

**Comments of the Federated States of Micronesia**  
**on draft guidelines for the preparation of environmental management and monitoring plans**

<b><i>Document reviewed</i></b>	
<b>Title of the draft being reviewed:</b>	Draft Guidelines for the preparation of environmental management and monitoring plans
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<b><i>General Comments</i></b>	
<p>As these and other Standards and Guidelines are being drafted while the exploitation regulations are still in draft form and are intended to be in place in time for the adoption of the latter, it is unclear to us how such Standards and Guidelines will take into account developments in the drafting and finalization of exploitation regulations. Will the Standards and Guidelines, once adopted, be subject to amendment once the exploitation regulations are adopted in case the latter deviate substantively from the former in relevant parts, and if so, what will be the timeline for such amendment? Or, will there be a presumption that in the case of inconsistency, the exploitation regulations will prevail once they are adopted?</p>	
<p>A key element of an environmental impact assessment (“EIA”) process is consultations with stakeholders, which are typically mandatory for such a process. However, the current draft exploitation regulations do not mandate such stakeholder consultations – they only recommend them – and so there appears to be a concomitant lack of a mandate in the current draft Standard and Guidelines for EIAs, current draft Guidelines for the preparation of an environmental impact statement (“EIS”), and the current draft Guidelines for the preparation of environmental management and monitoring plans (“EMMPs”). Micronesia strongly supports making stakeholder consultations mandatory throughout the entire process of preparing EIAs, EISes, and EMMPs, including consultations with coastal States with marine spaces that are adjacent to sites for exploitation activities as well as consultations with Indigenous Peoples and local communities with relevant traditional knowledge. Micronesia will advocate for such an approach during the still-ongoing development of the relevant draft exploitation regulations. The current draft Guidelines for the preparation of EMMPs will likely need to be revised prior to finalization in order to take into account developments in the draft exploitation regulations pertaining to stakeholder consultations.</p>	
<p>Regarding the Monitoring and Management Program under an EMMP, as discussed in the section from Lines 198 to 397, the current draft Guidelines for preparation of EMMPs state that the environmental parameters to be considered in a Monitoring and Management Program are</p>	

those studied during the baseline study, EIA phase, and EIS phase, including the physiochemical, biological, and socioeconomic environments. However, the current draft Standard for EIAs defines an EIA expansively to include not just those considerations but also “other relevant effects of development proposals.” (See Lines 1238-9 of the draft Standard for EIAs.) Micronesia supports this expansive definition of an EIA and therefore suggests expanding the sub-section on environmental parameters to be considered in a Monitoring and Management Program to include “other relevant” elements.

By its nature, an EMMP must employ an adaptive management approach, reacting as necessary to the results of its monitoring of all relevant environmental effects and considerations. It is Micronesia’s view that adaptive management is not a substitute for appropriate oversight of an applicant/contractor by relevant organs of the International Seabed Authority; while the applicant/contractor should be able to adapt its management efforts as appropriate, such adaptiveness should be subject to appropriate review at appropriate points in time by appropriate organs of the Authority.

Regarding the section on Preservation Reference Zones and Impact Reference Zones, as discussed from Line 522 to Line 531 of the current draft Guidelines for the preparation of EMMPs, the draft Guidelines reference the requirement in annex VII of the draft exploitation regulations that an EMMP includes the location and planned monitoring and management of preservation reference zones (“PRZs”) and impact reference zones (“IRZs”), or “other spatial management planning tools.” However, the current draft Guidelines only have text on PRZs and IRZs. It is Micronesia’s view that annex VII allows for – and, indeed, requires – consideration to be paid to tools beyond PRZs and IRZs, including (where relevant) marine protected areas and similar area-based management tools established under other (but related) international legal instruments and processes. The current draft Guidelines should be revised to reference other such tools. Reference could be made to the establishment of area-based management tools under a to-be-adopted international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

Regarding the section on Mining Discharges and Waste Assessment and Prevention Audit, as discussed from Line 532 to Line 605 of the current draft Guidelines for the preparation of EMMPs, it is Micronesia’s view that details on mining discharges contained in an EMMP must include, among other things, references to targeted consultations by the relevant contractor with the coastal State(s) with jurisdiction over marine spaces adjacent to the location of planned mining discharges, as such adjacent marine spaces could very well be impacted by such discharges. Such consultations must take place prior to any mining discharge, and the relevant contractor must take into account the feedback from such adjacent coastal State(s) in deciding whether to engage in the mining discharge. As for mining discharges that are undertaken on an emergency basis (as provided under draft exploitation regulation 50(2)), there must be a call for the EMMP to contain details for carrying out assessments, mitigation, monitoring, and similar measures pertaining to the marine spaces of these adjacent coastal States after such mining discharges.

<i>Additional rows can be added to this table by selecting “Table” followed by “insert” and “rows below”</i>

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