



PERMANENT MISSION OF THE REPUBLIC OF INDONESIA
TO THE UNITED NATIONS
NEW YORK

No. 256/L/O/VII/23

The Permanent Mission of the Republic of Indonesia to the United Nations in New York presents its compliments to the Office of the Secretary-General of the International Seabed Authority and has the honor to refer to the Draft Regulation on Exploitation of Mineral Resources in the Area.

The Permanent Mission has further the honor to convey the general positions of the Republic of Indonesia to the Draft Regulations, as follows:

- a. The Draft Exploitation Regulation should be based on the United Nations Convention on the Law of the Sea 1982, particularly the principle of the Common Heritage of Mankind, the 1994 Agreement relating to the Implementation of Part XI of UNCLOS, and other relevant international laws.
- b. All states, particularly the developing states, should have the same opportunity to utilize mineral resources of the Area.
- c. The Draft Exploitation Regulations should ensure the implementation and application of the due diligence obligations, as well as it should ensure the compliance from Sponsoring States and Contractor, particularly on environment protection. The Exploitation Activities in the Area should consider precautionary principle, polluter pays principle, environmental and ecosystem protection in the Area.
- d. The benefit or profit from the Exploitation Activities in the Area should achieve the goal of the implementation of the Common Heritage of Mankind and should not have negative effects to the economy of the developing states who are mineral exporter.
- e. Capacity building program should continue to be accessible by developing states, including program to develop exploitation capacities.
- f. Coastal States adjacent to the Area should have the rights to be involved in consultations on the Exploitation Activities in the Area adjacent to it, and the Draft Exploitation Regulations should protect the legitimate interests of the said Coastal States.

- g. On the questions on royalty, Indonesia is considering Option 3 and Option 4, nevertheless, Indonesia remains open to consider all possible royalty scheme.
- h. On the implementation of the “Two Years Rule”, Indonesia is flexible to support consensus, provided that all aspects in the Draft Exploitation Regulation have been thoroughly considered and agreed upon.

The Permanent Mission also wish to convey more detailed submissions for each working groups, texts of the Draft Exploitation Regulation, based on the Facilitator’s Text of the Part I of the 28th Session of the Council as well as other relevant questions, as enclosed. Indonesia reserves the rights to provide further comments and submissions on the Draft Exploitation Regulation.

The Permanent Mission of the Republic of Indonesia to the United Nations in New York avails itself of this opportunity to renew to the Office of the Secretary-General of the International Seabed Authority the assurances of its highest consideration.

New York, 7 July 2023



Office of the Secretary-General of the International Seabed Authority
Kingston, Jamaica

Enclosure: 1 (one) dossier

List of Attachments of Note Verbale No. 256/L/O/VII/23

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**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH SESSION:
COUNCIL - PART I**

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: IWG Environment**

- 2. Name(s) of Delegation(s) making the proposal: Indonesia**

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

General Comment

Indonesia would like to appreciate the proposals from Members of the Council to the Draft Exploitation Regulation.

Indonesia would like to request further clarification on the following provisions under the purview of the IWG Environment:

- a. Indonesia notes that the term “adjacent Coastal State” has been removed from the Draft Exploitation Regulation, and adjusted with the formulation according to Article 142 of UNCLOS. Indonesia would like to note that although Article 142 of UNCLOS is related to the legitimate interest of the Coastal State - which can also include environmental concerns or interests - activities in the Area will not only impact the environment of those areas where the resource deposits spread. Indonesia notes that it is important to note that the environmental impacts of the activities in the Area may affect the maritime areas of adjacent Coastal States, and these concerns shall be included in the Draft.

In this regard, Indonesia may consider to use the term “adjacent Coastal State, including the potentially affected Coastal State” that has been widely accepted, as it has been used in the 2023 Agreement under UNCLOS on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ Agreement).

- b. Indonesia observe that the Facilitator Text included the proposal to add “no action alternative” in the Environmental Impact Assessment (EIA). Further clarification on the time when the “no action alternative” starts to be considered is still needed, whether in the scoping phase of the EIA process, after the impact assessment phase has been concluded, or in the mitigation phase.

- c. Indonesia also note that aside from the inclusion of “cumulative impact” in the Draft Exploitation Regulation, there is also “synergistic impact”. Indonesia would

like to ask further clarification on the definition of synergistic impact, how it is measured, and how it differs with cumulative impact, and why two terms is needed as oppose to use one term throughout the text.

- d. Indonesia notes that there are certain provisions that require further analysis on its objectives in ensuring the protection and preservation of the marine environment, i.a.:
- The difference between “Environmental Monitoring and Management Plan (EMMP)” which should be established by the Contractor and “environmental monitoring programmes” in Regulation 46ter is require further explanation. Because the details of EMMP is further elaborated in the Standards and Guidelines, ways of the Contractor in implementing the EMMP, including ways to conduct monitoring programmes, the Draft Exploitation Regulation does not need to regulate EMMP extensively. Indonesia is submitting a textual proposal for Regulation 46ter.
 - The role of Sponsoring State, under the obligation of due diligence, should also be acknowledged and further incorporated in the Draft Exploitation Regulation, especially in ensuring that the Contractor adhere to the procedures in carrying out monitoring procedures under the EMMP. This principle can also be included in Regulation 44 (General Obligation).
 - On the term “environmental Standards and Guidelines” which is elaborated in a separate Regulation, Indonesia notes that the specific Regulations have mandated/required the establishment of a specific Standards and Guidelines. Further, as recommended by the Legal and Technical Commission, there are 3 (three) phases of Standards and Guidelines that need to be adopted. Indonesia is of the view that separating the list of Standards & Guidelines into “environmental Standards and Guidelines” will cause further restriction to the future work of the Authority in establishing Standards & Guidelines for specific phase or procedure in the exploitation area.
- e. Indonesia note that in areas beyond national jurisdiction, there is the 2023 BBNJ Agreement. There is a need to clarify the Standards and Guidelines on EIA on ways to measure cumulative impact, in par with the criteria under the BBNJ Agreement.
- f. With regards to the review of performance assessment of the EMMP conducted by the Contractor, Indonesia notes that the review conducted by a third party assessment or independent experts does not necessarily need to be regulated under the Draft Exploitation Regulation, as long as the review adheres to requirements/procedures in the Draft Exploitation Regulation, and the result of such review is given to the Secretary-General by the Contractor. This also applies

to the option for the Contractor to engage with third party or independent experts in conducting Environmental Impact Assessment (EIA).

- g. The use of the words “mining operation”, “Exploitation in the Area” are used inconsistently throughout the texts. Indonesia is of the view that since the term “Exploitation in the Area” has been defined in the Schedule, and that it also comprises of various activities aside from extracting the minerals from the Area. All of the activities have possible impacts to the environment.

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- 2. Name(s) of Delegation(s) making the proposal: Indonesia**
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General Comment

- a. Indonesia supports the development of the Code of Conduct which is in line with the Convention, the Agreement, and the Rules of the Authority.
- b. The legitimate rights and interests of Adjacent Coastal States, or most potentially affected States, should be respected. With regards to the representative of states alongside inspectors to be sent aboard vessels and Installations or offices of the Contractor, the Regulations shall outline specific conditions that require the representatives of States to be present. For example, representatives of States in which the workers are nationals; the Flag States of vessels; or the Sponsoring States. In cases of any concern of the negative impacts to the marine environment arising from exploitation activities, the adjacent Coastal State as the most potentially affected State shall also be involved in the inspection.
- c. Indonesia views that the establishment of a body under the Council to perform inspection, ensure compliance, and enforcement, as well as to provide a structure for the inspectors. Further, to ensure effective monitoring function, Indonesia views an establishment of an Inspectorate is more favorable than a compliance committee.
- d. Indonesia views that the Council, as the Executive Organ of the ISA may mandate the inspector to perform monitoring and enforcement function. Indonesia also views that the Secretary-General, on a day to day basis, may be entrusted some monitoring functions, to overcome the shortcoming due to the facts that the Session of the ISA is not continuously held.
- e. On the matter of enforcement, Indonesia views the importance to have a temporary/ interim measures, appeal measures, and measures to prevent similar non-compliance.

**Written Submission of Indonesia in the Context of the informal international
dialogue established under
Council decision ISBA/27/C/45 and Council decision ISBA/28/C/9**

Is there a legal basis for the Council to postpone (i) the consideration and/or (ii) the provisional approval of a pending application for a plan of work under subparagraph (c), and if so, under what circumstances?

The 1982 United Nations Convention on the Law of the Sea (“Convention”) and the 1994 Agreement relating to the Implementation of Part XI of UNCLOS (“Agreement”) did not expressly mention a specific rule with regard to postponement and circumstances of postponement of the consideration and/or provisional approval or a pending application for a plan of work under Paragraph 15 of Section 1 Annex to the Agreement.

Currently, the Council is still deliberating the draft Exploitation Regulation and has made a promising progress thus far. This process shall continue with a view to finalize the Draft Exploitation Regulation, along with its Standards and Guidelines, and other relevant rules and regulations, in a comprehensive and timely manner.

The Authority is then faced with the situation where the Draft Exploitation Regulation has yet to be adopted, Paragraph 15 (c) of Section 1 of the Annex to the Agreement regulated that the basis of consideration and provisional approval the Plan of Work will be the provisions in the Convention, the terms and principles contained in the Agreement, and any rules or procedures that the Council may have adopted.

To date, Indonesia notes the following rules, procedures, and regulations adopted by the Council which can be considered for the exploitation of the Area, as follows:

- a. Regional Environmental Management Plan (REMP) for the Clarion-Clipperton Zone adopted in 2012, and reviewed in 2021;
- b. Recommendations for the guidance of contractors for the assessment of the possible environmental impacts arising from exploration for marine minerals in the Area (ISBA/25/6/Rev.2)¹, which includes the obligation to conduct environmental baseline studies and monitoring mechanism of serious harm to the marine environment.

If it is decided that the Council shall proceed to consider a plan of work submitted, the Council will be required to consider whether the existing rules, procedures, and regulations adopted by the Council have been sufficient to serve as the standards to apply in considering the Plan of Work. The Council shall also bear in mind that the objective of the Authority, as stated in Article 157 of the Convention, which is to organize and control activities in the Area.

¹ https://www.isa.org.jm/wp-content/uploads/2022/06/26ltc-6-rev1-en_0.pdf

What guidelines or directives may the Council give to the LTC, and/or what criteria may the Council establish for the LTC, for the purpose of reviewing a plan of work under subparagraph (c)?

In the absence of the adopted Exploitation Regulation, the Council may wish to first consider whether it is the most appropriate way forward to direct the LTC to examine application of a plan of work under subparagraph (c), in absence of the adopted Draft Exploitation Regulation.

Besides, the Council may also wish to consider whether existing rules, procedures, and regulations adopted by the Authority have been sufficient for the LTC in its consideration and provisional application of the Plan of Work, especially in achieving the objective of the Convention and the Agreement on the fair and equitable access and benefit sharing, as well as the non-discrimination among contractors.

TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH SESSION: COUNCIL - PART

I

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Draft Regulation 44

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.**

1. The Authority, sponsoring States, the Enterprise, Contractors and States competent for vessels, installations, structures and other devices flying their flag or of their registry or operating under their authority shall each, within their respective competence plan, adopt, implement and modify measures necessary for **preserving and** ensuring effective protection of the Marine Environment, ~~including rare or fragile ecosystems all forms of marine life as well as the habitat of depleted, threatened or endangered species from harmful effects directly or indirectly resulting from Exploitation in the Area, including from shipboard processing and from transportation of minerals to inland facilities, which may include inland processing~~ in accordance with the **Convention, the Agreement, the Rules of the Authority, Standards and taking into account** Guidelines ~~referred to in regulation 45~~ and the applicable Regional Environmental Management Plan. To this end:

(a) **The Authority shall** ~~in~~ **adopting** and **keeping** under periodic review rules, regulations and procedures, as well as the Standards and Guidelines in accordance with the Convention and the Agreement, ~~the Authority shall:~~

(b) ~~In taking all necessary measures to ensure that~~ the Contractor **shall carry ies out** Exploitation in the Area in conformity with the terms of its contract and its obligations under the Rules of the Authority related to the **preservation and** effective protection for the Marine Environment from harmful effects, the Sponsoring State shall, as a minimum, assist the Authority to implement, , the measures set out under paragraph (a)(i) to (vi) above.

(c) **The Enterprise and Contractors shall** ~~in-taking~~ **take** necessary measures to prevent, reduce and control pollution and other hazards to the Marine Environment, ~~including the coastline, ecosystem structure, function and resilience~~ arising from Exploitation in the Area, ~~the Enterprise and Contractors shall implement, mutatis mutandis, the measures set out under paragraph (a)(i) to (iii) above and demonstrate accountability and transparency in the assessment, evaluation and management of Environmental Effects and risks from Exploitation, including through Stakeholder participation and the timely public release of environmental data and information on their respective activities at regular intervals and in~~

~~an accessible format.~~ In so doing, the Enterprise and Contractors ~~shall apply a priority order to avoid, minimize, mitigate, and remediate shall Mitigate harm to the Marine environment restore, offset~~ harm to the Marine Environment and adapt the necessary measures to newly obtained information and data.

(d) ~~States shall adopt in adopting~~ laws and regulations, in accordance with the Convention, to prevent, reduce and control pollution of the Marine environment from ~~Exploitation in the Area~~ undertaken by vessels, installations, structures and other devices flying their flag or of their registry or operating under their authority, ~~as the case may be, States shall implement, mutatis mutandis, the measures set out under paragraph 1(a)(i) to (vi) above.~~

New (e) Sponsoring States shall adopt laws and regulations and take necessary measures to implement the due diligence obligation to ensure the compliance of the Contractor with its obligation to preserve and protect the Marine Environment, including the provision of guarantees in the event of an emergency order by the Authority for protection of the marine environment; the obligation to ensure the availability of recourse for compensation in respect of damage caused by pollution; the obligation to conduct environmental impact assessments, and other obligations of the Contractor as regulated in the Rules of the Authority.

2bis.

(v) ~~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 on the Protection of the Underwater Cultural Heritage.~~

(vi) Ensure ~~to minimize the direct or indirect act so~~ that the ~~so as not to transfer~~ damage or the likelihood of damage from one part of the environment ~~does not cause harmful effects~~ to another part ~~of the environment~~ or transform one type of pollution into another as stated in article 195 of the Convention. This especially related to avoiding toxic, persistent and bio accumulative substances.

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

(1) Indonesia is of the view that the principles envisaged in 1 (a) is also applicable to the implementation of the roles and obligations of the Authority, Enterprise, Contractors, and States, especially the Sponsoring States. Thus, Indonesia agrees with the current proposal of moving the principles to 2bis, and proposes new formulation of paragraph (1).

.....

2bis

(v) Indonesia acknowledged the ecological importance of the Underwater Cultural Heritage (UCH). However, the Convention and the Agreement does not specifically regulate UCH under marine environment as it is under the purview of other international law instruments.

(vi) Indonesia Delegation acknowledged that the no-harm principle encompasses the duty not to transfer direct or indirect impact of a damage to the environment of other countries. However, to harmonize the Regulation with the provisions under the Convention, the

Regulation does not need to separate the direct and indirect impact of the environment in the context of no-harm principle. Further details on how the no-harm principle is implemented in the exploitation activities in the Area can be included in the Standards & Guidelines.

TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH SESSION: COUNCIL - PART

I

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

Draft Regulation 45

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.**

1. The Council shall, based on the recommendations of the Commission, develop ~~Environmental~~ Standards and Guidelines with regard to the protection and conservation of the natural resources of the Area and the prevention of damage to the flora and fauna of the Marine Environment in accordance with regulations 94 and 95.

New 2. The following Standards and Guidelines shall be developed with a view to be adopted at the adoption of these Regulations, pursuant to the relevant Regulations, inter alia: ~~the following subject matters aimed at ensuring a Contractor does not cause Serious Harm to the Marine Environment:~~

- a. Regulation 46 on Environmental Management System;
- b. Regulation 46bis on Environmental Impact Assessment, including procedures on consultation process with Stakeholders, the levels of environmental quality objectives, procedures on the new or revised Environmental Impact Statement, baseline data that captures temporal, seasonal, and spatial variation;
- c. Regulation 48 on the preparation of Environmental Management and Monitoring Plans;
- d. Regulation 45 and 49 on hazard identification and risk assessment;
- e. Safe management and operation of mining vessels and installations;
- f. Regulation 53 (50bis) on emergency response and contingency plan.

New 3. The application of this Regulation shall be without prejudice to the function of the Council to develop other Standards and Guidelines on the protection and conservation of the natural resources of the Area and the prevention of damage to the flora and fauna of the Marine Environment, taking into account the development of the exploitation activities in the Area.

~~2. The Authority shall not approve any Exploitation activities unless the environmental Standards have been adopted.~~

→ New 4. The consideration and approval for the Plan of Work shall be based on the abovementioned Standards and Guidelines.

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

Indonesia acknowledged the report of the Chair of the Legal and Technical Commission during the 25th Session of the Authority (Addendum, ISBA/25/C/19/Add.1) that the adoption of the Standards and Guidelines are divided into 3 (three) stages:

1. Phase 1: Standards & Guidelines that need to be adopted when the Draft Exploitation Regulation is adopted.
2. Phase 2: Standards & Guidelines that need to be adopted before the submission of the applications of the Plan of Work
3. Phase 3: Standards & Guidelines that need to be adopted before the start of commercial mining in the Area.

Indonesia noted that the Standards and Guidelines that are included as “Phase 1” include those which are directly cited throughout the Draft Regulations. These Standards and Guidelines include:

- Draft guideline on the preparation and assessment of an application for the approval of a Plan of Work for exploitation
- Draft standard and guidelines on the development and application of environmental management systems
- Draft standard and guidelines on the form and calculation of an environmental performance guarantee
- Draft guidelines for the establishment of baseline environmental data
- Draft standard and guidelines for environmental impact assessments
- Draft guidelines for the preparation of an environmental impact statement
- Draft guidelines for the preparation of an environmental management and monitoring plans
- Draft guidelines on tools and techniques for hazard identification and risk assessment
- Draft standard and guidelines for the safe management and operation of mining vessels and installations
- Draft standard and guidelines for the preparation and implementation of emergency response and contingency plans

The use of the term “Environmental Standards and Guidelines” will require further definition in the Schedule, and such term creates possible confusion with the Standards and Guidelines that are currently being discussed in the Council.

TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH SESSION: COUNCIL - PART

I

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Draft Regulation 46bis

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.

~~1ter.~~ The purpose of an environmental impact assessment under these regulations shall be to ensure that the activities in the Area are assessed and conducted to prevent, mitigate and manage Environmental Effects arising from the activities, ~~predict environmental impacts anticipated from the proposed activities, to enable the Authority to assess the potential adverse Environmental Effects,~~ with the aim to:

- (a) Ensure effective protection for the marine environment from harmful effects which may arise from such proposed activities,
- (b) Ensure that activities in the Area are carried out with reasonable regard for other activities in the Marine Environment, and
- (c) Prevent Serious Harm to the Marine Environment arising out of the proposed activities.

~~1bis.~~ In the conduct of the environmental impact assessment, the Sponsoring State and Contractor shall, ~~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 of any ~~potentially affected~~ coastal State ~~as identified in the applicable Regional Environmental Management Plan across whose jurisdiction the resource deposits lie,~~ including through maintaining consultations and a system of prior notification, in accordance with Regulation.

~~4. The environmental impact assessment process shall:~~

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

2. (b) An Environmental impact assessment to describe the Marine Environment ~~including Underwater Cultural Heritage~~ and ~~predict~~ assess and evaluate ~~the nature and extent of~~ the Environmental Effects of the ~~activities in the Area~~ ~~mining operation~~, in accordance with the applicable Standard, including cumulative ~~and synergistic~~ impacts ~~and residual and synergistic~~

~~effects also considering other existing and foreseen mining operations,~~ using Best Available Scientific Evidence, ~~Best Archaeological Practices,~~ Best Environmental Practices, Best Available Techniques, and Good Industry Practice and taking into account ~~the following non-exhaustive factors,~~ where applicable:

- (i) The intensity or severity of the impact at the specific site being affected, ~~taking into account the technology, system, and method used for the activities in the Area, as well as the duration and location of such activities;~~
- (ii) The characteristics and ecosystem of the location (including Areas of Particular Environmental Interest (APEI), the Regional Environmental Management Plan (REMP), and other areas of particular ecological or biological significance or vulnerability);
- (iii) The potential impacts of the activity, including the potential cumulative impacts, taking into account
- ~~(iii) the spatial extent of the impact relative to the availability of the habitat type affected;~~
- ~~(iii) The sensitivity/vulnerability of the ecosystem to the impact;~~
- (iv) The ability of an ecosystem to recover from harm, and the rate of such recovery;
- ~~(v) The extent to which ecosystem functions may be altered by the impact; and~~
- ~~(vi) The timing and duration of the impact relative to the period in which a species needs the habitat affected for its long survival during one or more of its life-history stages;~~
- (vi)bis The extent to which the effects of the activity are unknown or poorly understood; and
- (vi)ter Other relevant ecological or biological criteria

7. ~~In accordance with article 142 of the Convention and Regulation 4 in the conduct of the environmental impact assessment, with respect to resource deposits in the Area which lie across the limits of national jurisdiction,~~ the Sponsoring State and the Contractor shall maintain consultations, including a system of prior notification, with any ~~potentially affected coastal State as identified in the applicable Regional Environmental Management Plan whose limits of national jurisdiction resource deposits in the Area lie adjacent to the Contract Area~~ with a view to avoiding infringement of their rights and legitimate interests,

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

1ter: Indonesia views that the EIA is not conducted simply to “predict” the environmental impacts, but to ensure that the activities in the Area are assessed and conducted to prevent, mitigate, and manage such effects to the marine environment.

2(b): Indonesia is of the view that the factors to be considered by the Contractor in conducting the “impact assessment” step of the EIA process (as seen in the Regulation) shall be non-exhaustive. A more general formulation of the factors that shall be considered during the EIA process is preferred, and the details of such factors can be included in the Standards and Guidelines for EIA as well as other documents that might be adopted under ISA.

4. Indonesia views that independent assessment shall not be included as an obligation under the Draft Exploitation Regulation, as the Legal and Technical Commission can determine whether it is necessary to have an independent scientific assessment. However, if the Commission decides that an independent scientific assessment is needed, it has to be preceded by a request by the country that needs the independent scientific assessment.

1bis, 7: The proposed term of “potentially affected Coastal State, as identified in the Regional Environmental Management Plan” was discussed in the IWG Institutional Matters. The consultation process with regards to the environmental impact of activities in the Area shall prioritize the coastal States who are potentially affected, which may fall outside of the category envisaged in Article 142 of the Convention (coastal States where resource deposits in the Area lie across the limits of national jurisdiction).

TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH SESSION: COUNCIL - PART

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Draft Regulation 46ter

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.**

1. The Contractor shall ~~establish and implement~~ conduct environmental monitoring based on the ~~an e-Environmental Management and Monitoring Plan~~ as required under Regulation 48 in accordance with relevant Standards, Good Industry Practice, Best Available Scientific Evidence, Best Environmental Practices, and Best Available Techniques, following the approval of the Plan of Work. It shall keep under surveillance, during all stages of the mining life cycle, the effects of the Exploitation in the Area to determine whether it is having or likely to have harmful effects on the Marine Environment. ~~after approval by the Authority and the sponsoring State or States in the establishment and implementation of the Contractor’s environmental monitoring programmes as well as share findings and results of such programmes with the Authority for wider dissemination.~~

2. ~~The Contractor shall establish and implement an environmental management and monitoring plan,~~ a After approval by the Authority and the sponsoring State or States in the establishment and implementation of the Contractor’s environmental monitoring programmes, ~~the Contractor shall as well as~~ share findings and results of such programmes with the Authority for wider dissemination.

3. ~~The Environmental Management and Monitoring Plan shall contain a monitoring programme for at least the first seven years of Exploitation, to be conducted by independent experts and in compliance with the applicable Standards.~~

4. The Contractor shall report annually in writing, in accordance with these regulations, to the Secretary-General on the implementation and results of ~~the Environmental Management and Monitoring Plan and~~ the environmental monitoring programme ~~referred to in paragraph 2, in accordance with regulation 38, paragraph 2(g).~~ The Secretary-General shall release publicly, in an accessible format, real time or at monthly intervals, consistent with best scientific practices, environmental data and information in the required standardized format, and in accordance with the applicable Standards, and taking into account the applicable Guidelines. Other monitoring data, pertaining for example to monitored variations

in geochemistry or fauna, shall be released annually in the form of a written report. The Secretary-General shall transmit annual reports to the Commission for its consideration pursuant to article 165 of the Convention and publish them pursuant to Regulation 38(3).

5. In implementing paragraph 1, the Sponsoring State and Contractor shall consult, with **any potentially affected coastal State as identified in the applicable Regional Environmental Management Plan** ~~any adjacent coastal State across whose limits of national jurisdiction lie~~ with a view to avoiding infringement of their rights and legitimate interests, in accordance with Regulation 4.

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

The Indonesian textual proposal in para. (1) merged the formulation of Para. (1) and (2) of the previous text, which highlights the conduct of monitoring based on the EMMP that has been established.

On para (2), Indonesia notes that the obligation of the Contractor to make environmental management and monitoring plan has been included in Draft Regulation 48, thus it does not need to be included in this Draft Regulation.

Indonesia suggests to delete para (3) as the previous paragraphs, as well as other provisions in the Draft Regulations, indicate that the environmental monitoring should be conducted in the life cycle of the exploitation in the Area. Limiting the period of monitoring only to 7 years will contradict the main objective of the environmental monitoring.

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Draft Regulation 47

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.**

1. An applicant or Contractor, as the case may be, shall prepare, ~~or commission the preparation of,~~ an Environmental Impact Statement in accordance with ~~the Rules of the Authority,~~ and in consultation with Stakeholders ~~throughout the environmental impact assessment process,~~ for approval by the Authority within the framework of the consideration and approval of the work plan.

3. The Environmental Impact Statement must be in the form and entail the contents as prescribed by the Authority in annex IV to these regulations and shall:

(a) Include a prior Environmental Risk Assessment prepared during the environmental impact assessment scoping phase, ~~and revisited and updated as the environmental impact assessment proceeds;~~

(b) Describe 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 methodology used for the identification and evaluation of the identified environmental impacts, ~~including cumulative impacts and impacts to the potentially affected Coastal State,~~ and main uncertainties and knowledge gaps, and also include comments received through the Stakeholder consultation process and explain how each comment has been incorporated or otherwise addressed;

(b)bis Refer to the relevant baseline data on the status of the marine environment, collected according to the relevant Standard and the relevant Regional Environmental Management Plan and to the results of the performed test mining study, where applicable;

(c) Identify substantive comments received through the Stakeholder consultation process and an explanation of how such comments have been taken into account and addressed by the applicant or Contractor, as the case may be, also including a description of the analysis of alternatives, including a no-action alternative;

(d) Be in accordance with the objectives and measures of the applicable regional environmental management plan ; and

~~(d)bis Describe potential prevention, mitigation, and management measures, reasonable alternatives, and follow-up actions, including an Environmental Management and Monitoring Plan;~~

(e) Be prepared in accordance with the relevant Standards consistent with , Best Available Scientific Evidence, Best Environmental Practices and Best Available Techniques and taking into account the relevant Guidelines.

~~6. Where predictive models have been used to inform an environmental impact assessment:~~

~~(a) These shall be reviewed by competent independent experts, with the results provided to the Authority as annexures to the Environmental Impact Statement; and~~

~~(b) The monitoring programme proposed in the Environmental Impact Statement shall describe how predictions made by models will be validated.~~

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

On EIA Voluntary Guideline adopted by the COP to the CBD in 2012 and ILBI BBNJ Draft Text, the EIS should cover: a description of the planned activity, including its location, a description of the results of the scoping exercise, a baseline assessment of the marine environment likely to be affected, a description of potential impacts, including potential cumulative impacts and any impacts in areas within national jurisdiction, a description of potential prevention, mitigation and management measures, uncertainties and gaps in knowledge, information on the public consultation process, a description of the consideration of reasonable alternatives to the planned activity, a description of follow-up actions, including an environmental management plan, and a non-technical summary.

On para. 6: There is no mention on the use of predictive models in EIA. It is better regulated under the Standards and Guidelines.

TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH SESSION: COUNCIL - PART

I

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: IWG Environment
2. Name(s) of Delegation(s) making the proposal: Indonesia
3. Please indicate the relevant provision to which the textual proposal refers.

Draft Regulation 48

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.

1. Each applicant ~~or Contractor for exploitation~~ shall prepare an Environmental Management and Monitoring Plan in accordance with this regulation and Annex VII.

2. The purpose of an Environmental Management and Monitoring Plan is to manage ~~and confirm that observed~~ Environmental Effects ~~identified during the Environmental Impact Assessment~~, through:

- a. ~~Assessing whether Environmental Effects~~ meets Standards on environmental quality objectives and environmental performance for the mining operation. ~~The plan shall~~
- b. ~~Addressing~~ any issues that ~~may~~ arise from the Environmental Impact Statement; ~~and will~~
- c. ~~Setting~~ out commitments and procedures on how the Environmental Effects of the mining operation will be monitored and mitigated, including on pollution control and Mining Discharge in regulations 49 and 50.

3 (d)bis ~~Include assessment on the comparison between baseline data and monitoring data to document the actual effects on the Marine Environment.~~

3. (f) Incorporate ~~measurement criteria, internal thresholds and reflect its~~ methodology to determine whether the environmental objectives are being met and that the operation is compliant with applicable environmental Standards and other Rules of the Authority;

3 (g)(i)bis ~~Apply best endeavours to improve Mitigation and management measures to ensure the effective protection of the Marine Environment from harmful effects, as set out in the relevant Standards and taking into account relevant Guidelines referred to in regulation 45; and~~

3 (g) (i) how the environmental ~~and archaeological~~ impacts of the ~~mining operation~~ ~~Exploitation in the Area~~ will be monitored in accordance with regulation 46ter and the Environmental Management Plan Standard,

3 (g) (iii) and (v) and (vi) can be merged into: **New (iii) how the effectiveness of such measures will be monitored, managed, and reported, including on any new knowledge.**

~~(vii) how continual improvement will be promoted, including by testing assumptions and predictions made in the Environmental Impact Statement,~~ improving implementation, monitoring, and reporting measures, and improvement in environmental knowledge, and any other environmental concerns specified in the Standards and Guidelines. ~~and reducing residual uncertainties remaining from the environmental impact assessment process.~~

4. The Contractor shall provide information in its annual report on the implementation of the Environmental Management and Monitoring Plan in accordance with regulations 38, paragraph 2(g), and 46ter, paragraph 4, for evaluation by the Legal and Technical Commission, as well as publicly release, in an accessible format, consistent with Best Scientific Practices monitoring data and information, **taking into account the confidentiality and data security of the information**; at a regular basis to be determined in each project. Other monitoring data, for example pertaining to monitored variations in geochemistry or fauna, shall be released annually in the form of a written report.

4bis. The Contractor shall take measures to incorporate such comments and evaluations from the Commission, as well as comments from the relevant stakeholders in improving the implementation of the Environmental Management and Monitoring Plan, including through revising the Plan, if necessary. The report, as well as the comments and evaluation, shall be taken into account by the Contractor in conducting the performance assessment in accordance with Regulation 52.

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

On para. 1: The phrase "Applicant" has indicated that it is a Contractor for the Exploitation. Therefore, it should not be added with "or Contractor".

On para. 3(d) bis: Indonesia's new proposal, taken from the formulation in Regulation 51. (see Indonesia's comments on Regulation 51).

On para. (3)(f): Indonesia proposes to delete the measurement criteria, internal thresholds -> it is not clear whether the internal threshold means that each Contractor has the freedom to develop its own environmental threshold.

On para. (g)(i)(bis): Indonesia's new proposal, taken from the formulation in Regulation 51. (see Indonesia's comments on Regulation 51).

On para (g)(i): Archaeological impacts are not the environmental concerns regulated under UNCLOS. Propose to delete.

On para. 3bis: Additional or supplementary program should not be something that is obliged under the Regulation. It can be a choice by the Contractor as long as the standards & guidelines set out by the Authority are adhered to.

On para. 4bis: There should be a follow up action after the LTC provides comments/evaluations. Besides, Indonesia is of the view that the use of this report for the performance assessment under Regulation 52 can have a substantive merit.

COUNCIL - PART I

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: IWG Environment
2. Name(s) of Delegation(s) making the proposal: Indonesia
3. Please indicate the relevant provision to which the textual proposal refers.

Draft Regulation 49

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.

A Contractor shall take all ~~the~~ necessary ~~and appropriate~~ measures to protect and preserve the Marine Environment ~~and coastlines,~~ by preventing, reducing and controlling pollution and other hazards, including marine litter and underwater noise, ~~arising~~ from its activities in the Area [Alt: Exploitation in the Area]. This is to be done in accordance with ~~the Convention, the Agreement, its Environmental Management and Monitoring Plan and~~ all relevant Rules of the Authority, the relevant applicable Regional Environmental Management Plan, taking account ~~the Environmental Management and Monitoring Plan and of~~ the applicable Standards and/or 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.~~

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

Indonesia suggests to delete “coastlines” as it is not acknowledged in the obligation of States to protect and preserve marine environment in UNCLOS.

“Activities in the Area” is a term used in UNCLOS, however, the term “Exploitation in the Area” has been included in the Use of Terms. Indonesia notes that States shall consider using the term activities in the Area as it encompasses other activities related to the exploitation. Besides, Indonesia also observes that it is not only the exploitation and extraction process that can cause pollution/damage to the marine environment.

Indonesia is consistent with its previous position that heritage/wreck is not included under UNCLOS’ definition of marine environment.

TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH SESSION: COUNCIL - PART

I

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: IWG Environment**
2. **Name(s) of Delegation(s) making the proposal: Indonesia**
3. **Please indicate the relevant provision to which the textual proposal refers.**

Draft Regulation 50

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.**

1. A Contractor shall not dispose, dump or discharge into the Marine Environment any Mining Discharge, except where such disposal, dumping or discharge is permitted in accordance with:

- (a) **Relevant international law, especially the** international applicable rules and regulations set out by the International Maritime Organization **[Alt: competent organization]**.
- New (b)** The assessment framework for Mining Discharges as set out in the Standard;
- New c)** The Environmental Management and Monitoring Plan;
- ~~(c) International applicable rules and regulations set out by the International Maritime Organization.~~

3. The disposal, dumping or discharge into the Marine Environment of any Mining Discharge that is not permitted in accordance with paragraphs 1 and 2 above is considered an unauthorized Mining Discharge and constitutes a Notifiable Event under regulation 34 and Appendix 1. **In this regard, the Secretary-General shall notify the Flag State or the Sponsoring State, and other potentially affected States, to take further measures to respond and mitigate the impacts of such disposal, dumping or discharge to the Marine Environment.**

4bis. Procedures and mechanisms to prevent disposal, dumping, and discharge to the Marine Environment in the Environmental Management and Monitoring Plan, and its implementation, including in cases of unauthorized mining discharge, shall be set out in accordance with the applicable Standards and Guidelines.

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

On para. 1: The reference to international law should be put first as point (a), as the Standards & Guidelines, including other rules of the Authority shall adhere to the relevant international law.

On para. 3: Indonesia notes that in cases of unauthorized mining discharge, there should be a follow-up action, especially by the Secretary-General of the Authority, to notify flag States (if the perpetrators are vessels) or the Sponsoring States (if the perpetrators are Contractors), as well as potentially affected States on the impacts of such discharge.

On para. 4bis: Regulation 48 highlights that the EMMP shall include procedures on the disposal, dumping, and discharge to the Marine Environment. This hasn't been specified in the Regulation and such procedures can be regulated in the Standards & Guidelines.

TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH SESSION: COUNCIL - PART

I

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1. **Name of Working Group: IWG Environment**
2. **Name(s) of Delegation(s) making the proposal: Indonesia**
3. **Please indicate the relevant provision to which the textual proposal refers.**

Draft Regulation 51

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.**

A Contractor shall, in accordance with these regulations, implement and adhere to its Environmental Management and Monitoring Plan ~~and these regulations~~, and shall:

~~(a) Monitor continuously in accordance with the applicable Standard, release monitoring data publicly, in an accessible format consistent with best scientific practice, on a monthly basis and report annually under regulation 38 (2) (g) on the Environmental Effects of its activities on the Marine Environment, including a comparison between baseline data and monitoring data to document the actual effects on the Marine Environment and manage all such effects as an integral part of its Exploitation activities as set out in the relevant Standards and taking into account the relevant Guidelines referred to in regulation 45;~~

~~(b) Apply best endeavours to improve Mitigation and management measures to ensure the effective protection of the Marine Environment from harmful effects, as set out in the relevant Standards and taking into account relevant Guidelines referred to in regulation 45; and~~

~~(c) Monitor compliance with, assess, and maintain the currency and adequacy of the Environmental Management and Monitoring Plan and Environmental Management System during the term of its exploitation contract including through management review under regulation 46, performance assessment under regulation 52, and with modification to the Plan of Work under regulation 57 where required.~~

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

Indonesia notes that points (a) and (b) are already regulated under Regulation 48 on the EMMP. It is better that those points be incorporated in the Regulation 48 (see Indonesia's textual proposal under Regulation 48).

TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH SESSION: COUNCIL - PART

I

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1. **Name of Working Group: IWG Environment**
2. **Name(s) of Delegation(s) making the proposal: Indonesia**
3. **Please indicate the relevant provision to which the textual proposal refers.**

Draft Regulation 52

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.**

1. A Contractor shall conduct performance assessments of their Environmental Management and Monitoring Plan. The Commission shall review the performance assessments of the Environmental Management and Monitoring Plan undertaken by a competent and independent auditor hired by a Contractor in accordance with the relevant Standards and taking account of the relevant Guidelines. In conducting such a performance assessment of the Environmental Management and Monitoring Plan, the Contractor shall ensure:

- (a) The compliance of the mining operation with the plan;
- (b) The continued appropriateness and adequacy of the plan, including the management conditions and actions attaching thereto;
- (c) The conformity of the plan with the applicable Regional Environmental Management Plan,
- (d) The accuracy of the findings of the environment impact assessment as set out in the Environmental Impact Statement.
- (e) The changes in knowledge, technology, mining patterns, monitoring techniques and detection capabilities are reflected;
- (f) The outcomes of management reviews of the environmental management system are conducted under regulation 46(2)(e); and
- (g) Information and data derived from monitoring at the mine site and impact area as well as from any Exploitation by other Contractors is provided.

(g)bis The implementation report of the Environmental Management and Monitoring Plan, as well as the comments and evaluation from the Commission in accordance with Regulation 48 above.

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

To streamline the provision with Regulation 48. Indonesia notes that Regulation 48 also obliges the Contractor to make report of the implementation of the EMMP to be commented and evaluated by the LTC, while also be published. Such report shall also be taken into account by the Contractor in conducting performance assessment.

TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH SESSION: COUNCIL - PART

I

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1. **Name of Working Group: IWG Environment**
2. **Name(s) of Delegation(s) making the proposal: Indonesia**
3. **Please indicate the relevant provision to which the textual proposal refers.**

Draft Regulation 53

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.**

1. A Contractor shall develop an Emergency Response and Contingency Plan prior to the development and application of Plan of Work, taking into account the result of the Environmental Impact Assessment (EIA).

1bis. A Contractor shall maintain:

(a) The currency and adequacy of its Emergency Response and Contingency Plans based on the identification of potential Incidents and in accordance with Good Industry Practice, Best Available Techniques, Best Environmental Practices and the applicable Standards and Guidelines, as well as the implementation and monitoring results of the Environmental Management and Monitoring Plan, and shall be tested at least annually; and

(b) Such resources, training and procedures as are necessary for the prompt execution and implementation of the Emergency Response and Contingency Plans and any Emergency Orders issued by the Authority including on-vessel presence for rapid emergency response.

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

Indonesia notes that the obligation of developing an Emergency Response and Contingency Plan hasn't specified a specific timeframe on when the Plan should be created by the Contractor. We also note that the Plan should take into account the result of EIA.

TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH SESSION: COUNCIL - PART

I

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: IWG Environment**
2. **Name(s) of Delegation(s) making the proposal: Indonesia**
3. **Please indicate the relevant provision to which the textual proposal refers.**

Draft Regulation 55

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.**

2. Based on the precautionary principle, the contractor shall ~~take any necessary measure pay for any necessary measure~~ to prevent, ~~limit, remedy and compensate~~ any damage to the Area arising from the ~~mining exploitation~~ activities. ~~Further, based on the polluter pays principle, the Contractor shall be responsible to limit, remedy, and compensate any damage to the Area arising from the activities in the Area.~~

3. In cases where the contractor's ~~financial capabilities, as identified in its financial statement, has been exceeded~~ ~~payment is insufficient~~ to limit, remedy and compensate any damage to the Area arising from the ~~mining~~ activities ~~in the Area~~, the compensation fund may be used.

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

Indonesia adheres to the “polluter pays principle” where the Contractor who is responsible for the damage shall also be responsible to limit, remedy, and compensate such damage. Only if its financial capacity has been exceeded, and in cases of unforeseeable impacts that cannot be mitigated by the Contractor’s current financial capacity, the environmental compensation fund may be used.

TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH SESSION: COUNCIL - PART

I

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: IWG Environment**
2. **Name(s) of Delegation(s) making the proposal: Indonesia**
3. **Please indicate the relevant provision to which the textual proposal refers.**

Draft Regulation 59

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.**

1. A Contractor shall develop a Closure Plan ~~that,~~ in accordance with regulation 7 (3) (i) and ~~the relevant Standards and Guidelines that set out the condition of the Closure Plan.~~ Such Closure Plan ~~applicable environmental standards,~~ shall ~~sets~~ out the responsibilities and actions of a Contractor for the decommissioning and closure of activities in a Mining Area, based on the Good Industry Practice, Best Environmental Practices, Best Available Techniques, and Best Available Scientific Evidence., ~~including the post-closure management and monitoring of residual Environmental Effects, in accordance with the applicable Standard. Closure also includes a temporary suspension of mining activities.~~

2. Suggestion to add in (c): ~~Final environmental condition of the area, including the state of remaining reserves, the oceanographic, geological, biological, socioeconomic and sociocultural condition, and the risks relating to residual Environmental Effects are identified, quantified, assessed and managed~~ in accordance with best available technologies, which includes the gathering of information relevant to closure or suspension.

~~4. A Contractor shall maintain the currency and adequacy of its Closure Plan in accordance with Good Industry Practice, Best Environmental Practices, Best Available Techniques, Best Available Scientific Evidence and the Standards and, taking account of the relevant Guidelines.~~

5. In the five years preceding the planned end of the period of Exploitation, ~~or any other period as deemed necessary by the Contractor and the Sponsoring State,~~ the Closure Plan shall be ~~updated~~ reviewed annually and, if necessary, be updated and ~~be~~ finalized in accordance with regulation 60(1). ~~Otherwise, the Closure Plan shall be reviewed and updated~~ The review and update of the Closure Plan shall take ~~ing~~ into account the results obtained from monitoring post-closure activities and each time there is a Material Change in a Plan of Work, ~~including new knowledge, technologies, devices and new scientific findings, change of contractor or sponsoring State, also.~~ In cases where no such Material Change has occurred and no monitoring data and information or improved knowledge or technology has signaled a

need for updates, every five years and at the end of the project and be finalized in accordance with regulation 60 (1). **Details on the procedures of review of the Closure Plan, including conditions requiring updates thereof, shall be further elaborated in the Standards and Guidelines.**

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

Indonesia highlights that the establishment of a Closure Plan requires a more detailed Standards & Guidelines which can be developed as a Phase 2 S&G (which can be adopted before the application of the Plan of Work). In this regard, the term “environmental standards” in para. (1) of this Draft Regulation can be adjusted to include a mandate of establishing a Standards & Guidelines on Closure Plan. Further, the phrases “including the post closure management and monitoring of residual Environmental Effects...” have been included in para. (2) of this Paragraph, and it can be further detailed in the Standards & Guidelines or subsequent paragraphs in Regulation 59.

Para. (4) can be merged into para. (1), as the paragraph sets out the basis of the Closure Plan.

Indonesia is of the view that the Standards & Guidelines on Closure Plan shall include the following elements:

- a. The consideration in establishing Closure Plan, which includes the system and method of mining based on the results of monitoring (mining area, facilities used in the mining), the status of the environment (ecosystem, biodiversity, economic and socio-cultural conditions).
- b. Post-closure management measures, including the management of quality of the marine environment, and protection of marine biodiversity;
- c. The status of the marine environment in and around the mining area, consideration of other activities surrounding the mining area (after consideration on the Environmental Impact Statement, Plan of Work, the Environmental Management and Monitoring Plan/EMMP, and any inspection result/monitoring result);
- D. Criteria of the success of closure plan and post-closure management measures.

Indonesia notes the views from various delegations during the 27th session that the update of the Closure Plan shall be assessed on a case-by-case basis, where the updates to the Closure Plan shall take into account the conditions requiring such updates as stated in the text (Material Change to the Plan of Work, etc). The most important element is to conduct review of such Closure Plan and only conduct updates if necessary, of which the details can be further regulated in the Standards & Guidelines.

TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH SESSION: COUNCIL - PART

I

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: IWG Institution**
2. **Name(s) of Delegation(s) making the proposal: Indonesia**
3. **Please indicate the relevant provision to which the textual proposal refers.**

Draft Regulation 1

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.**

1. Terms used in ~~the Convention~~ these Regulations shall have the same meaning in ~~these Regulations~~ the Convention

6. These regulations are complemented by Standards and Guidelines, as referred to in these regulations and the annexes thereto, as well as by further rules, regulations and procedures of the Authority, in particular ~~the Regional Environmental Management Plan and other rules, regulations and procedures~~ on the protection and preservation of the Marine Environment.

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

Para. 1: The definition of terms used in the Draft Exploitation Regulations should have been in accordance with the Convention, not the other way around.

Para. 6: Regional Environmental Management Plan (REMP) are not included in the terms “Exploitation Regulation” or “Standards and Guidelines”. However, REMF is still significant in the implementation of the obligations under the Convention, the Agreement, and the Regulation relating to the protection and preservation of marine environment.

TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH SESSION: COUNCIL - PART

I

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: IWG Institution**
2. **Name(s) of Delegation(s) making the proposal: Indonesia**
3. **Please indicate the relevant provision to which the textual proposal refers.**

Draft Regulation 2

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.**

4. According to article 145 of the Convention, the effective protection of the marine environment from the harmful effects which may arise from activities of exploitation, in accordance with the Authority’s environmental policy, including regional environmental management plans, is based inter alia on the following principles and approaches:

(i) Intergenerational equity.

(ii) Precautionary ~~approach~~ principle.

(iii) Ecosystem approach.

(iv) Polluter pays principle

(v) Access to data and information relating to the protection and preservation of the Marine Environment, ~~by taking into account the confidentiality of the data and information..~~

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

As a note, the term “Ecosystem Approach” needs to be further defined in the Use of Terms, based on relevant international framework. The definition of ecosystem approach under the Conference of the Parties of the Convention on Biological Diversity can be found in Decision V/6 of the Conference of the Parties of the Convention on Biological Diversity.¹

Indonesia would like to underline that the main elements that can be taken into account in formulating the definition of “Ecosystem Approach” under the Draft Exploitation Regulation are as follows:

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¹ <https://www.cbd.int/decision/cop/?id=7148>

TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH SESSION: COUNCIL - PART

I

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1. **Name of Working Group: IWG Institution**
2. **Name(s) of Delegation(s) making the proposal: Indonesia**
3. **Please indicate the relevant provision to which the textual proposal refers.**

Draft Regulation 3

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.**

a. Members of the Authority, the Enterprise, the Applicant and Contractors shall promote cooperation in the access to data and information necessary to effectively implement the Convention, the Agreement, and the Rules of the Authority; ~~cooperate with the Authority to provide such data and information necessary for the Authority to discharge its duties and responsibilities under the Convention;~~

b. The access to data and information shall be made available by Member States upon the request by the Secretary-General. In this regard, the Council shall, taking into account recommendations by the Commission, adopt Standards and Guidelines which establish requirements, obligations and procedural arrangements, including standardized data templates and methodology for data collection and analysis within three years after the adoption of these regulations ~~or before any mineral production commences, whichever take place.~~

c. Members of the Authority, sponsoring States, Contractors and the Enterprise shall, in conjunction with the Authority, cooperate with each other, as well as with other Contractors and national and international scientific research and technology development agencies, with a view to:

- (i) Sharing, exchanging and assessing environmental data and information for the Area, including by use of data repositories and open-access databases;
- (ii) Identifying gaps in scientific knowledge and developing targeted and focused research programmes to address such gaps;
- (iii) Collaborating with the scientific community to identify and develop best practices and improve existing standards and protocols with regard to the collection, sampling, standardization, assessment and management of data and information;
- (iv) Undertaking educational awareness programmes for Stakeholders relating to activities in the Area;
- (v) Promoting the advancement of marine scientific research in the Area for the benefit of mankind as a whole; and

(vi) Developing incentive structures, including market-based instruments, to support transfer of technology and capacity enhancement of developing states and to enhance the environmental performance of Contractors beyond the legal requirements, including through technology development and innovation; and

(vii) to facilitate the work of the appropriate organs of the Authority to prepare studies of the potential impact of exploitation in the Area, including on the economies of developing land-based producers of those Minerals which are likely to be most seriously affected.

(d) (i) Ensure effective protection of the health and safety of life and property at sea and **the protection and preservation** of the Marine Environment, with respect to activities in the Area;

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

Indonesia observes that point (a) and (g) of this Draft Regulation is redundant. However, Indonesia analyzes that the main objective of this Article is to ensure the sharing of data and information to implement the function and obligations of the ISA under the Regulation. Indonesia underlines that the data and information is not only necessary for the Authority to discharge its duties and responsibilities. To this end, Indonesia proposes an alternative clause which merges point (a) and (g) of this Draft Regulation, which highlights the main responsibility of all actors to cooperate in providing access to data and information for an effective implementation of this Regulation.