Regulation 49 *(previously Regulation 46 bis) [IWG ENV]*

Environmental ~~monitoring~~Management and Monitoring

~~[1.~~

A Contractor shall ~~in accordance with the Standards, and taking into consideration Guidelines, [measure,] evaluate and analyse, in accordance with Best Available Scientific information, Best~~ [continuously][continually] monitor and manage the [Environmental ~~Practices,~~Impacts and ~~Best Available Techniques, the environmental thresholds contained in the Standards, and the risks to~~] Environmental Effects [and risks] of its activities on the Marine Environment ~~arising from Exploitation.~~

~~1. In~~[, in accordance with ~~this Section 3,~~ the ~~Contractor shall:~~

~~(a)~~1. ~~Prepare and submit an~~ Environmental Management and Monitoring Plan~~;~~ and the Closure Plan],

~~(b) Develop, implement and maintain an~~ A Contractor shall monitor the [Environmental ~~Management Plan;~~

~~(c) Monitor and report on the compliance with the~~ Impacts and] Environmental ~~Management and Monitoring Plan; and~~

~~(d) Conduct performance assessments of the Environmental Management and Monitoring Plan.~~

~~2. Monitoring shall be conducted continuously during all stages~~Effects [and risks] of ~~the Exploitation~~its activities ~~until completion of a Closure Plan,~~ on the Marine Environment [to determine whether they are having or are likely to have harmful effects on the Marine Environment~~.~~

~~3. In implementing paragraph 1, the Sponsoring State~~] to assess compliance with the [Environmental Impact Assessment and] Environmental Impact Statement and Environmental Management and Monitoring Plan and ~~Contractor shall consult, with any adjacent coastal State with a view to avoiding infringement of their rights~~Closure Plans[and ~~legitimate interests, in accordance with Regulation 4.~~

2. ~~[4. Alt. In implementing paragraph 1, the Sponsoring State or States~~to avoid risk of serious harm to the Marine Environment]. Such monitoring shall include a comparison of monitoring data against environmental threshold values and ~~Contractor shall maintain targeted and proactive consultations with any adjacent coastal States and other potentially most affected coastal States in accordance with Regulation 93 ter with a view to avoiding infringement of their rights and legitimate interests, in accordance with the Convention.~~]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. ~~[~~[Continuous][Continual] 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].

5. If the Contractor identifies harmful effects on the Marine Environment that breach the terms and conditions of its Exploration Contract or the relevant rules, regulations and procedures of

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the Authority, including the applicable Standards, [taking into [account relevant][considering the Applicable] Guidelines,] the Contractor shall determine whether the matter is an Incident or Notifiable Event and proceed in accordance with Regulation 33 or 34.

Regulation 50 *(previously Regulation 46 ter) [IWG ENV]*

Environmental Management and Monitoring Plan

~~1. Each applicant or Contractor shall prepare an Environmental Management and Monitoring Plan in accordance with this Regulation and Annex VII.~~

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~~2. The purpose of an Environmental Management and Monitoring Plan is to manage and confirm that observed [Environmental Impacts and] Environmental Effects are consistent with predicted Environmental Impact? andEffects from the Environmental Impact Assessment and does not breach any of the rules, regulations and procedures of the Authority, including the applicable Standards on environmental objectives, [the quantitative environmental thresholds] and [the Standards on] [requirements] for the Exploitation activities. The plan shall address any issues that arise under the Environmental Impact Statement and will set out commitments and procedures on how to monitor, mitigate and manage the [Environmental Impacts and] Environmental Effects and risks of Exploitation, including on pollution control and Mining Discharge in Regulations 53 bis and 53 ter.~~

1. 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.

~~3.~~2. [Alt 1. The Environmental Management and Monitoring Plan shall include all elements and matters prescribed ~~by the Authority~~ in Annex VII to these Regulations and shall:

(a) Incorporate ~~[environmental objectives, including] site~~ 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 44ter] 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 any recommendations made by the Commission, and approved by the Council, in its consideration of the Environmental Impact Statement, including~~Incorporate measures and procedures on;

(i) How the [Environmental Impacts and] Environmental Effects of Exploitation will be monitored~~, in accordance with the applicable Standards~~;

~~(ii)~~ How the Mitigation and Management measures, including pollution control and Mining Discharge in Regulations 53 bis and 53 ter~~,~~ will be implemented~~;~~

~~(iii)~~(ii) ~~How~~ and how the effectiveness of such measures will be monitored [and evaluated];

(iii) ~~How~~How spatial and temporal measures, including Preservation Reference Zones and Impact ~~Reference~~References Zones~~, designated in accordance with Annex X bis,~~ will be utilised and implemented;

(iv) ~~What the management actions and responses will be to~~ How, if the monitoring results ~~and~~in new knowledge, the Contractor will take such knowledge into account;

~~(v) What management and reporting systems will be adopted and followed; and~~

(v) A description of the Environmental Management System and

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

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3. bis[Alt 2: The Contractor shall conduct monitoring for the entire duration of the Exploitation activities and comply with any post-closure monitoring requirement according to Regulations 59-61 and the applicable Standard.

[3. bis Alt. The applicant or Contractor shall [endeavour to] engage with [potentially directly affected] Stakeholders and in accordance with [Regulation 93 ter,] Standards, and taking into consideration Guidelines, during the development of the Environmental Management and Monitoring Plan.]

[4. The Contractor shall allocate sufficient resources and assign [clear] roles, responsibilities [and management reporting] to implementation of, and compliance with

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~~its~~ shall be in accordance with the Authority's environmental policy and objectives[i n c l u d i n g t h o s e set out in Regulation 44ter] and [are compatible with] applicable Standards and [taking into [account][consideration]] the relevant Regional Environmental ~~Monitoring and~~ Management Plan ~~commensurate with the relevant risks~~, 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 ~~impacts [of~~methodology;

(b)bis [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 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];

(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.

(e) Provide a description of the Environmental Management System,]

[3 A draft Environmental Monitoring and Management Plan or proposal by a Contractor to amend an existing plan shall be subject to Stakeholder consultation in accordance with Regulation 93bis. Coastal states shall be engaged in accordance with Regulation 93ter].

4. The Contractor shall assess and maintain the currency and adequacy of its Environmental Management and Monitoring Plan including its continual improvement during the term of its Exploitation ~~activity]].~~Contract, including as a result of management review and audit under Regulation 50 bis, and performance assessment[s] under Regulation 52[, and any modification to the Plan of Work under Regulation 57]. In conducting such an assessment, the Contractor shall assess the efficacy, timeliness, relevance and accuracy of flow of information and data derived from implementation of the Environmental Management and Monitoring Plan, and the efficacy of management measures taken.

Regulation X
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 in accordance with Regulation 38, subparagraph 2(g).

2. The Contractor shall submit to the Secretary General environmental data and information at required intervals, to the required data integrity quality, and in the required standardized format as set out in the Environmental Management and Monitoring Plan, in accordance with the

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applicable Standards, and taking into account the relevant 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 and publish them pursuant to Regulation 38;

Regulation 50 bis *(previously Regulation 46) [IWG ENV]*

Environmental Management System

1. A Contractor shall ~~develop~~have in place, implement and maintain an Environmental Management System~~,~~ in accordance with the relevant Standard taking into account the relevant Guidelines, for the purpose of ~~protecting the Marine Environment from the impacts of the activities~~monitoring, [controlling,][managing,] and continuously improving its environmental performance, including through implementing the Environmental Management and Monitoring Plan.

~~1.~~ The Environmental Management System shall be detailed in the ~~Area.~~

~~2. An Environmental Management System shall, inter alia:~~

~~(a)~~2. ~~Deliver~~Environmental Management and Monitoring Plan in accordance with Regulation 7 paragraph 3 bis (h). A Contractor shall ensure that its Environmental Management System supports the Contractor in its performance of the Plan of Work to deliver 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~~;~~, and deliver the Contractor's environmental commitments under its Exploitation Contract and its schedules [including compliance with the environmental performance standards], and facilitate effective reporting to the Authority in connection with environmental performance, pursuant to Regulations 33, 34, 38, 39, and 52.

3. ~~Be~~[The Contractor shall assess and maintain the currency and adequacy of its Environmental Management System][An Environmental Management System shall be subject to continual and systematic improvement] during the term of its Exploitation Contract, including [through frequent] management review [and audit] under Regulation 50 bis (4), performance assessment under Regulation 52[, or any modification to the Plan of Work under Regulation 57]. In conducting such an assessment, the Contractor shall assess the ability of the Environmental Management System to implement effectively the Environmental Management and Monitoring Plan.

~~(b)~~4. 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~~;~~. The results of the audit and any changes made to a Contractor's Environmental Management System shall be included in the Contractor's annual reports.

~~(c) Facilitate effective reporting to the Authority~~A Contractor shall, in ~~connection with environmental performance, pursuant to Regulations 33, 34, 38, 39, and 52; and~~

~~(d) Include the results of the audit in the Contractor's~~its annual reports and in the performance assessment of the Environmental Management and Monitoring Plan under Regulation 52~~.~~

~~3.~~5. ~~All changes made to a Contractor's~~ demonstrate the continual and systematic assessment of the Environmental Management System~~, for example resulting from~~ and its improvement, including through the output of management reviews and audits~~, shall be reflected in the Contractor's annual reports and in the performance assessment of the Environmental Management and Monitoring Plan~~ under ~~Regulation 52. A proposed change to a Contractor's Environmental Management System shall be treated the same as a~~

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~~modification of a Plan of Work, pursuant to Regulation 57~~paragraphs 3 and 4.

Regulation 51 *[IWG ENV]*

[Assessment of] Compliance with Environmental Management and Monitoring obligations

1. The Commission shall review the data submitted by the Contractor [monthly/annually] pursuant to regulation X(2)[upon receipt].

2. [The Contractor shall review the implementation of the Environmental Management and Monitoring Plan [on a regular basis]. Such review shall include:

(a) ~~A~~ The efficacy, timeliness, relevance and accuracy of flow of information and data derived from monitoring the Exploitation activities and its impacts on the Marine Environment, 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 X(2), or its quality, indicates that the Contractor does not meet its obligations, the Commission shall~~, in accordance~~ 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 ~~these Regulations, implement and adhere to~~[the terms and conditions of][any commitment in] its Environmental Management and Monitoring Plan ~~and shall:~~, 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.

~~(a) Monitor continuously in accordance with the applicable Standard, on Environmental Monitoring and on the Environmental Effects of its activities on the Marine Environment, including a comparison between baseline data and monitoring data, as well as a comparison between baseline data and threshold values, to document the actual effects on the Marine Environment and manage all such effects as an integral part of its Exploitation activities as set out in the applicable Standards and taking into consideration Guidelines referred to in Regulation 45;~~

~~(b) Report annually in writing, to the Secretary-General on the implementation and results of the Environmental Management and Monitoring Plan in accordance with Regulation 38, subparagraph 2(g). The Contractor shall submit to the Secretary-General environmental data and information in the required standardized format, in real time or at [monthly intervals]/[annually], consistent with best scientific practices, and in accordance with the applicable Standards, and taking into account the applicable Guidelines. The Secretary-General shall release the environmental data and information~~

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~~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(3);~~

~~(c) Provide information on the implementation and compliance of the Environmental Management and Monitoring Plan in its annual report in accordance with Regulations 38, subparagraph 2(g), for evaluation by the Commission;~~

~~(d) Implement all applicable Mitigation and management measures to ensure the effective Protection of the Marine Environment from harmful effects, as set out in the [plan and] [applicable] Standards and taking into account [applicable] Guidelines; and~~

5. ~~Monitor compliance with, assess, and maintain the currency and adequacy of [its] Environmental Management and Monitoring Plan and its Environmental Management System during the term of its Exploitation Contract, including as a result of management review [or audit] under Regulation 50 bis, [or any] performance assessment under Regulation 52, and with modification to the Plan of Work under Regulation 57.~~The Compliance Committee shall assess any matter referred to it under this Regulation paragraph 4 and 5 and take any necessary actions consistent with regulation 102 and 103. [This may include:

a. Requesting the Commission to provide further information as to the facts and circumstances giving rise to the referral of this matter;

b. Convening, with the support of the Secretary-General, a process to liaise with the Contractor [and to agree any corrective and timebound action];

c. Exercising the powers conferred upon the Committee under paragraph 1 of Regulation 103; or,

d. Inviting the Council's attention to the matter.]

~~(e)~~

Regulation 52 *[IWG ENV]*

Performance assessments of the Environmental Management and Monitoring Plan

1. [In addition to the continual internal assessment required pursuant to regulation 50(4), a][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 Commission shall review the performance assessments of the Environmental Management and Monitoring Plan in accordance with~~[, the applicable Standard and taking ~~account of the Guidelines.~~into consideration the applicable Guideline]]. In conducting such a performance assessment of the Environmental Management and Monitoring Plan, the Contractor shall [, using an Independent Auditor,] assess:

~~(a) The compliance of the Exploitation activities with the Mitigation and management measures included in the Environmental Management and Monitoring Plan, as a part of the approved Plan of Work;~~

~~(b)~~(a) The continued appropriateness and adequacy of the plan, including the management conditions and actions attaching thereto;

~~(c)~~(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,];

~~(d)~~(c) The accuracy of the findings of the Environmental Impact Assessment as set out in the Environmental Impact Statement~~;~~[, upon which the Environmental Management

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and Monitoring Plan was based];

~~(e)~~(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];

~~(f) The [ability of the Environmental Management System effectively to implement the Environmental Management and Monitoring Plan, including the] outcomes of management reviews [and audits] of the Environmental Management System are conducted under Regulation 50 bis (2);~~

~~(g) The efficacy, timeliness, relevance and accuracy of flow of] information and data derived from monitoring the Exploitation and its impacts on the Marine Environment, and Impact Area, [including the Mining Area];~~

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(e) ~~(g) bis The implementation report~~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.

~~(g) ter Any finding of the Inspectors, especially those findings that indicate the non-compliance of the Contractors towards the submitted and approved Environmental Monitoring and Management Plan, as well as the recommendations on measures to be taken as shown in the inspection result.~~

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 at least every 24 months.

3. ~~2 bis~~ 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) Receipt of an unsatisfactory annual report;~~

~~(c)~~(b) Issuance of a compliance notice under Regulation 103; or

~~(d)~~(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.~~4. A Contractor shall ~~hire a competent and Independent Auditor to [carry out the~~submit the results of a performance assessment ~~required for the purpose of this Regulation and shall submit the findings~~ 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 consideration Guidelines~~.~~[, and shall, as a minimum contain the following information

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

(b) the scope of the assessment;

(c) the procedure used for the assessment;

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

5. [Before submission of the performance assessment report, the Contractor shall conduct a consultation ~~regarding the Performance Assessment Report with all States and Stakeholders~~ on a draft performance assessment report in accordance with Regulation 93bis~~.~~]~~.~~]

~~4.~~6. The Commission shall review the performance assessment report ~~and any stakeholder comments received~~in accordance with the applicable Standard and taking account of the Guidelines, [within 60 Days of receipt of such report and comments]. The ~~[~~Commission~~]~~ ~~shall~~ may, where necessary and appropriate, consult external competent, independent experts in its review of the performance assessment.

~~5.~~7. Where the Commission upon review of the report ~~and any submission received in relation to it [under Regulation 93 bis],~~ considers the performance assessment to be unsatisfactory or the report submitted to be inadequate, ~~to the applicable Standards [and Guidelines],~~ the Commission may ~~require~~, 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

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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.

~~6. Where the Commission has reasonable grounds to believe that a performance assessment cannot be undertaken satisfactorily by a Contractor consistent with the applicable Standards, [the Commission may,] at the cost of the Contractor, [procure] competent, [independent experts] to conduct the performance assessment and to compile the report.~~

~~7.~~8. [Where, as a result of ~~paragraphs 5 and 6~~paragraph 7 above, a revised assessment and report is produced, ~~paragraph 4 above~~a new consultation in accordance with Regulation 93 bis shall ~~apply to~~be conducted on the revised assessment~~.~~.]

~~8.~~ Where, as the result of a review by the Commission under paragraph ~~4~~6 above, the Commission concludes that ~~a Contractor has failed to comply with the terms and~~

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~~conditions of its~~the Environmental Management and Monitoring Plan ~~or that the plan~~ is determined to be inadequate in any material respect, the Commission shall~~:~~

~~(a) Recommend to the [Compliance Committee] to consider issuing a compliance notice under Regulation 103 or;~~

~~(b)~~9. ~~Require~~ 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]. ~~[If a revised Environmental Management and Monitoring Plan is required, the Contractor shall conduct a consultation regarding the revised Environmental Management and Monitoring Plan with States and Stakeholders in accordance with Regulations 93bis.]~~

9.10. The Commission shall report annually to the Council on performance assessments [conducted pursuant to this Regulation,] and any action taken pursuant to paragraphs ~~5~~6 to ~~8~~9. Such report shall include any relevant recommendations for the Council's consideration, [and] shall be published on the Authority's website.

~~10. The Secretary-General shall inform the Sponsoring State or States of any action taken pursuant to this Regulation.~~

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