterns, the terrestrial environment, or] [to] the Marine Environment [from harmful effects that may arise from activities in the Area];

(h) maintain resilience to prevent regime shift and to support recovery from Environmental Effects, including Cumulative Environmental Effects, [including but not limited to those resulting from mining [and climate change], that can affect source populations and communities, connectivity corridors, life-history patterns and species distributions];

(i) protect and conserve the natural resources of the Area and prevent [, reduce and mitigate] damage to the species of the Marine Environment;

(j) prevent degradation of special biological, scientific, archaeological, or historical significance of the Area or the Marine Environment. This shall include the preservation of vulnerable and unique marine ecosystems;

(j) [Alt. protect and preserve rare or fragile marine ecosystems; and]

~~[(k)prevent harmful effects except mentioned from 4(a) to 4(j) [drilling, dredging, excavation, disposal of waste, construction and operation or maintenance of installations, pipelines or other devices related to activities in the Area]~~

(l) [placeholder for an environmental objective related to the mitigation hierarchy]

5. [The Council shall ensure that the Strategic Environmental Goal and Objectives pursuant to this regulation are operationalized through region-specific environmental objectives [and measures], including in Regional Environmental Management Plans.])

6. [The Council shall ensure that the Strategic Environmental Goal and Objectives pursuant to this regulation and the region-specific environmental objectives pursuant to paragraph 5 are further operationalised through environmental thresholds, developed pursuant to regulation 45, paragraph 2 and regulation 94.]

Alt. to paragraphs 5 and 6): [The Council shall ensure that the Strategic Environmental Goal and Objectives established pursuant to this regulation are operationalized in a progressive and integrated manner through region-specific environmental objectives [and measures], including as set out in Regional Environmental Management Plans; and environmental thresholds [, developed in accordance with regulation 45, paragraph 2, and regulation 94, which give effect to, and provide measurable parameters for, both the Strategic Environmental Goal and Objectives and the corresponding region-specific environmental objectives].]

7. [Contractors, Applicants, the Enterprise, [the Council, the Commission and Sponsoring States] as applicable, shall ensure that a [proposed [any] Plan of Work [reflects] [is consistent with] [and contributes to] the achievement of the Strategic Environmental Goal and Objectives pursuant to paragraphs 3 and 4 as well as the relevant region-specific environmental objectives pursuant to paragraph 5.]

8. [The Authority shall keep its [Strategic Environmental Goal and Objectives and] region-specific environmental goals and objectives under periodic review and [shall revise them as necessary] [ensure amendments] to reflect advances in scientific research and knowledge, technology, and new

contributions from Indigenous Peoples and [from] local communities, [where appropriate]. Where the [Strategic Environmental Goal and Objectives or] region-specific environmental goals and objectives are revised, the Commission shall:

- (a) inform Contractors, the Enterprise and Sponsoring States and recommend any modification of a Plan of Work, as necessary, pursuant to regulation 57; and
- (b) recommend to the Council any necessary amendments to other relevant instruments.]1

Rev.3 – Group submission (Friends of the President Group on Environmental Goal and Objectives)

- The text of draft regulation 44ter is a result of work conducted by the FOP group on Environmental Goals and Objectives during the first part of the thirty-first session of the Council and the intersessional period thereafter.
- The text of draft regulation 44ter contains amendments by the ISA screenwriters as a result of the deliberations at Council during the March Session as well as subsequent amendments suggested during the intersessional period.
- Reference is made to the reporting of the group, including its considerations in respect of the placement of the Environmental Goal and Objectives.