

CLOSURE PLAN – BRIEFING NOTE AND FIRST REVISED PROPOSAL

Submitted by Fiji as Facilitator of the IWG on Closure Plan

1. The purpose of the present briefing is to provide background to the first revised proposal of the Facilitator of the Informal Working Group on the Closure Plan, contained in Annex I to this document.
2. Following the discussions held during the first part of the thirty-first session, a calendar of intersessional work was circulated to participants in the group. The relevant upcoming deadlines and the date of the next meeting are set out below for ease of reference:

22 April 2026 – 2:00pm UTC	First intersessional online meeting of the IWG on Closure Plan. Connection details will be shared by the Secretariat in due course.
29 April 2026	Delegations are kindly requested to submit their written comments following the first intersessional meeting to the Secretariat at council@isa.org.jm by this date.
6 May 2026	The Facilitator will circulate a revised text to the group.
13 May 2026 – 2:00pm UTC	Second intersessional online meeting of the IWG on Closure Plan. Connection details will be shared by the Secretariat in due course.

3. Comments have been received from five participants. One of these submissions was provided by the Facilitator of the IWG on Environmental Management and Monitoring (Norway) and is intended to enhance alignment between the provisions on Environmental Management and Monitoring (EMM) and those on the Closure Plan.
4. To that end, the proposal introduces amendments to a number of provisions relating to both the Closure Plan and EMM. Elements falling within the scope of the present group have been directly incorporated into the consolidated proposal contained in Annex I. The relevant draft regulations include indications in the comment boxes where language proposed by Norway has been reflected, in order to make clear that such amendments aim at improving alignment with the EMM framework..
5. Elements of Norway’s proposal that fall outside the scope of the present group, and instead pertain to the EMM group, have been placed in a separate Annex III, so as to enable participants to consider them and provide comments.

6. In the same submission, Norway also proposed a restructuring of the sections relating to EMM and the Closure Plan, as follows:

49 – Environmental Management and Monitoring
49bis – Environmental Management System
50 – Environmental Management and Monitoring Plan
51 – Closure Plan
51bis - Final Closure Plan: Cessation of [Commercial] Production
51ter – Unexpected and Temporary Suspensions of production
51quater - Implementation and Monitoring of the Final Closure Plan
52 - Reporting on Environmental Monitoring and Management and Closure Plan
52bis - Compliance with the Environmental Management and Monitoring Plan and Closure Plan
52ter - Performance assessments of the Environmental Management and Monitoring Plan [and Closure Plan]
53 - Pollution Control
53bis – Mining Discharges

7. In addition to comments on the draft regulations, participants are also invited to provide their views on the restructuring proposed by Norway. A consolidated proposal of EMM and Closure Plan has been prepared, to allow participants to have a better idea of how the provisions would look in the order proposed by Norway. For further clarity, the consolidated proposal is contained in a separate document that has been shared with participants and uploaded on the website of the Authority.
8. Some participants have also submitted comments on Annex VIII on the Closure Plan. However, as this Annex has not yet been considered within the framework of the group, not all participants have had the opportunity to submit proposals. Accordingly, the Facilitator has opted to present all contributions in a compiled, rather than consolidated, form. This also means that previous mark-up has not yet been accepted.
9. It is proposed that the group now also begin consideration of Annex VIII. Comments are therefore welcome both during the first meeting and in writing, in line with the calendar set out above.

10. Finally, in addition to the first revised proposal contained in Annex I, a clean version has been provided in line with the approach adopted by the Secretariat, without mark-up or comment boxes (Annex II). Also in the case of this group, in the event of any inconsistency the marked-up version prevails.

ANNEX I – FIRST REVISED CONSOLIDATED PROPOSAL ON CLOSURE PLAN

Regulation 519

Closure Plan

1. An Applicant shall prepare and a Contractor shall ~~develop-maintain~~ a Closure Plan for the Mining Area, in accordance with ~~regulation 7, paragraph 3 and regulation 93 ter~~, Annex VIII to these Regulations, ~~[applicable Standards]~~ and ~~[consistent with other Environmental Plans of the Contractor]~~, ~~[the Environmental goals and objectives of the Authority as contained in regulation 44ter]~~, ~~as well as Standards~~, ~~[Alt. 1 the applicable Regional Environmental Management Plan]~~, and taking into account the ~~Guidelines~~ ~~[Alt. 2 and the applicable Regional Environmental Management Plan]~~ ~~[including environmental threshold values]~~.

~~[1.Alt. A[n applicant shall prepare and a] Contractor shall [develop]/[maintain] a Closure Plan for the [Mining Area]/[Contract Area]. The Closure Plan shall include a date for cessation of Commercial Production.]~~

~~[1.bis The objectives of a Closure Plan are to ensure that:~~

~~[(a) the Contractor has the obligation to ensure the effective Protection of the Marine Environment and human health and safety from the harmful effects of activities in the Area;]~~

~~[(a)Alt. the Marine Environment is effectively protected from harmful effects of activities in the Area;]~~

~~[(b)Alt. Ecosystem Integrity has been maintained or, and where necessary restored, in accordance with the environmental goals and objectives in regulation 44ter;]~~

~~[(c) any adverse Environmental Effects arising from Closure are Mitigated; and~~

~~(d) [residual] Environmental Effects continue to be monitored, [managed,] [Mitigated] and reported for the period prescribed in the Closure Plan; and]~~

~~[(c)Alt. Any adverse Environmental Effects arising from Closure are Mitigated, and residual Environmental Effects continue to be monitored and reported for the period prescribed in the Closure Plan;]~~

~~[(de) all installation and equipment, and equipment, or parts thereof, [and waste] are removed from the [Mining Area]/[Contract Area]; [and]]~~

~~[(e)Alt. all installations, equipment or parts thereof introduced into the Area or Marine Environment in connection with the Contractor's activities under the Contract are removed;]~~

~~[(f) the Authority is informed about the state of the Contract Area at the time of cessation of Commercial Production, including any remaining Resources and the environmental conditions.]]~~

~~[1bis.Alt. The Closure Plan shall be in accordance with the Authority's environmental policy and objectives [including those set out in regulation 44 ter] and [are compatible with] applicable Standards and [taking into account] the relevant Regional Environmental Management Plan, the relevant Guidelines, and be based on the Environmental Impact Statement, and shall include all elements and matters prescribed by the Authority in Annex VIII to these Regulations, and shall:~~

~~(a) set project specific environmental objectives and environmental performance Standards;~~

~~(b) set measurement criteria and methodology;~~

(b) bis [detail] how spatial and temporal measures, including Preservation Reference Zones and Impact Reference Zones, will be utilised and implemented;

(c) commit to specific measures and procedures on:

(i) monitoring the Environmental Impacts and Environmental Effects of Closure;

(ii) Mitigation and management, including pollution control in regulation 53 bis;

[(iii) monitoring the effectiveness of monitoring and management, as the relevant measures and procedures are implemented]; and

(iv) taking corrective action and responding to monitoring results and new knowledge with the aim of continuous improvement;

(d) describe what monitoring data and reports will be submitted to the Authority, including details of: frequency, format, medium, and data integrity Standards.]

[1ter. The Contractor shall ensure that all installation and equipment, or parts thereof, are removed from the [Mining Area]/[Contract Area] after cessation of production.]

2. The Closure Plan shall, in accordance with the requirements of Annex VIII, set out the ~~obligations~~ of a Contractor during any Temporary Suspension and Closure.

[2. bis In developing the Closure Plan, the Applicant shall, *inter alia*:

(a) undertake a gap analysis of existing environmental data to determine if additional information and/or surveys will be required [to inform closure];

(b) set a date for cessation of Commercial Production;

(b) bis ~~ensure alignment between the Closure Plan and the Environment Management and Monitoring Plan for the [duration of] [the] Closure Plan [and the post-closure period], in accordance with the applicable Standards and taking into account the Guidelines; and~~

~~(c) include project-specific objectives, which may include Restoration [where possible,] and Rehabilitation commitments in accordance with the [environmental goals and objectives in the regulation 44ter and Closure objectives in paragraph 1. Bis,] applicable Standards and taking into account the Guidelines[, including environmental threshold values].]~~

~~2.ter In developing and maintaining the Closure Plan, the Applicant or Contractor shall ensure transparency, and shall:~~

~~(a) consult with all States and Stakeholders in accordance with regulation 93ter; and~~

~~(b) engage with [relevant] Stakeholders, and in accordance with regulation 93 bis, Standards, and taking into account the Guidelines, consult Stakeholders on the Closure Plan, design, review, and implementation.~~

3. A Contractor shall maintain and update its Closure Plan on the basis of ~~information arising~~ from implementation of the ~~Plan of Work~~ and in accordance with these Regulations Good Industry Practice, Best Environmental Practices, Best Available Techniques, Best Available Scientific Information and the applicable Standards and taking into account the Guidelines.

4. ~~Alt.~~ The Closure Plan shall be reviewed and if necessary, updated [at the following intervals]:

(a) if required pursuant to regulation 57;

(b) every 5 years from the date of signature of the Exploitation Contract, except where a Closure Plan has been updated in the interim pursuant to regulation 57, in which case 5-years period shall be calculated from the date of Closure was reviewed; or

(c) [6 years] [Alt. 1 /] [Alt.2 and] [4 years] prior to the [planned]/[expected] cessation of Commercial Production [as indicated in the approved Plan of Work].

~~5.-Alt.~~ The updated Closure Plan shall be subject to Stakeholder consultation in accordance with regulation 93ter . Coastal states shall be engaged in accordance with regulation 93bis.

6. Alt. Any update to a Closure Plan [Alt. 1] proposed by a Contractor, pursuant to paragraph 4Alt, subparagraph (b) or (c) shall be treated as a request for a modification to a Plan of Work approved by the Authority pursuant to [Alt. 2 shall be made in accordance] with regulation 57.

Comments

- As noted in the briefing note, the proposal includes a number of suggestions from the Facilitator of the IWG on EMM (Norway). In this draft regulation, Norway has proposed new language for paragraph 1 and 1bis, which has been included respectively in new paras 1.Alt. and 1.bis.Alt.
- The language of para 1.Alt is much more streamlined compared to the original version, based on the fact that most of its elements have been relocated to para 1.bis.Alt.
- In the alternative proposal from Norway, the obligation to remove installation and equipment from the Mining/Contract Area has been placed in a standalone para 1.ter, to highlight that it is a central obligation. Norway suggested that this provision might also be moved to draft regulation 49. Comments are welcome on this point.
- If para 1.bis.Alt. is retained, also para 2.bis becomes redundant and should be deleted. For the time being, it has been retained pending comments from participants on the proposal from Norway, which are especially encouraged.
- As both versions of para 1 and 1.bis have been retained (together with para 2), comments of detail received have been included in the original versions.
- Based on the written proposals received, most participants seem to agree that para 2.ter and 5.Alt. are overlapping and redundant. Since there was a slight preference for deletion of para 2ter, it has been suggested deleted, but views are welcome.
- On participant suggested that that para 4(c) should provide for a revision of the Closure Plan both 6 years and 4 years before cessation of Commercial Production. Views are welcome.
- Finally, comments are welcome on the two alternative languages proposed for para 6.

Regulation ~~60~~51bis

Final Closure Plan: Cessation of Commercial Production

1. A Contractor shall, at least 24 months prior to the planned cessation of Commercial Production submit to the Secretary-General [Alt.1], for the consideration of the Commission,] a[n] [updated] [Final] Closure Plan [Alt. 2 , which shall be treated as a proposed modification to a Plan of Work, for the purposes of DR57].

[1. bis The Contractor shall consult on the [updated] [Final] Closure Plan with all States and Stakeholders in accordance with regulation 93 ter.]

[1. bis. Alt. The Final Closure Plan shall be subject to Stakeholder consultation in accordance with regulation 93ter. Coastal states shall be engaged in accordance with regulation 93bis.]

2. The Commission shall consider the [Final] [updated] Closure Plan and any comments received pursuant to paragraph 1bis[.Alt] within the consultation ~~period~~ under regulation 93 ter].

3. If the Commission determines that the [Final] [updated] Closure Plan meets the requirements of regulation 519, it shall recommend approval of the Final Closure Plan to the Council.

4. ~~Alt.~~ If the Commission determines that the [Final] [updated] Closure Plan does not meet the requirements of the regulation 519;

(a) the Commission shall request the Contractor in writing to make and submit amendments to the [Final] [updated] Closure Plan as a condition for recommendation of approval of the Plan in accordance with paragraph 3 of this regulation:

(b) the Contractor shall have the opportunity to make representations and /or to submit a revised [Final] [updated] Closure Plan for the Commission's consideration, within 90 Days of the date of the request in subparagraph (a); and

(c) the Commission shall consider any representations under subparagraph (b) and any revised [Final] [updated] Closure Plan submitted by the Contractor when preparing its report and recommendations to the Council.

~~[5. The Commission shall give the Contractor written notice of its recommendation under paragraph 4 above and provide the Contractor with the opportunity to make representations or to submit a revised [Final] [updated] Closure Plan for the Commission's consideration, within 90 Days of the date of notification to the Contractor.]~~

~~56. The Commission and Finance Committee shall review the amount of the Environmental Performance Guarantee provided under regulation 26 and whether it reflects the forecasted costs required for implementation of the Final Closure Plan. The Commission shall ~~and~~ include the results of that review and any recommendations in ~~the Commission's~~ [its] report to the Council on the [Final] [updated] Closure Plan.~~

~~67. The Council shall consider and take a decision based on the report and recommendation of the Commission. [The Council's decision shall include such directions to the Contractor as the Council considers appropriate.]~~

~~[6.bis Where a Contractor fails to comply with any requirement of this regulation, the Secretary-General shall refer the matter to the Compliance Committee for consideration in accordance with regulation 103. The Compliance Committee may take appropriate measures, including, where applicable, recommending to the Council, recourse to the Environmental Performance Guarantee provided under regulation 26.]~~

~~78. Any reports and recommendations submitted to the Council and decisions made by the Council under this regulation shall be published on the Authority's website [by the Secretary General] within 7 Days of a submission or decision being made.~~

Comments

- As an overall comment, there doesn't seem to be yet a common understanding in the group on whether the Closure Plan covered by this regulation should be a Final Closure Plan or an updated one. While the proposal submitted by the delegation of Norway does not touch this point, the positions expressed by the remaining three participants are as follows:
 - 1) One participant suggested that the draft regulation should make reference to an "updated" Closure Plan, and the word "Final" seems to suggest that it is a separate document, while in reality it is the same one, but updated. Alternatively, it was suggested that the draft regulation should make it clear how the Final Closure Plan relates to previous iterations of the Closure Plan. The position to keep the term "updated" is also supported by a regional group, based on the comments received from the floor during the first part of the thirty-first session.

2) One participant expressed preference for a “Final” Closure Plan, suggesting that the Closure Plan is already updated through the procedure outlined in the previous draft regulation. On the contrary, this would be the Final Closure Plan, meaning the plan drawn up prior to closure or cessation of operations.

3) One participant understood the two terms (“updated” and “Final”) not as opposed, but to be used together. Based on this, it suggested that there is no need to refer to an ‘updated’ Final Closure Plan.

Pending further discussion, both terms have been retained. Participants are welcome to express a view on this matter.

- Apart from this, the structure of the draft regulation seems to be agreeable to participants. Most mark-up has been accepted and brackets removed, of course without prejudice for the possibility to represent reservations or comments.
- One participant suggested to delete para 5, as already covered by para 4.
- A new para 6.bis has been proposed by one of the participants, as a placeholder pending a more detailed discussion in cooperation with the Friend of the President on DR103.

~~Regulation 60bis51ter~~

~~Unexpected and Temporary Suspensions of Commercial Production~~

~~[1. As soon as reasonably practicable after any unexpected cessation in Commercial Production, including a Temporary Suspension, the Contractor shall put in place a care and maintenance plan, taking into account the results of monitoring and data and information gathered during the exploitation phase and the relevant Regional Environmental Management Plan and the environmental thresholds values.~~

~~2. The Contractor shall notify the Secretary General of any such unexpected cessation or Temporary Suspension in Commercial Production as soon as reasonably practicable and shall provide the Secretary General with a copy of the care and maintenance plan.]~~

Comments

- Most participants highlighted that previous draft regulation 60bis (51ter if it is retained) seemed to be out of place in this context. Moreover, it was suggested that draft regulations 29 and 51 (previously 59), paragraph 2, as well as Annex VIII outline sufficiently the Contractor’s obligations during Temporary Suspension and Closure. As such, this draft regulation has been suggested deleted. Delegations are encouraged to provide comments.
- In case the draft regulation is retained, amendments proposed by some participants have been included in the text currently suggested deleted.

Regulation ~~61~~51 quater

~~Implementation and Monitoring of the Final Closure Plan~~

~~[2. The Contractor shall continue to monitor the Marine Environment ~~as set out~~ in the [Final] Closure Plan until the objectives of the Closure Plan ~~objectives~~ have been achieved.~~

~~[1. bis The purpose of Closure monitoring is ~~to~~:~~

~~(a) ~~Obtain~~ evidence that the ~~C~~ontractor fulfilled its obligations under these Regulations;~~

(a) bis Verify that there are no further impacts arising from Commercial Production after cessation: and

(b) ~~{Assess}~~ the need for Restoration and Rehabilitation of the Marine Environment [in line with the objectives of the Closure Plan objectives];]

~~[1.bis.Alt. The purpose of Closure monitoring is to obtain evidence that the Contractor fulfilled its obligations under these Regulations and to assess the achievement of the Closure objectives]~~

~~2. The Contractor shall continue to monitor the Marine Environment [as set out] in the [Final] Closure Plan until the Closure objectives have been achieved.~~

~~[3. A Contractor shall implement the Final Closure Plan and shall report to the Secretary General on the progress of such implementation, including a summary of the results of monitoring, conducted in accordance with [regulations 49 to 52,] the applicable Standard and pursuant to the [Environmental Monitoring and Management Plan], and management actions taken in response to any residual adverse Environmental Effects identified through monitoring, until completion of the Final Closure Plan.]~~

~~[4. Such reports [shall] be submitted in accordance with the [approved Environmental Monitoring and Management Plan]. [The frequency of reporting] [may] / [shall] be adjusted by the Council based on recommendations from the Commission.]~~

~~[5. Monitoring data, collected by the Contractor pursuant to this regulation and its [Final] Closure Plan, shall be publicly released in accordance with regulation 92 bis.]~~

~~[26. Upon completion of implementation of the Final Closure Plan, the [Contractor]/[Authority] shall, in accordance with the procedure described in the applicable Standard, hire an Independent Auditor to conduct a final compliance assessment and submit a final compliance assessment report, [in accordance with] the applicable Standards and taking into account the Guidelines, to the Secretary-General to ensure that the Closure objectives contained in the Final Closure Plan [have] been met. [The] report shall be reviewed by the Commission at its next meeting, provided that it has been [published on the website of the Authority] at least 30 Days in advance of the meeting.]~~

~~[26.bis Any final compliance assessment reports prepared by the Independent Auditor shall be made available for commenting by Stakeholders and independent experts. Any comments received shall be made available for the Commission.]~~

~~[2.bis.Alt. In preparing any final compliance assessment reports the Independent Auditor shall consult Stakeholders and independent experts, as appropriate.]~~

~~[37. The Commission shall [submit] a report [of its review under paragraph 6] and recommendations to the Council for consideration, [which] shall decide whether, the objectives of the Final Closure Plan have been achieved. The [Commission's] report [and Council's decision] shall be published at the Authority's website [in accordance with regulation 92].]~~

~~[48. If the Council decides that a Contractor has met the objectives of the Final Closure Plan, the Council shall release the Environmental Performance Guarantee to the Contractor.]~~

~~[59. If the Council decides that a Contractor has failed to meet the [objectives of] the Final Closure Plan and reporting hereon, the Council shall] [either:]~~

(a) direct the Contractor on further action that shall be taken to deliver the Final Closure Plan; or

[(b) direct the Authority to use funds from the Environmental Performance Guarantee to facilitate work to meet the objectives of the Final Closure Plan and on completion of that work, to release remaining funds from the Contractor's Environmental Performance Guarantee to the Contractor.]

Comments

- The structure of this draft regulation has not received many comments. Most of the previous mark-up has therefore been accepted to improve clarity.
- Para 2 has been moved to para 1 based on the proposal from Norway.
- As a note on the terminology used, it is highlighted that some provisions make reference to “Closure objectives”, while others to “objectives of the Closure Plan”. Participants are welcome to express a view on the preferred wording. Should participants agree on one language, it is suggested that the Facilitator might ensure that only that one is included in the second revised proposal.
- Para 3, 4 (previous 4.Alt.) and 5 have been suggested deleted based on the proposal from Norway, as their content would be already covered by draft regulation 50bis (see Annex II to the present document). If preference for their retention is expressed, it is highlighted that the language of para 5 has been slightly refined and brackets around “with” and “draft regulation 92bis” have been removed.
- In para 6, reference to the Authority hiring an independent auditor has been added, based on the request of a participant. Discussion on this point is welcome.
- All participants seem to agree on the inclusion of para 6.bis. However, an alternative version has been proposed by one participant and is included as para 6.bis.Alt.
- In para 7 and 8, one participant questioned whether the Council should decide not only whether the objectives of the Final Closure Plan have been met, but also whether the purpose of the Monitoring of the Final Closure Plan under para 1.bis have been achieved. It was suggested that this should either be reflected in the objectives of the Closure Plan under draft regulation 51 (previous 59), or alternatively the Council should be required to decide whether this condition has been met.
- While para 9(b) has been accepted and is no longer in mark-up, brackets have been added based on the suggestion of a participant this may need further discussion to ensure alignment with the language in draft regulation 26.

Annex VIII

Closure Plan

1. The ~~Closure Plan or~~ Final Closure Plan shall be prepared and implemented in accordance with regulation 7 [and regulations 59-61], the Environmental Management System, Standards and taking into account the Guidelines and the relevant Regional Environmental Management Plan and shall include sufficient information to address the following ~~elements~~information:

(a) a description of the Closure objectives to ensure that the Closure of Exploitation activities is a process that is incorporated into the mining life cycle, any measures agreed or proposed to implement these, and how these relate to the mining activity and its environmental, socioeconomic and sociocultural setting;

(b) the period during which the plan will be required, which shall be determined by reference to a specified duration, achievement of a specified event or target indicator or compliance with specified terms agreed with the Authority and shall relate to the objectives of the Environmental Impact Assessment, such as recovery of impacted environment;

(c) geographical coordinates showing the area(s) subject to the Closure objectives and specifications of the geodetic datum used, accompanied by a map;

[(d) a summary of the relevant regulatory requirements, including conditions previously documented, e.g. baselines;]

(e) details of the Closure implementation and timetable, including descriptions of the arrangements for the ~~T~~emporary ~~S~~suspension of Exploitation activities or for permanent Closure as well as Decommissioning arrangements for vessels, Installations, plant and removal of equipment (where applicable);

~~[(f) summary of data and information relating to environmental baseline for monitoring measures;]~~

~~[(g) a summary of the Environmental Impact Statement entailing an updated Environmental Impact Assessment for the activities that will be undertaken during Closure, if any, together with details of the identifiable remaining Environmental Effects, including any relevant technical documents or reports as well as the expected period until recovery of the environment towards natural state conditions;]~~

~~[(g)bis information sufficient to describe the state of the Contract Area at the time of cessation of Commercial Production, including details of any remaining Resources and the prevailing environmental conditions;]~~

~~[(h) the temporal and spatial intensity of monitoring to be undertaken during and after Closure needs to mirror monitoring efforts prior and during Exploitation using equivalent methodology to allow for full quantification of the impact as well as of any recovery from impacts. Details of monitoring to be undertaken during and after closure (comparable to monitoring efforts prior and during exploitation) that specify the sampling design (spatial and temporal sampling), the methods to be used and the duration of the [post-closure activities] [and] [post Commercial Production];]~~

(i) details of the management measures to minimize, control, Mitigate the remaining Environmental Effects;

(j) details of the remediation, ~~R~~estoration and Rehabilitation (where possible)~~] objectives and activities building on those detailed in the Environmental Impact Statement and the Environmental Management and Monitoring Plan;~~

(k) documentation of environmental recovery and details of any anticipated residual impacts that may remain even after Mitigation measures;

(l) information on reporting and management of data and information ~~[post closure] [and] [post Commercial Production]~~ including information on how data will be archived and made ~~{publicly}~~ available ~~[post-closure] [and] [post Commercial Production]~~, and how the formatting of submitted datasets and reports will be consistent with best scientific practices;

(m) details of the persons or entity (subcontractor, consultant(s)) that will carry out the monitoring and management measures under the Closure Plan or Final Closure Plan, including their qualification(s) and experience, together with details of the budget, (incl. inflation adjustment for long-term monitoring), project management plan and the protocols for reporting to the Authority under the Closure Plan or Final Closure Plan;

(n) details of the amount of the Environmental Performance Guarantee provided under these Regulations; and

~~[(o) details of consultations with Stakeholders in respect of the plan.]~~

~~[(o)Alt. A summary of the comments received as a result of the consultation with Stakeholders and of how they have been considered by the Contractor]~~

2. The level of detail in the Closure Plan or Final Closure Plan is expected to differ between cases involving a ~~T~~emporary ~~s~~Suspension of ~~Exploitation activities mining operations~~, cases involving unplanned abandonment of work, and cases involving final mine closure. The content of the Closure Plan or Final Closure Plan is to be commensurate with the nature, extent and duration of activities associated with the level of closure and maturity of the project.

Comments

- As mentioned in the briefing note, comments on Annex VIII have been treated as a compilation, without trying to accommodate the different views. Moreover, previous mark-up has not been accepted. It is suggested that the group also commences consideration of Annex VIII and, as such, comments on it are welcome.
- It has been suggested that it would be helpful to state more clearly if para 1(a) is intended to refer to project-specific Closure objectives, and explain the interaction with the ISA's Closure objectives. Additionally, it was suggested that the same para should also require the Closure Plan objectives to be measurable and linked to indicators. Participants are invited to provide comments and specific language on this point.
- Brackets have been added to para 1(d), (f) and (g), based on the suggestion of a participant that they might be duplicative. Comments on which version should be retained are encouraged.
- One participant suggested that para 1(k) should reflect the improvements that may occur over time to the ability to restore deep-sea environments, and reduce residual impacts. It was therefore suggested that the provision should require the Contractor to provide justification for why residual impacts cannot be mitigated further.
- Para 1(o)Alt. has been drafted by the Facilitator based on the suggestion of a participant. Comments on the preferred alternative, and proposals to refine the language are welcome.
- A participant questioned if Annex VIII may benefit more in general from restructuring into sections with sub-headings, to improve usability.
- It was also suggested that the Annex VIII might benefit from a new provision that sets out what information the Contractor needs to provide for a temporary suspension of mining activities.

ANNEX II – FIRST REVISED CONSOLIDATED PROPOSAL ON CLOSURE PLAN (CLEAN VERSION)

Regulation 51

Closure Plan

1. An Applicant shall prepare and a Contractor shall maintain a Closure Plan for the Mining Area, in accordance with, Annex VIII to these Regulations, applicable Standards and [consistent with other Environmental Plans of the Contractor], [the Environmental goals and objectives of the Authority as contained in regulation 44ter], , [Alt. 1 the applicable Regional Environmental Management Plan], and taking into account the Guidelines [Alt. 2 and the applicable Regional Environmental Management Plan] [including environmental threshold values].

[1.Alt. A[n applicant shall prepare and a] Contractor shall [develop]/[maintain] a Closure Plan for the [Mining Area]/[Contract Area]. The Closure Plan shall include a date for cessation of Commercial Production.]

[1.bis The objectives of a Closure Plan are to ensure that:

[(a) the Marine Environment is effectively protected from harmful effects of activities in the Area;]

(b) Ecosystem Integrity has been maintained or restored, in accordance with the environmental goals and objectives in regulation 44ter;

[(c) Any adverse Environmental Effects arising from Closure are Mitigated, and residual Environmental Effects continue to be monitored and reported for the period prescribed in the Closure Plan;]

[(d) all installation and equipment, or parts thereof, [and waste] are removed from the [Mining Area]/[Contract Area]; [and]]

[(e)Alt. all installations, equipment or parts thereof introduced into the Area or Marine Environment in connection with the Contractor's activities under the Contract are removed]

[(f) the Authority is informed about the state of the Contract Area at the time of cessation of Commercial Production, including any remaining Resources and the environmental conditions.]]

[1bis.Alt. The Closure Plan shall be in accordance with the Authority's environmental policy and objectives [including those set out in regulation 44 ter] and [are compatible with] applicable Standards and [taking into account] the relevant Regional Environmental Management Plan, the relevant Guidelines, and be based on the Environmental Impact Statement, and shall include all elements and matters prescribed by the Authority in Annex VIII to these Regulations, and shall:

(a) set project specific environmental objectives and environmental performance Standards;

(b) set measurement criteria and methodology;

(b) bis [detail] how spatial and temporal measures, including Preservation Reference Zones and Impact References Zones, will be utilised and implemented;

(c) commit to specific measures and procedures on;

(i) monitoring the Environmental Impacts and Environmental Effects of Closure;

(ii) Mitigation and management, including pollution control in regulation 53 bis;

[(iii) monitoring the effectiveness of monitoring and management, as the relevant measures and procedures are implemented]; and

(iv) taking corrective action and responding to monitoring results and new knowledge with the aim of continuous improvement;

(d) describe what monitoring data and reports will be submitted to the Authority, including details of: frequency, format, medium, and data integrity Standards.]

[1ter. The Contractor shall ensure that all installation and equipment, or parts thereof, are removed from the [Mining Area]/[Contract Area] after cessation of production.]

2. The Closure Plan shall, in accordance with the requirements of Annex VIII, set out the obligations of a Contractor during any Temporary Suspension and Closure.

[2. bis In developing the Closure Plan, the Applicant shall, *inter alia*:

(a) undertake a gap analysis of existing environmental data to determine if additional information and/or surveys will be required [to inform closure];

(b) set a date for cessation of Commercial Production;

(b) bis ensure alignment between the Closure Plan and the Environment Management and Monitoring Plan for the duration of the Closure Plan [and the post-closure period], in accordance with the applicable Standards and taking into account the Guidelines; and

(c) include project-specific objectives, which may include Restoration [where possible,] and Rehabilitation commitments in accordance with the [environmental goals and objectives in the regulation 44ter and Closure objectives in paragraph 1. Bis,] applicable Standards and taking into account the Guidelines[, including environmental threshold values].]

3. A Contractor shall maintain and update its Closure Plan on the basis of information arising from implementation of the Plan of Work and in accordance with these Regulations Good Industry Practice, Best Environmental Practices, Best Available Techniques, Best Available Scientific Information and the applicable Standards and taking into account the Guidelines.

4. The Closure Plan shall be reviewed and if necessary, updated [at the following intervals]:

(a) if required pursuant to regulation 57;

(b) every 5 years from the date of signature of the Exploitation Contract, except where a Closure Plan has been updated in the interim pursuant to regulation 57, in which case 5-years period shall be calculated from the date of Closure was reviewed; or

(c) [6 years] [Alt. 1 /] [Alt.2 and] [4 years] prior to the [planned]/[expected] cessation of Commercial Production [as indicated in the approved Plan of Work].5. The updated Closure Plan shall be subject to Stakeholder consultation in accordance with regulation 93ter . Coastal states shall be engaged in accordance with regulation 93bis.

6. Alt. Any update to a Closure Plan [Alt. 1 proposed by a Contractor, pursuant to paragraph 4Alt, subparagraph (b) or (c) shall be treated as a request for a modification to a Plan of Work pursuant to] [Alt. 2 shall be made in accordance] with regulation 57.

Regulation 51bis

Final Closure Plan: Cessation of Commercial Production

1. A Contractor shall, at least 24 months prior to the planned cessation of Commercial Production submit to the Secretary-General[Alt.1 , for the consideration of the Commission,] a[n] [updated] [Final] Closure Plan [Alt. 2 , which shall be treated as a proposed modification to a Plan of Work, for the purposes of DR57].

[1. bis The Contractor shall consult on the [updated] [Final] Closure Plan with all States and Stakeholders in accordance with regulation 93 ter.]

[1. bis. Alt. The Final Closure Plan shall be subject to Stakeholder consultation in accordance with regulation 93ter. Coastal states shall be engaged in accordance with regulation 93bis.]

2. The Commission shall consider the [Final] [updated] Closure Plan and any comments received pursuant to paragraph 1bis[.Alt] within the consultation period under regulation 93 ter.

3. If the Commission determines that the [Final] [updated] Closure Plan meets the requirements of regulation 51, it shall recommend approval of the Final Closure Plan to the Council.

4. If the Commission determines that the [Final] [updated] Closure Plan does not meet the requirements of the regulation 51;

(a) the Commission shall request the Contractor in writing to make and submit amendments to the [Final] [updated] Closure Plan as a condition for recommendation of approval of the Plan in accordance with paragraph 3 of this regulation:

(b) the Contractor shall have the opportunity to make representations and /or to submit a revised [Final] [updated] Closure Plan for the Commission's consideration, within 90 Days of the date of the request in subparagraph (a); and

(c) the Commission shall consider any representations under subparagraph (b) and any revised [Final] [updated] Closure Plan submitted by the Contractor when preparing its report and recommendations to the Council.

5. The Commission and Finance Committee shall review the amount of the Environmental Performance Guarantee provided under regulation 26 and whether it reflects the forecasted costs required for implementation of the Final Closure Plan. The Commission shall include the results of that review and any recommendations in /its report to the Council on the [Final] [updated] Closure Plan.

6. The Council shall consider and take a decision based on the report and recommendation of the Commission. The Council's decision shall include such directions to the Contractor as the Council considers appropriate.

[6.bis Where a Contractor fails to comply with any requirement of this regulation, the Secretary-General shall refer the matter to the Compliance Committee for consideration in accordance with regulation 103. The Compliance Committee may take appropriate measures, including, where applicable, recommending to the Council, recourse to the Environmental Performance Guarantee provided under regulation 26.]

7. Any reports and recommendations submitted to the Council and decisions made by the Council under this regulation shall be published on the Authority's website by the Secretary General within 7 Days of a submission or decision being made.

Regulation 51 quater

Implementation and Monitoring of the Final Closure Plan

1. The Contractor shall continue to monitor the Marine Environment as set out in the [Final] Closure Plan until the objectives of the Closure Plan have been achieved.

[1. bis The purpose of Closure monitoring is to:

(a) Obtain evidence that the Contractor fulfilled its obligations under these Regulations;

(a) bis Verify that there are no further impacts arising from Commercial Production after cessation: and

(b) Assess the need for Restoration and Rehabilitation of the Marine Environment [in line with the objectives of the Closure Plan];

[1.bis.Alt. The purpose of Closure monitoring is to obtain evidence that the Contractor fulfilled its obligations under these Regulations and to assess the achievement of the Closure objectives]

2. Upon completion of implementation of the Final Closure Plan, the [Contractor]/[Authority] shall, in accordance with the procedure described in the applicable Standard, hire an Independent Auditor to conduct a final compliance assessment and submit a final compliance assessment report, in accordance with the applicable Standards and taking into account the Guidelines, to the Secretary-General to ensure that the Closure objectives contained in the Final Closure Plan have been met. The report shall be reviewed by the Commission at its next meeting, provided that it has been published on the website of the Authority at least 30 Days in advance of the meeting.

[2.bis Any final compliance assessment reports prepared by the Independent Auditor shall be made available for commenting by Stakeholders and independent experts. Any comments received shall be made available for the Commission.]

[2.bis.Alt. In preparing any final compliance assessment reports the Independent Auditor shall consult Stakeholders and independent experts, as appropriate.]

3. The Commission shall submit a report of its review under paragraph 6 and recommendations to the Council for consideration, which shall decide whether the objectives of the Final Closure Plan have been achieved. The Commission's report and Council's decision shall be published at the Authority's website in accordance with regulation 92.

4. If the Council decides that a Contractor has met the objectives of the Final Closure Plan, the Council shall release the Environmental Performance Guarantee to the Contractor.

5. If the Council decides that a Contractor has failed to meet the objectives of the Final Closure Plan and reporting hereon, the Council shall either:

(a) direct the Contractor on further action that shall be taken to deliver the Final Closure Plan; or

[(b) direct the Authority to use funds from the Environmental Performance Guarantee to facilitate work to meet the objectives of the Final Closure Plan and on completion of that work, to release remaining funds from the Contractor's Environmental Performance Guarantee to the Contractor.]

Annex VIII

Closure Plan

1. The Final Closure Plan shall be prepared and implemented in accordance with regulation 7 [and regulations 59-61], the Environmental Management System, Standards and taking into account the Guidelines and the relevant Regional Environmental Management Plan and shall include sufficient information to address the following elements:

(a) a description of the Closure objectives to ensure that the Closure of Exploitation activities is a process that is incorporated into the mining life cycle, any measures agreed or proposed to implement these, and how these relate to the mining activity and its environmental, socioeconomic and sociocultural setting;

(b) the period during which the plan will be required, which shall be determined by reference to a specified duration, achievement of a specified event or target indicator or compliance with specified terms agreed with the Authority and shall

relate to the objectives of the Environmental Impact Assessment, such as recovery of impacted environment;

(c) geographical coordinates showing the area(s) subject to the Closure objectives and specifications of the geodetic datum used, accompanied by a map;

[(d) a summary of the relevant regulatory requirements, including conditions previously documented, e.g. baselines;]

(e) details of the Closure implementation and timetable, including descriptions of the arrangements for the Temporary Suspension of Exploitation activities or for permanent Closure as well as Decommissioning arrangements for vessels, Installations, plant and removal of equipment (where applicable);

[(f) summary of data and information relating to environmental baseline for monitoring measures;]

[(g) a summary of the Environmental Impact Statement entailing an updated Environmental Impact Assessment for the activities that will be undertaken during Closure, if any, together with details of the identifiable remaining Environmental Effects, including any relevant technical documents or reports as well as the expected period until recovery of the environment towards natural state conditions;]

[(g)bis information sufficient to describe the state of the Contract Area at the time of cessation of Commercial Production, including details of any remaining Resources and the prevailing environmental conditions;]

[(h) the temporal and spatial intensity of monitoring to be undertaken during and after Closure needs to mirror monitoring efforts prior and during Exploitation using equivalent methodology to allow for full quantification of the impact as well as of any recovery from impacts. Details of monitoring to be undertaken during and after closure (comparable to monitoring efforts prior and during exploitation) that specify the sampling design (spatial and temporal sampling), the methods to be used and the duration of the [post-closure activities] [and] [post Commercial Production];]

(i) details of the management measures to minimize, control, Mitigate the remaining Environmental Effects;

(j) details of the remediation, Restoration and Rehabilitation (where possible) objectives and activities building on those detailed in the Environmental Impact Statement and the Environmental Management and Monitoring Plan;

(k) documentation of environmental recovery and details of any anticipated residual impacts that may remain even after Mitigation measures;

(l) information on reporting and management of data and information [post closure] [and] [post Commercial Production] including information on how data will be archived and made publicly available [post-closure] [and] [post Commercial Production], and how the formatting of submitted datasets and reports will be consistent with best scientific practices;

(m) details of the persons or entity (subcontractor, consultant(s)) that will carry out the monitoring and management measures under the Closure Plan or Final Closure Plan, including their qualification(s) and experience, together with details of the budget, (incl. inflation adjustment for long-term monitoring), project management plan and the protocols for reporting to the Authority under the Closure Plan or Final Closure Plan;

(n) details of the amount of the Environmental Performance Guarantee provided under these Regulations; and

[(o) details of consultations with Stakeholders in respect of the plan.]

[(o)Alt. A summary of the comments received as a result of the consultation with Stakeholders and of how they have been considered by the Contractor]

2. The level of detail in the Closure Plan or Final Closure Plan is expected to differ between cases involving a Temporary Suspension of Exploitation activities mining operations , cases involving unplanned abandonment of work, and cases involving final mine closure. The content of the Closure Plan or Final Closure Plan is to be commensurate with the nature, extent and duration of activities associated with the level of closure and maturity of the project.

ANNEX III – PROPOSAL FROM NORWAY COVERING PROVISIONS ON CLOSURE PLAN IN EMM DRAFT REGULATIONS

Section 3

Environmental Management and Monitoring

Regulation 49

Environmental Management and Monitoring

1. A Contractor shall continuously [and/or continually, as appropriate,] monitor and manage the Environmental Impacts and Environmental Effects [and risks] of its activities on the Marine Environment, [in accordance with the Environmental Management and Monitoring Plan and the Closure Plan].
2. A Contractor shall monitor the Environmental Impacts and Environmental Effects [and risks] of its activities on the Marine Environment [to determine whether they are having or are likely to have harmful effects on the Marine Environment] to assess compliance with the [Environmental Impact Assessment and] Environmental Impact Statement and Environmental Management and Monitoring Plan and Closure Plans [and to avoid risk of Serious Harm to the Marine Environment]. Such monitoring shall include a comparison of monitoring data against environmental threshold values and a comparison between monitoring data and the effects predicted in the Environmental Impact Statement, to measure, analyse, and document the actual effects on the Marine Environment.
3. Monitoring shall be conducted until completion of a Closure Plan.
4. The Contractor shall Mitigate and manage Environmental Impacts and Environmental Effects [and risks] to ensure that these are consistent with the [threshold values,] Standards and the Exploitation Contract and its schedules [including the predictions made in the Environmental Impact Statement] until the end of the Exploitation Contract period.
5. If the Contractor identifies harmful effects on the Marine Environment that breach the terms and conditions of its Exploitation Contract or the relevant rules, regulations and procedures of the Authority, including the applicable Standards, [taking into account the Guidelines,] [and if the harmful effects is an Incident or Notifiable Event, the Contractor shall proceed in accordance with regulation 33 or 34, as applicable]. [All harmful effects identified by the Contractor shall be reported in according to regulation 50bis].

Regulation ~~50~~ter49bis

Environmental Management System

1. A Contractor shall have in place, implement and maintain an Environmental Management System that meets the requirements of the relevant Standard and taking into account the Guidelines, for the purpose of monitoring, managing, and continuously improving its environmental performance, including through implementing the Environmental Management and Monitoring Plan.
2. The Environmental Management System shall be detailed in the Environmental Management and Monitoring Plan in accordance with regulation 7, paragraph 3.bis, subparagraph (h). An Environmental Management System shall refer to the following iterative process to:
 - (a) establish environmental objectives and processes necessary to deliver results in accordance with the Authority's environmental objectives in the Contract Area,

including those reflected in the Applicant's Environmental Management and Monitoring Plan and the relevant Regional Environmental Management Plan;

(b) implement and monitor the processes as planned and report the results to the Secretary-General; the reporting is reflected in the delivery of the annual reports pursuant to regulation 38, including details of any accidents or incidents and Notifiable Events; and

(c) take actions to continually improve the performance of the Environmental Management and Monitoring Plan and report these actions in the next annual report submitted to the Secretary-General pursuant to regulation 38.

3. The Contractor shall ensure that its Environmental Management System shall be reviewed and undergo periodic audits by an independent recognized and accredited international or national organization, in accordance with applicable Standards.

4. A Contractor shall, in its annual reports include the results of the audits under paragraph 3 and demonstrate the continual and systematic assessment of the Environmental Management System and its improvement.

Regulation 50

Environmental Management and Monitoring Plan

1. The Contractor shall develop an Environmental Management and Monitoring Plan for the exploitation activities. The Environmental Management and Monitoring Plan shall cover such activities until cessation of Commercial Production.

1.bis. The Contractor shall develop an Environmental Management and Monitoring Plan for the exploitation activities. The Environmental Management and Monitoring Plan shall cover such activities until cessation of Commercial Production.

1bis. The purpose of an Environmental Management and Monitoring Plan is to set out how a Contractor shall meet its management and monitoring obligations under regulation 49.

~~2. The Environmental Management and Monitoring Plan shall include all elements and matters prescribed in Annex VII to these Regulations and shall:~~

~~(a) incorporate project specific environmental objectives and environmental performance Standards, [including environmental threshold values] which are designed to achieve the environmental policy and objectives of the Authority [including those] set out in regulation 44 ter] and [are compatible with] applicable Standards and [taking into account] the relevant Regional Environmental Management Plan;~~

~~(b) incorporate appropriate measurement criteria, in accordance with the applicable Standard and reflect its methodology to determine whether the environmental objectives [and Environmental Performance Standards] are being met and that the operation is compliant with the Exploitation Contract and its schedules and the relevant rules, regulations and procedures of the Authority;~~

~~(c) incorporate measures and procedures on:~~

~~(i) how the Environmental Impacts and Environmental Effects of Exploitation will be monitored;~~

~~(ii) how the Mitigation and Management measures, including pollution control and Mining Discharge in regulations 53 bis and 53 ter will be implemented and how the effectiveness of such measures will be monitored [and evaluated];~~

~~(iii) how spatial and temporal measures, including Preservation Reference Zones and Impact Reference Zones, will be utilised and implemented;~~

~~(iv) how, if the monitoring results in new knowledge, the Contractor will take such knowledge into account;~~

~~(v) a description of the Environmental Management System; and~~

~~(vi) how continual improvement will be achieved, including by testing assumptions and predictions made in the Environmental Impact Statement, improving environmental knowledge, and reducing uncertainties remaining from the Environmental Impact Assessment.~~

~~(d) contain a monitoring programme for at least the first seven years of Commercial Production to be conducted in compliance with the applicable Standards and taking into account the Guidelines.~~

[2. Alt. The Environmental Management and Monitoring Plan shall be in accordance with the Authority's environmental policy and objectives [including those set out in regulation 44 ter] and [are compatible with] applicable Standards and [taking into account] the relevant Regional Environmental Management Plan, the relevant Guidelines, and be based on the Environmental Impact Statement, and shall include all elements and matters prescribed by the Authority in Annex VII to these Regulations, and shall:

(a) set project specific environmental objectives and environmental performance Standards;

(b) set measurement criteria and methodology;

(b) bis [detail] how spatial and temporal measures, including Preservation Reference Zones and Impact Reference Zones, will be utilised and implemented;

(c) commit to specific measures and procedures on;

(i) monitoring the Environmental Impacts and Environmental Effects of Exploitation;

(ii) Mitigation and management, including pollution control and Mining Discharge in regulations 53 bis and 53 ter;

(iii) [monitoring the effectiveness of monitoring and management, as the relevant measures and procedures are implemented]; and

(iv) taking corrective action and responding to monitoring results and new knowledge with the aim of continuous improvement;

(d) describe what monitoring data and reports will be submitted to the Authority, including details of: frequency, format, medium, and data integrity Standards; and

(e) provide a description of the Environmental Management System and.]

Regulation ~~50 bis~~52

Reporting on Environmental Monitoring and Management

1. The Contractor shall report annually in writing, to the Secretary-General on the implementation and results of the Environmental Management and Monitoring Plan or Final Closure Plan, as appropriate, in accordance with regulation 38, paragraph 2, subparagraph (g).

2. The Contractor shall submit to the Secretary General [required] environmental data and information at the required intervals to the required data integrity quality, and in the required standardized format as set out in the Environmental Management and Monitoring Plan or Final Closure Plan, as appropriate, in accordance with the applicable Standards, and taking into account the Guidelines.

3. The Secretary General shall publish the environmental data and information publicly in accordance with regulation 92bis. 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, paragraph 3.

Regulation ~~51~~52bis

Compliance with the Environmental Management and Monitoring Plan and Final Closure Plan and Final Closure Plan

1. The Commission shall review the data submitted by the Contractor [monthly/annually] pursuant to regulation 50 bis, paragraph 2 [upon receipt].
2. The Contractor shall review the implementation of the Environmental Management and Monitoring Plan or Final Closure Plan, as appropriate on a [regular] basis. Such review shall include:
 - (a) the efficacy, timeliness, relevance and accuracy of flow of information and data derived from monitoring the Exploitation activities and the Environmental Impacts and Environmental, and Impact Area, [including the Mining Area]; and
 - (b) the accuracy of the findings of the Environmental Impact Assessment as set out in the Environmental Impact Statement.
3. If the Commission considers that [the environmental] monitoring data submitted pursuant to regulation 50 bis, paragraph 2, or its quality, indicates that the Contractor does not meet its obligations, the Commission shall refer the matter to the Compliance Committee without undue delay. The Secretary-General shall notify the Contractor, the Sponsoring State, and the Council that the matter has been referred.
4. Where, as the result of the review by the Commission under regulation 52, paragraph 7, the Commission concludes that a Contractor has failed to comply with its Environmental Management and Monitoring Plan, the Commission shall refer the matter to the Compliance Committee. The Secretary-General will notify the Contractor, Sponsoring State and Council that the matter has been referred.
5. The [Compliance Committee] shall assess any matter referred to it under this regulation paragraph 4 and 5 and take any necessary actions consistent with regulations 102 and 103.]

Regulation 52ter

Performance assessments of the Environmental Management and Monitoring Plan

1. A Contractor shall [also periodically] conduct [or commission a formal] performance assessments of its Environmental Management and Monitoring Plan, [in accordance with this regulation, [the applicable Standard and taking into account the Guidelines]]. In conducting such a performance assessment of the Environmental Management and Monitoring Plan, the Contractor shall [using an Independent Auditor,] assess:
 - (a) the continued appropriateness and adequacy of the plan, including the management conditions and actions attaching thereto;
 - (b) the conformity of the plan with [the objectives and] measures included in the applicable Regional Environmental Management Plan [including any revisions or updates to the Regional Environmental Management Plan that may be adopted from time to time,];
 - (c) the accuracy of the findings of the Environmental Impact Assessment as set out in the Environmental Impact Statement, [upon which the Environmental Management and Monitoring Plan was based];
 - (d) that any relevant changes in knowledge, technology, mining patterns, monitoring techniques and detection capabilities, [that were not taken into account in developing or previously updating the Environmental Management and Monitoring Plan which are relevant,] are reflected [according to Good Industry Practice, Best Available Techniques and Best Environmental Practices];

(e) the reports of the Environmental Management and Monitoring Plan, as well as the comments and evaluation from the Commission to the reports in accordance with regulation 48 above, and any comments received by the [Commission/Compliance Committee] in accordance with regulation 51; and

(f) the currency and adequacy of its Environmental Management System, including its ability to implement effectively the Environmental Management and Monitoring Plan.

2. The frequency of a performance assessment shall be in accordance with the period specified in the approved Environmental Management and Monitoring Plan and shall occur every 24 months or, if amendments have been made to the Environmental Management and Monitoring Plan following a previous performance assessment, 12 months after such amendments have been accepted by the Council, whichever occurs later.

3. An [additional] *ad hoc* performance assessment [under this regulation] may [also] be requested by the [Compliance Committee] following:

(a) an Incident [or Notifiable Event];

(b) issuance of a Non-Compliance Notice under regulation 103bis; and

(c) when deemed necessary by the [Committee following investigation into third-party information submitted to the [Authority] or following investigation into matters referred by the Commission under regulation 51[that results in sufficient evidence to suggest a breach of compliance has occurred].

[3. bis The Contractor shall engage with [potentially directly affected] Stakeholders, and in accordance with [regulation 93 bis], Standards and taking into account the Guidelines during the development of the performance assessment;]

4. A Contractor shall submit the results of a performance assessment in a performance assessment report to the Secretary-General in accordance with, and in the format set out in, the applicable Standards and taking into account the Guidelines, [and shall, as a minimum contain the following information:

(a) information regarding the period applicable to the performance assessment;

(b) the scope of the assessment;

(c) the procedure used for the assessment; and

(d) the evaluation criteria used during the assessment.]

[5. Before submission of the performance assessment report, the Contractor shall conduct a consultation on a draft performance assessment report in accordance with regulations 93 bis and 93 ter.]

6. The Commission shall review the performance assessment report in accordance with the applicable Standard and taking into account the Guidelines. [within 60 Days of receipt of such report and comments].

7. Where the Commission upon review of the report, considers the performance assessment to be unsatisfactory or the report submitted to be inadequate, the Commission may, after providing the Contractor with a reasonable opportunity to address any inadequacies, require the Contractor to:

(a) submit any relevant supporting documentation or information requested by the Commission including a revised report; or

(b) appoint, at the cost of the Contractor, an independent competent person to conduct the whole or part of the performance assessment and to compile a report for submission to the Secretary-General and review by the Commission.

[8. Where, as a result of paragraph 7 above, a revised assessment and report is produced, a new consultation in accordance with regulation 93 ter shall be conducted on the revised assessment.]

9. Where, as the result of a review by the Commission under paragraph 6 above, the Commission concludes that the Environmental Management and Monitoring Plan is determined to be inadequate in any material respect, the Commission shall require the Contractor to deliver a revised Environmental Management and Monitoring Plan, taking into account the findings and recommendations of the Commission. A revised plan shall be [treated the same way as a modification of a Plan of Work pursuant to regulation 57 *mutatis mutandis*].

10. The Commission shall report annually to the Council on performance assessments [conducted pursuant to this regulation,] and any action taken pursuant to paragraphs 6 to 9. Such report shall include any relevant recommendations for the Council's consideration and shall be published on the Authority's website.

Regulation 53

Pollution control

A Contractor shall take [all] necessary [and appropriate] measures to protect and preserve the Marine Environment, from harmful effects, in accordance with article 145 of the Convention, including by preventing, reducing and controlling pollution and other hazards, [including underwater noise, light, greenhouse gas emissions, and marine litter, directly or indirectly [resulting arising] from its activities in the Area. This is to be done [in accordance with the Standards], [pursuant to] [its Environmental Management and Monitoring Plan, and] all relevant rules, regulations and procedures of the Authority [and Contractors' Environmental Management and Monitoring Plan], [and taking into account] Regional Environmental Management Plans, and [the Guidelines].

Regulation 53 bis

Mining Discharges

1. A Contractor shall not introduce any Mining Discharge into the Marine Environment, except where such Mining Discharge is permitted in accordance with:

(a) the assessment framework for Mining Discharges as set out in the applicable Standard [and];

(b) the Plan of Work.

2. Notwithstanding paragraph 1, a Contractor may make such Mining Discharge into the Marine Environment where it is necessary for the safety of the vessel or Installation or the safety of human life, provided that such Mining Discharge is conducted so as to prevent harm to human life and to the Marine Environment. [Such Mining Discharge shall be considered an Incident]

[3. A Contractor shall keep a register of Mining Discharges, to be updated [promptly] after any discharge event, that shall be reported annually to the Authority under regulation 38, as part of the Contractor's annual report.]

[4. The Applicant or Contractor must continuously monitor its Mining Discharges and maintain a register that is reported to the Authority at least weekly in addition to the mandatory annual report pursuant to regulation 38.]