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## Parliamentary Briefing

# The Deep-Sea Mining Private Members Bill: Report Stage briefing

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- An increasing demand for metals has led to a resurgence of interest in deep-sea mining. The exploration for, and exploitation of, minerals from deep-sea deposits in water depths greater than 300 m will increase the human footprint on previously largely untouched, poorly studied, largely unknown and potentially highly vulnerable ecosystems.
- The Government has proposed legislation updating the Deep Sea Mining Act of 1981 through the private member's bill process, with the Bill being sponsored by Sheryl Murray MP. The legislation is in response to increased speculation and ensuing applications by domestic and international companies to mine the sea floor beyond national jurisdiction.
- WWF-UK welcomes parliamentary scrutiny of deep sea mining and the proposed legislation for it. However, we have concerns over the lack of environmental provisions within the Bill and the lack of transparency throughout the exploration, granting and operation processes.

### Context

The sea floor and water column of the deep ocean includes some of the earth's largest and remotest ecosystems - a treasure trove of as yet little known mineral and biological resources. This is an environment where imprudent exploitation could have irreversible impacts on an unknown scale not only on the sea floor (for which the International Sea Bed Authority (ISA or ISBA) is responsible) but also for the ecosystems of adjacent high seas or nearby coastal states.

The 1981 Act as it currently stands is sufficient for the UK Government to license operators for the deep sea mining exploration proposed. But the purpose of the current Bill is to 'clean up' the original legislation so it accords with the United Nations Convention on the Law of the Sea and to expand its scope to allow other types of undersea development that the original Act did not envisage, particularly the mining of polymetallic sulphides and cobalt-rich crusts. In essence, where the previous Act was prescriptive in its detail, these updates



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instead are enabling, referring a majority of the guidance, provisions and authority to an international body, the ISBA.

WWF is seeking clarification from the Foreign and Commonwealth Office on the following aspects of the Bill:

- 1) the definition of environmental harm;
- 2) data and structural transparency;
- 3) respecting other international environmental designations.

1) We want to ensure that deep-sea mining activities do not commence unless and until it can be demonstrated that there are no indications of likely irreversible and/or significant adverse effects on the marine ecosystem. In order to operationalize such assessments, standardized terminology/nomenclature used in describing and assessing the impacts of seabed mining should be developed and aligned with definitions established by other international organizations, such as the UN's Food and Agriculture Organisation (FAO) on sustainable deep-sea bottom fisheries.

The current threshold definition for operators of *serious harm to the marine environment* and the requirement of "*substantial evidence indicating the risk of serious harm to the marine environment*" as a precondition for not approving activities does not support global efforts to protect the marine environment based on criteria such as vulnerability, sensitivity, representativeness or functional importance (Convention on Biological Diversity (CBD), 2008; FAO, 2009). There needs to be a more precautionary approach.

In view of this, WWF is calling for amendments to the Bill to use the threshold of "*significant adverse effects*"<sup>1</sup> adopted by the United Nations General Assembly (2006) and FAO (2009) as a starting point for developing a modern standard applicable in relation to unsustainable practices in deep-sea minerals mining.

2) Due to the location of potential operations (i.e. at least 200 miles distant from land and several thousand metres below the surface of the ocean), we believe that independent monitoring of mining operations should be made part of the ISA's requirements in its licencing regime.

Transparency (as defined by the Aarhus Convention) should be the norm for mining operations licensed by the UK Government.

In order to improve the transparency of the licensing regime, quality assured and standardized baseline data should be made publicly available. Objective decision making about environmental risk would then be based on a quality, standardized and transparent data set, which could be verified by independent scientists and civil society as it would be in the public domain.

3) Deep-Sea Mining and its licensing regime do not operate in isolation from the work of other established UN International bodies (such as FAO, CBD, the International Maritime Organisation etc), nor from their management measures/designations. Binding regional

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<sup>1</sup> *Significant adverse impacts are those that compromise ecosystem integrity (i.e. ecosystem structure or function) in a manner that: (i) impairs the ability of affected populations to replace themselves; (II)degrades the long-term natural productivity of habitats; or (III) causes, on more than a temporary basis, significant loss of species richness, habitat or community types. Impacts should be evaluated individually, in combination and cumulatively*

environmental management plans, REMPs, should be put in place for all regions subject to mineral mining activities. Mineral mining activities may have impacts upon the competencies of other international bodies and coastal states. Hence the licensing regime requirements should include collaboration between relevant bodies and states in preparing REMPs in order to ensure that identifiable risks are mitigated and impacts on fragile, unique ecosystems, habitats, species and genetic resources are negligible.

In this context it is essential that collaboration includes respect for and alignment with the measures/designations of other international bodies regarding the protection of the marine environment beyond national jurisdiction in all steps of the licensing procedure. This should range from the evaluation of work plans for exploration to the assessments of environmental impacts, including cumulative impacts of mining operations.

This alignment should include:

- consideration of the CBD scientific criteria for “Ecologically or Biologically Significant marine Areas (EBSAs)”;
- the CBD guidance for the design of representative networks of marine protected areas;
- the FAO criteria for the identification of “Vulnerable Marine Ecosystems” (VMEs); and
- the criteria adopted by other international organisations for areas to be protected from adverse human impacts, for example High Sea Marine Protected areas.

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