

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 27TH
SESSION: COUNCIL - PART III**

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.

- 1. Name of Working Group:**
Environmental Working Group
- 2. Name(s) of Delegation(s) making the proposal:**
The Ocean Foundation, Observer
- 3. Please indicate the relevant provision to which the textual proposal refers.**

Part IV: Protection and preservation of the Marine Environment

Section 1: Obligations relating to the Marine Environment

Regulation 44: General Obligations

Regulation 46bis: Environmental Impact Assessment

Section 2: Preparation of the Environmental Impact Statement and the Environmental Management and Monitoring Plan

Regulation 47: Environmental Impact Statement

Regulation 48: Environmental Management and Monitoring Plan

Regulation 48bis: Test Mining

Section 3: Pollution control and management of waste

Regulation 49: Pollution control

Section 5: Environmental Compensation Fund

Regulation 54

Annex (III bis): Scoping Report

Annex IV: Environmental Impact Statement

1. Preparation of an Environmental Impact Statement

2. Template for Environmental Impact Summary

2. Policy, legal and administrative context

4. Description of the existing oceanographic environment

6. Description of the existing socioeconomic and sociocultural environment

7. Assessment of impacts on the oceanographic environment and proposed Mitigation

Annex VII: Environmental Management and Monitoring Plan

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2. An Environmental Management and Monitoring Plan shall contain

Schedule: Use of terms and scope

- 4. 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 44 General Obligations

1.

(a)

(iv) [new provision] Include Underwater Cultural Heritage in the definition of marine environment. Thus, references to the environment include references to these objects which hereinafter are referred to as underwater cultural heritage (UCH) which has been more precisely defined in the UNESCO 2001 Convention.

Regulation 46bis

2. The environmental impact assessment process shall include the following steps:

(b) An Environmental impact assessment and evaluation process to

describe the Marine Environment including Underwater Cultural Heritage and predict the nature and extent of the Environmental Effects of the mining operation, including cumulative impacts and residual effects using Best Available Scientific Evidence, Best Archaeological Practices, Best Environmental Practices, Best Available Techniques, and Good Industry Practice and taking into account, where applicable:

4. The environmental impact assessment process shall:

(b) Include an environmental risk assessment, including a survey of the seabed to identify Underwater Cultural Heritage that takes into consideration

the region as a whole, in accordance with the objectives and measures of the relevant Regional Environmental Management Plan, if any;

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

Regulation 47

3. The Environmental Impact Statement shall be in the form and deliver the

contents as prescribed by the Authority in annex IV to these regulations and shall:

(b) Be based on the results of the environmental impact assessment, as well as those of the survey of the seabed to identify Underwater Cultural Heritage; including a description of the main elements of the methodology used for the identification and evaluation of the identified environmental impacts.

Regulation 48

1. The purpose of an Environmental Monitoring and Management Plan is to shall manage and confirm that Environmental impacts effects meet the environmental [quality] objectives and [environmental and archaeological performance] standards for the mining operation. The plan will contain any conditions included in the Environmental Impact Statement and will set out commitments and procedures on how the environmental impacts of the mining operation will be monitored, how the Mitigation measures, including pollution control and Mining Discharge in regulations 49 and 50, will be implemented, how the effectiveness of such measures will be monitored, what the management responses will be to the monitoring results and what reporting systems will be adopted and followed.

Regulation 48bis

1. The purpose of test mining is to ensure that the mining equipment is technically appropriate, the operation economically efficient and that effective protection of the marine environment from harmful effects is ensured. Test mining projects shall as a general rule provide evidence that appropriate equipment is available to ensure the effective protection of the Marine Environment in accordance with Article 145 and the duty to protect Underwater Cultural Heritage (specifically objects of an archaeological and historical nature) under Article 149.

Regulation 49

A Contractor shall take all necessary measures to protect and preserve the Marine Environment from harmful effects, including by preventing, reducing and controlling pollution and other hazards, including marine litter and underwater noise from its activities in the Area, in accordance with the the its Environmental Management and Monitoring Plan and all applicable Rules of the Authority, the [relevant] applicable Regional Environmental Management Plan, if any and the applicable Standards and taking account of the applicable Guidelines. If a potentially polluting wreck is discovered and it is an object of an archaeological and historical nature, then the duty to protect such heritage must also be considered consistent with Article 149.

Regulation 54

1. The Authority hereby establishes the Environmental Compensation Fund (“the Fund”).
2. The rules and procedures of the Fund shall be established by the Council on the recommendation of the Finance Committee before the commencement of commercial activities [before the commencement of Commercial Production] [prior to the grant of an exploitation contract under these regulations] **before the approval of a first plan of work for exploitation.**

Annex (III bis): Scoping Report

[A Scoping Report should be submitted to the Authority in accordance with the relevant Standard and Guidelines, and should include:

- (b) A description of what is known about the environmental setting, including Underwater Cultural Heritage, for the project (Contract Area and regional setting),

Annex IV

1. Preparation of an Environmental Impact Statement

The Environmental Impact Statement prepared under these regulations and the present annex and including Underwater Cultural Heritage, shall:

2. Template for Environmental Impact Summary

2. Policy, legal and administrative context

2.4 Other applicable standards, principles and guidelines

Discuss applicable standards and guidelines, including those mandated by the source(s) of funding for the operations, that will be adhered to or aligned with throughout the operation, such as the Standards and Guidelines instruments of the International Seabed Authority not already included in section 2.1, the Equator Principles, the Environmental Management Standards of the International Organization for Standardization, the Code for Environmental Management of Marine Mining of the International Marine Minerals Society, the Performance Standards on Environmental and Social Sustainability of the International Finance Corporation and the Standards of the Extractive Industries Transparency Initiative.

4. Description of the existing oceanographic environment

4.2 Regional Overview

Describe the general baseline environmental conditions of the site and impact area, including but not limited to the physical, chemical geological and oceanographic setting as well as known or suspected Underwater Cultural Heritage within a broader regional context and refer in accordance with to the applicable Regional Environmental Management Plan if any. This should be brief section that includes a map. While intangible cultural heritage may not lend itself to a map, known intangible human connections to the area should also be acknowledged. A more detailed site-specific

and impact area description will be provided in accordance with the sections below.

4.3 Studies completed

Describe any prior research/Exploration (including methods used for completing the studies based on Best Available Techniques including surveys of the seabed for Underwater Cultural Heritage) that could provide relevant information for this Environmental Impact Statement and future activities. These should be detailed in the appendices, and the environmental reference baseline data collected for the Authority, as outlined in the exploration contract conditions, should accompany the Environmental Impact Statement.

6. Description of the existing socioeconomic and sociocultural environment

6.2.5 Sociocultural uses

List the sociocultural uses of the project area (e.g., traditional navigation routes, migratory paths of culturally significant marine species, sacred sites and waters associated with ritual or ceremonial activities of Indigenous Peoples and local communities as well as known or suspected Underwater Cultural Heritage.

6.3 Sites of an archaeological or, historical nature or paleontological

List any sites of archaeological or historical significance or paleontological nature that are known to occur or may occur within the potential area of impact. Known human connections to or uses of the area should also be acknowledged. Copies of surveys of the project area shall be submitted with notes about anomalies that may indicate the presence of objects of an archaeological and historical nature that should be subject to further research before any potentially destructive activities occur.

7. Assessment of impacts on the oceanographic environment and proposed Mitigation

7.5.2 Environmental management measures to mitigate impacts including to Underwater Cultural Heritage.

Annex VII: Environmental Management and Monitoring Plan

2. An Environmental Management and Monitoring Plan shall contain:

(c)bis A description of the environmental baseline data, including baseline studies for Underwater Cultural Heritage. including measured baseline values for parameters at the site, a characterization of the area proposed to be mined, adjacent areas that could be affected by mining, rare and endangered species present, and areas that will be avoided due to their environmental value.

Schedule

“Environmental Effect” means any consequences in the Marine Environment, including Underwater Cultural Heritage arising from the conduct of Exploitation activities, whether positive, negative, direct, indirect, temporary or permanent, or cumulative effect arising over time or in combination with other stressors and activities in the same area, including those not regulated by the Authority.

“Best Archaeological Practices” means (as defined by the 2001 UNESCO Convention) those practices designed to: encourage responsible and non-intrusive public access to underwater cultural heritage in accordance with Articles 2.5 and 2.10 of the Convention; increase public awareness, recognition and protection of heritage; promote the Convention and the establishment of national legal frameworks for protection; support scientific research in accordance with the Convention and the Rules concerning activities directed at underwater cultural heritage annexed to it, and capacity building in this regard; and promote the appropriate conservation of heritage.

“Best Environmental Practices” means the application of the most appropriate combination of environmental control measures and strategies, that will change with time in the light of improved knowledge, understanding or technology, as well as the incorporation of the relevant traditional knowledge of Indigenous Peoples and local communities, taking into account the applicable Standards and Guidelines.

“Environmental Management System” means that the part of the overall management system applied implemented by a Contractor that includes organizational structure, planning activities, responsibilities, practices, procedures, processes and resources for developing, implementing, achieving, reviewing and maintaining environmental policy, including a survey of the seabed to identify objects of an archaeological and historical nature, goals objectives and environmental performance.

“Intangible Cultural Heritage” means the practices, representations, expressions, knowledge, skills – as well as the instruments, objects, artifacts and cultural spaces associated therewith – that communities, groups and, in some cases, individuals recognize as part of their cultural heritage (as defined by the UNESCO 2003 Convention ofr the safeguarding of the Intangible Cultural Heritage).

“Marine Environment” means [...] including Underwater Cultural Heritage.

“Underwater Cultural Heritage” means all traces of human existence of a cultural, historical or archaeological nature (as defined by the UNESCO 2001 Convention on the Protection of the Underwater Cultural Heritage) including, but not limited to all objects of an archaeological and historical nature found in the Area (which must be treated in accordance with Article 149 of the Convention), and Intangible Cultural as well as paleontological objects (fossils).

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

DSM operations that interact with tangible Underwater Cultural Heritage will destroy such heritage.

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Concerns exist about DSM's interactions with some cultures' understanding of responsibility to the ocean or special regard for the deep ocean, including corals (Intangible Cultural Heritage). Such conversations are essential to honor the ISA's commitment to stakeholder inclusion.

In addition to being a sociocultural existing use, UCH is part of the marine environment. When providing an overview of the regional environment, and setting a baseline, TOF advocates for including UCH. (Section 4 in addition to Section 6 of the EIS template.)

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Regarding the Fund (DR 54): It is crucial that these be finalized before any exploitation contract be awarded.

Regarding Funding (Section 2.4 of the EIS): Any source of funding for a deep-seabed mining venture would almost certainly have standards and guidelines that the projects it finances must adhere to and which should be included here.