

Proposal on Annex VII and VIII

Submitted by Fiji as Facilitator of the IWG on Closure Plan

Annex VII

Environmental Management and Monitoring Plan

1. The Environmental Management and Monitoring Plan prepared under ~~[Regulations 49-50bis and this Annex]~~ these Regulations and this Annex VII shall be:

(a) prepared in clear language and in an official language of the Authority, together with, where applicable, an official English-language version; and

~~(a) bis prepared in accordance with the relevant regulations, [and Standard consistent with the applicable and Regional Environmental Management Plan,] taking into consideration Guidelines [and Regional Environmental Management Plan], on the basis of Best Environmental Practice, Best Available Scientific Information, [and Best Available Information]; and~~

[(b) Verified by the report of independent [experts] [persons] appointed by the Authority.]

2. An Environmental Management and Monitoring Plan shall contain:

(a) a non-technical summary of the main conclusions and information provided to facilitate understanding by members of the Authority and Stakeholders;

(a) bis outline the guiding principles which apply to the monitoring approaches;

(b) a description of the project and the area likely to be affected by the proposed activities and by any suspension plumes they generate. ~~Include detailed location maps showing proposed Impact rReference zZones and pPreservation rReference zZones as well as locations of other nearby cContract aAreas or known seabed infrastructure, the Preservation Reference Zones, the Impact Reference Zones and the surrounding area with reference to the applicable Regional Environmental Management Plan including any buffer zones to prevent damage to these areas;~~

(b) ter a description as to how the Environmental Management and Monitoring Plan has been prepared;

(c) the project-specific environmental objectives, indicators and thresholds based on baseline environmental data and applicable relevant Standards;

(c) bis a description of the environmental baseline data, measured baseline values for parameters at the site, a characterization of the area proposed to be mined, adjacent areas that could be affected by mining, and areas that will be avoided due to their environmental value;

(d) a description, ~~[prepared in accordance with the applicable Standard and taking into consideration the Guidelines]~~ of how the monitoring data will be transmitted during operations, how the data will be labelled and monitored by qualified personnel, and how the data will be stored;

(e) the qualifications and proposed location of the personnel monitoring the [environment] / [data];;

(f) a description of the procedures for providing the Authority and the Sponsoring State or States access to or receipt of the monitoring data for the purposes of monitoring compliance with the terms of an Exploitation Contract and collection of data.

~~[(g) details of or cross-references to the Contractor's Environmental Management System documentation;~~

(i) implementing the measures reflected in the Environmental Management and Monitoring Plan,

(ii) monitoring, recording and reporting fulfilment of the Environmental Management and Monitoring Plan, and

(iii) regularly reviewing and updating the Environmental Management and Monitoring Plan to ensure that it complies with rules, regulations, and procedures of the Authority;]

~~[(g)Alt. details of or cross-reference to the Environmental Management System in accordance with paragraph 2 of Regulation 49bis:]~~

(h) ~~an assessment~~ ~~[a summary]~~ of the predicted ~~[Environmental Impacts and]~~ Environmental Effects of the proposed activities on the Marine Environment, and any significant changes likely to result, consistent with the Environmental Impact Assessment and the Environmental Impact Statement;

(h) bis- a description of uncertainties identified from the Environmental Impact Assessment and the plan to reduce or manage these;

(i) ~~an assessment~~ ~~[a summary]~~ of the significance of the potential ~~[Environmental Impacts and]~~ Environmental Effects to receptors identified in the Environmental Impact Statement, their key uncertainties, proposed monitoring approach and objectives, and proposed Mitigation measures and management control procedures and responses to minimize, prevent, reduce and control the harm from Environmental Effects, consistent with the Environmental Impact Assessment and the Environmental Impact Statement;

(j) a description of the planned monitoring programme, with reference to the applicable Standard on Monitoring, and the overall approach, standards, protocols, methodologies, procedures and performance assessment of the Environmental Management and Monitoring Plan, including the necessary risk assessment and techniques for managing these risks, including the use of monitoring data to validate predictive models and reduce uncertainties, and adaptive management techniques, if appropriate, needed to achieve the desired outcomes. ~~[Each component should be described separately in a manner consistent with sections 7-10 of Annex IV.]~~ Monitoring methodology/results should provide a sufficient degree of confidence that conclusions in the Environmental Impact Statement can be validated and that agreed performance standards are being met (monitoring should have the statistical power to detect changes in environmental state). The components of the monitoring programme should, at a minimum, include those applicable to the Contractor during its Exploration phase to allow for comparison of monitoring data.

(k) details of the proposed monitoring stations across the Contract Area, including the frequency of monitoring and data collection, the spatial and temporal arrangements for such monitoring and the justification for such arrangements, including how *in situ* validation of modelled results will be carried out. ~~[[Where Test Mining was conducted,]]-pProposed monitoring stations should, at a minimum, include the monitoring stations used during [tTest] mMining [where if any demonstrated Test Mining data is used, the proposed monitoring [stations] [arrays] should correspond to those used at the time of that data collection]; [tests carried out in the Exploration phase]~~ Proposed monitoring stations should, at a minimum, include the monitoring stations used during Test Mining [where if any demonstrated Test Mining data is used, the proposed monitoring [stations] [arrays] should correspond to those used at the time of that data collection];

(l) the location and planned monitoring and management of Preservation Reference Zones and Impact Reference Zones designed in accordance with the criteria contained in Annex X bis, as well as other spatial management planning tools if any;

[(l)Alt. ~~Include~~ A detailed location maps showing proposed Impact Reference Zones and Preservation Reference Zones as well as locations of other nearby Contract Areas[, area-based management tools (Areas of Particular Environmental Interest (APEIs), etc.)] or known seabed infrastructure [within the Contract Area], [the Preservation Reference Zones, the Impact Reference Zones] and the surrounding area with reference to the applicable Regional Environmental Management Plan [including any buffer zones to prevent damage to these areas]];

(l) bis the location and boundaries of planned or established long-term protected areas within the Contract Area as determined in the applicable Regional Environment Management Plan [as well as of declared Preservation Reference Zones~~PRZs~~ of neighbouring Contract Areas, if known];

(l) ter details of any plans outside of the Contract Area to increase scientific knowledge and other knowledge/information in the relevant region, including in collaboration with other Contractors or via international cooperation efforts, as well as in collaboration with Indigenous Peoples and local communities, if any;

(m) a description, with threshold levels, of the applicable environmental performance Standards and indicators (trigger and threshold points) to be monitored, including decision rules based on the results of the monitoring of these indicators;

(n) a description of a system for ensuring that the plan shall adhere to [Good Industry Practice;] [Best Available Techniques;] Best Environmental Practices and Best Available Scientific Information, and a description of how such practices are reflected in the proposed Exploitation activities;

(o) details of the quality control and management ~~S~~standards, and how the effectiveness of management measures will be monitored, assessed and reviewed, including list of reporting deliverables to the Authority and time schedule, plans for real-time reporting of environmental data to the Authority, internal and external auditing and reporting of environmental performance, and including the frequency of the review of the performance of the Environmental Management and Monitoring Plan for the purposes of regulation ~~54~~52ter;

[(o) bis: a description of a statistically sound comparison of the monitoring results collected within the Contractor's Impact Reference Zones and Preservation Reference Zones which compare the monitoring results with the baseline as well as between Impact Reference Zones and Preservation Reference Zones to determine and quantify impacts and recovery of Impact Areas.]

(p) a description of the monitoring technology and system to be implemented, including the types of data to be collected and monitored, and frequency of monitoring, in accordance with the relevant Standards and taking into account the Guidelines~~Good Industry Practice and Best Available Techniques~~, reflecting the types of data and formats to be collected and monitored, the use of remote monitoring technology and the types of data available in real time together with a description of the procedures for providing the Authority and the Sponsoring State or States access to the monitoring system and data for the purposes of monitoring compliance with the Environmental Management and Monitoring Plan and collection of data;

(q) details of [all the] training programme for all persons engaged or to be engaged in activities in the project ~~for its~~ area;

(r) details of ~~[Mining]~~ ~~Discharges~~ ~~[and discharges that]/~~, including those defined and regulated by relevant rules and regulations issued by the International Maritime Organization, within the Mining Area project area;

(s) details of ongoing consultation with other users of the Marine Environment;

(s) bis details of arrangements made or planned with other marine users, with the aim to ensure due regard to each other's rights and activities.

(t) details of any practicable Restoration and ~~R~~ Rehabilitation of the Mining Area project area and the monitoring of their success;

(u) a plan for further research and studies;

~~(u) bis detail of the process and measures to be taken in case of non-compliance with the Environmental Monitoring and Management Plan.~~

(u) ter a description of the measures that will be taken to address non-compliance with the Environmental Monitoring and Management Plan, including reporting, recording and response action protocols;

(u) quat a description of the document control system that will be used for environmental management documentation;

(v) details of reporting requirements and timing (<2 years) including details of the methodology to be applied to ensure that monitoring data submitted are provided in an accessible and interpretable format consistent with best scientific practices; and

(x) an overview program (list) of all proposed activities.

3. The Environmental Management and Monitoring Plan shall include the information on the proposed approach to Closure, commensurate with the stage of development of the project and the information reasonably available at the time of its preparation, and include the following 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) details of identifiable remaining Environmental Effects after Closure, including any relevant technical documents or reports as well as the expected period until recovery of the environment towards natural state conditions;

[(b)bis the temporal and spatial intensity of monitoring to be undertaken during and after Closure. These shall 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] [post Commercial Production];]

(c) a description of the management measures to minimize, control, Mitigate the remaining Environmental Effects;

(d) a description of the [Mitigation, including] Rehabilitation (where possible), objectives and activities building on those detailed in the Environmental Impact Statement and the Environmental Management and Monitoring Plan;

(e) [information, if any, on] environmental recovery and details of any anticipated residual impacts that may remain even after Mitigation measures;

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

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

[4. The Environmental Management and Monitoring Plan shall include a section to cover a situation in which the Contractor proposes, or is required by the Authority, to undertake a [Temporary] Suspension of Exploitation activities in accordance with these Regulations. This shall include elements of this Annex that are necessary to:

(a) ensure the safe, environmentally responsible suspension of activities;

(b) maintain the integrity of the Marine Environment and prevent further Environmental Effects during the suspension period; and

(c) provide for monitoring and reporting obligations during the suspension period.]

Comments:

- Annex VII has been revised based on the “two-plan approach” proposed by the Facilitators of the Groups on EMM and Closure Plan, and endorsed by the Council during the second part of the thirty-first session.
- Rather than merging Annexes VII and VIII, the solution proposed by the Facilitator is to retain Annex VIII, which remains relevant to the preparation of the Closure Plan (previously the Final Closure Plan), while adding a new para 3 to Annex VII. Para 3 would require the Applicant to include in the EMMP a section on Closure addressing, commensurate with the stage of development of the project and the information reasonably available. The relevant provisions of Annex VIII have been included in the paragraph, and the group is invited to consider whether the relevant provisions are accurately placed in Annex VII and VIII respectively. This section would inform the subsequent preparation of the Closure Plan.
- Also a para 4 has been added, based on proposal on Annex VIII received before the second part of the thirty-first session. As now the Closure Plan is included in the EMMP, the provision has been included in Annex VII. Views from the group are welcome on the content and language of this para.
- New para 3(b)bis is linked to the discussion on whether the end of Closure corresponds to the end of Contract period, and may need to be amended in light of the discussions in the EMM group.
- Apart from revisions made to ensure harmonization with the two-plan approach and apart from editorial revisions, the following amendments are also proposed for consideration of the Group:
 - (a) Para 1(a)bis has been suggested deleted as duplicative of para 2 of draft regulation 50. Comments are welcome on the deletion of this letter.
 - (b) The second sentence of para 2(b) has been moved to a standalone para 2(l)Alt., as its content seems to overlap with para 2(l). Reference to PRZs in para 2(l)bis has been placed in brackets for the same reason. If the alternative version (which already contains reference to REMPs) is retained, para 2(l)bis might be deleted entirely.
 - (c) In para 2(d), the reference to Standards and Guidelines has been suggested deleted as redundant in light of the content of para 1.

- (d) In para 2(e) it appears that the two alternatives “[environment / data]” had been merged into “environment data”, which however might not be accurate. The two options have been restored, participants are invited to express a preference.
- (e) An alternative version of paragraph (g) has been provided, as the content of the original version appears unclear.
- (f) Para 2(u)bis has been suggested deleted, as its content is reflected in para 2(u)ter.
- (g) Proposals received from delegations have been implemented throughout the Annex.
- The language in para 2(k) has not been amended, as its content has been proposed by the IWG on Test Mining.

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. The Closure Plan shall be prepared and implemented on the basis of the Environmental Management and Monitoring Plan, and shall elaborate on the information provided therein. Any deviations from the Environmental Management and Monitoring Plan shall be treated in accordance with regulation 57. The Closure Plan shall be in accordance with Regulations 51-52ter, the applicable Standards and the Environmental Management System, consistent with the applicable Regional Environmental Management Plan and taking into account the Guidelines, and the relevant Regional Environmental Management Plan~~ and shall include the following 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 in accordance with the objectives in the Environmental Management and Monitoring Plan, as set out in Annex VII paragraph 3 (a);~~

(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[, where possible];

(c) coordinates showing the area(s) subject to the Closure objectives 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 updated 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;

~~[(h) building on the information in the Environmental Management and Monitoring Plan, a detailed description of 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[, where possible]. D, and elaborate the 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] [post Commercial Production];}]~~

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

(j) elaborating the details of the ~~remediation, Restoration and [Mitigation, including]~~ 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 [information, if any, on]~~ environmental recovery and ~~d~~Details of any anticipated residual impacts that may remain even after Mitigation measures;

(l) building on the information provided in the Environmental Management and Monitoring Plan, information on reporting and management of data and information ~~[post closure]~~ ~~[post Commercial Production]~~ including information on how data will be archived and made ~~[publicly]~~ available ~~[post-closure]~~ ~~[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) updated 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.

~~2. The level of detail in the Closure Plan or Final Closure Plan is expected to differ between cases involving a Temporary sSuspension 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 comment box to Annex VII, also Annex VIII has been aligned with the latest proposal of the Facilitators of the Groups on EMM and Closure Plan.
- In the chapeau of para 1, the first part of the sentence has been replaced with a reference to the EMMP and to draft regulation 51. Text has also been added to capture that the Closure Plan shall be a further elaboration of the EMMP, and that it cannot deviate from the EMMP commitments. The reference to regulation 7 has been deleted, as at that stage the Applicant will no longer present a standalone Closure Plan. It is also suggested that para 3(i) of draft regulation 7 should be deleted.
- Amendments have been made to para 1 to align the paragraphs with those mirrored in Annex VII, trying to stress that these will be further detailed/elaborations of the previous plan, where this was considered necessary for understanding the level of detail.
- References to the “Final Closure Plan” throughout the Annex have been deleted as no longer relevant.
- Para 2 has been deleted, as temporary suspension is now placed in the EMMP.

- As an additional formal revision, in para 1(e) the second part of the sentence has been placed in brackets as redundant, since Closure already includes Decommissioning.
- Proposals received from delegations have been implemented throughout the Annex.