International Seabed Authority requirements for environmental impact assessment of deep seabed mining
International regime based on:

1982 UN Convention on the Law of the Sea (as modified by 1994 Agreement)

Rules, regulations and procedures of the Authority

General rules of international law
LOSC Article 192: General obligation on all States to protect and preserve the marine environment
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Implemented for the Area by Article 145: ISA to adopt rules, regulations and procedures to protect and conserve natural resources and to prevent damage to flora and fauna
LOSC Article 192: General obligation on all States to protect and preserve the marine environment

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1994 Agreement (Annex Section 1, para. 7): added a specific requirement for assessment of possible environmental impact as part of a plan of work
Advisory Opinion by Seabed Disputes Chamber (Nauru Case)

Prior environmental impact assessment recognized as principle of general international law for all transboundary activities (based on extension of Argentine Pulp Mills Case, ICJ)

Responsibility of sponsoring State to ensure that EIA carried out.
Nodules (2000)
Polymetallic Sulphides (2010)
Cobalt-rich Crusts (2012?)
Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area (2000)
Regulation 18

Applicant for exploration licence must submit:

(a) general description of proposed exploration programme;

(b) description of environmental baseline studies to be carried out (in accordance with any recommendations issued by Legal and Technical Commission); and

(c) preliminary assessment of possible environmental impact from exploration.
Regulation 31
Protection of the marine environment

Contractors and sponsoring States shall cooperate with Authority in establishment and implementation of programmes to monitor and evaluate environmental impacts of DSM.

Different responsibilities of ISA, sponsoring States and contractors
<table>
<thead>
<tr>
<th>ISA</th>
<th>Sponsoring states</th>
<th>Contractors</th>
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<tbody>
<tr>
<td>Authority shall establish environmental rules, regulations and procedures.</td>
<td>Authority and Sponsoring States shall apply precautionary approach.</td>
<td>Contractors shall prevent, reduce and control pollution and other hazards using best technology available.</td>
</tr>
<tr>
<td>Authority and Sponsoring States shall apply precautionary approach.</td>
<td>Gather environmental baseline data and establish environmental baselines in accordance with any recommendations issued by LTC and monitor effects of activities on marine environment.</td>
<td>Report annually on environmental monitoring programmes and shall submit data and information.</td>
</tr>
</tbody>
</table>
Standard Terms of Contract: Section 5

Embodies requirements of Regulation 31 regarding environmental monitoring programmes and collection and reporting of baseline data.

Requires site-specific EIS and proposal for monitoring programme to be submitted prior to testing of collector systems and processing operations.
LOSCE Article 165: Centrality of the role of the Legal and Technical Commission

Make recommendations for guidance of contractors.

Assess environmental impacts of activities in the Area.

Make recommendations to Council for protection of marine environment.

Recommend environmental monitoring programmes.

Recommend emergency orders to prevent harm to marine environment.

Recommend institution of proceedings before Seabed Disputes Chamber (enforcement).
Some issues to consider

Is LTC equipped to perform its functions?
Obsolescence - slow regulatory response to new knowledge.
Role of industry.
Transparency.
Potential for political interference by Council.
Programmatic EIA in areas of intense activity (CCZ).
Critical tasks for Legal and Technical Commission

- Establish baselines (using standardised contractor data and other available data)
- Conduct strategic environmental assessment at regional scale (especially relevant to CCZ)
- Establish reference areas on a scientific basis
- Provide technical guidance documents to assist contractors to carry out EIA