

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 30TH SESSION:
COUNCIL - PART II**

Please fill out one form for each textual proposal which your delegation(s) wish(es) to amend, add or delete and send to council@isa.org.jm.

1. Name(s) of Delegation(s) making the proposal:

United Kingdom

2. Please indicate the relevant provision to which the textual proposal refers.

Draft Regulations 59, 60 and 61

3. Kindly provide the proposed amendments to the regulation or standard or guideline in the text box below, using the “track changes” function in Microsoft Word. Please only reproduce the parts of the text that are being amended or deleted.

Proposed additions are **underlined in bold**; proposed deletions are ~~struckthrough in bold~~.

Regulation 59

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(3), and 93 bis,~~ Annex VIII to these Regulations, and ~~{consistent with}~~ other Environmental Plans of the Contractor, as well as Standards, ~~{the applicable Regional Environmental Management Plan},~~ and taking into consideration the Guidelines.

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

(a) The ~~m~~**Marine e**Environment is effectively protected from **harmful effects** ~~environmental harm;~~

~~(b) The marine environment, human health and safety are ensured during Closure [or any temporary suspension] of Exploitation activities;~~

~~{(c) the Marine Environment will have a clear and healthy status following the end of Exploitation;}~~

(c) alt Ecosystem Integrity has been maintained, and where necessary restored, in accordance with the environmental goals and objectives in Regulation 44ter;

(d) ~~The~~ **Any** adverse Environmental Effects arising from Closure are Mitigated, and; ~~(e) Remaining~~ **residual** Environmental Effects continue to be monitored, ~~{managed, including remediation, restoration and rehabilitation}~~ and reported for the period prescribed in the Closure Plan; and

~~{(f) The Mining Area is returned, where [the Contractor in consultation with the Commission determines it to be technically feasible, to a condition resembling its pre-mining condition through active Restoration. Where active Restoration is determined to not be feasible, the Mining Area is rehabilitated, to the extent it is technically feasible to facilitate passive Restoration.]}~~

(g) All installations and equipment, or parts thereof, are removed from the Mining Area.

2. ~~In developing t~~The Closure Plan, ~~the Contractor~~ shall, in accordance with ~~the requirements of Annex VIII~~, set out the obligations responsibilities and actions of a Contractor during any ~~t~~Temporary ~~s~~Suspension, ~~and also for the Decommissioning and Closure of activities in a Mining Area, including the post closure management and monitoring of remaining Environmental Effects. In fulfilling these responsibilities, t~~

2. bis In developing the Closure Plan, the applicant Contractor shall, *inter alia*:

~~(a) Undertake activities and the scheduling of studies, based on available baseline data, to inform about Closure before and throughout Exploitation;~~

(a) bis Undertake a gap analysis of existing environmental data to determine if additional information and/or surveys will be required to inform Closure;

(a) ter Utilise {Good} Industry Practice, ~~and~~ Best Environmental Practices and Best Available Techniques;

(b) Set a date for of-cessation ~~or suspension~~ of Commercial Production; Exploitation,

~~(b) bis at which point a~~ Ensure alignment between the Closure Plan and the Environmental mManagement and mMonitoring pPlan ~~must also be in place {for the duration of period prescribed in the Closure Plan}, and in accordance with the applicable Standards and taking into consideration the Guidelines and results obtained in previous monitoring activities;~~

~~(b) bis Undertake timely discussions with the {Authority} so that {the Authority is duly informed of} the likely timing of Closure;~~

~~(c) Final environmental condition of the area, including the state of remaining {resources, the oceanographic, geological, biological, socioeconomic and socioecultural condition, and ensure the risks relating to residual Environmental Effects are identified, quantified, assessed and managed in accordance with Best Available Scientific Information, Best Available Techniques and Best Environmental Practices, which includes the gathering of information relevant to Closure or suspension;~~

~~(d) Comply with health and safety requirements related to Closure activities;~~

~~(e) Report {to the Authority} on the identification, monitoring, and quantification of significant remaining Environmental Effects {to the Authority}, including data to inform about recovery or lack thereof, over a period established in the Closure Plan, and {that necessary} management responses are implemented in a timely manner, including plans for further surveys, data collection, Mitigation, or remediation where appropriate in accordance with the applicable Standard and taking into account the Guidelines;~~

~~(f) Make and fulfil required disposal,~~ Include project-specific Closure objectives, which may include Restoration and Rehabilitation commitments in accordance with the Closure objectives in paragraph 1.bis, {applicable} Standards and taking into consideration the Guidelines;

~~(f) bis Remove completely any Installations and equipment, or parts therefrom, from the Mining Area with any kind of waste abandonment explicitly prohibited. The Closure Plan should include an assessment of options leading to the identification of the Contractor's preferred Decommissioning solution for Installations and equipment, as well as parts therefrom; and~~

~~(g) Ensure that the Exploitation activities are closed or suspended efficiently and safely.~~

~~2. bis ter The Contractor shall [ensure] transparency during the Closure process and in fulfilling these responsibilities In developing and maintaining the Closure Plan, the applicant or Contractor shall ensure transparency, and shall:~~

~~{(a) Shall eConsult with all States and Stakeholders in accordance with Regulation 93bis on the Closure Plan and any revisions as required under Regulation 57 before submission for approval; and~~

~~(b) During the development of the Closure Plan, shall eEngage with [potentially directly affected] relevant Stakeholders, and in accordance with Regulation 93 ter, Standards, and taking into consideration the Guidelines, consult Stakeholders in on the Closure Plan, design, review, and implementation.~~

~~3. A Contractor shall maintain and update its Closure Plan {on the basis of information arising analysis of data and results obtained from implementation of the Plan of Work environmental monitoring 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 consideration the Guidelines.~~

~~{4.} In the five years preceding the planned end of the period of Exploitation, or any other period, the Closure Plan shall be updated [annually] and, if necessary, be updated and be finalized in accordance with Regulation 60(1). Details on the procedures of review of the Closure Plan, including conditions requiring updates thereof, shall be further elaborated in the applicable Standards and taking into consideration the Guidelines.~~

4 alt. The Closure Plan shall be reviewed and if necessary updated:

(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 the 5-year period shall be calculated from the date the Closure Plan was last reviewed;

(c) 6 years and 4 years prior to the planned cessation of Commercial Production.

~~5. If a revised Closure Plan is required, the Contractor shall demonstrate it has engaged with [potentially directly affected] Stakeholders, in accordance with Regulation 93 ter, the applicable Standards, and taking into consideration the Guidelines, in its preparation of the revised Closure Plan. The Contractor shall also demonstrate it has conducted consultation with States and Stakeholders regarding the revised Closure Plan in accordance with Regulation 93bis.]~~

~~{6. Provided that the procedure under Regulation 93bis has been completed, the Commission shall, at its next meeting, provided that the documentation has been circulated at least 30 Days before the meeting, examine the revised Closure Plan in the light of any submissions received on the revised Closure Plan in accordance with Regulation 93bis.}~~

6. Any update to a Closure Plan proposed by a Contractor pursuant to paragraph 4Alt(b) or (c) shall be approved by the Authority in accordance with Regulation 57.

Regulation 60

Final Closure Plan: Cessation of Commercial Production

1. A Contractor shall, at least 24 months prior to the planned ~~end~~ cessation of Commercial Production, submit to the Secretary-General, for the consideration of the Commission, an ~~n-updated~~ Final Closure Plan.

~~{1. bis. Alt. The Contractor shall conduct consultation on the Final Closure Plan with all States and Stakeholders in accordance with Regulation 93bis.}~~

2. The Commission shall consider ~~examine~~ the Final Closure Plan and any comments received pursuant to paragraph 1 ~~{bis Alt} {within 90 Days of receipt of comments from the stakeholder consultation period under Regulation 93bis.~~

3. If the Commission determines that the Final Closure Plan meets the requirements of Regulation 59, it shall recommend approval of the Final Closure Plan to the Council.

~~4. If the Commission determines that the Final Closure Plan does not meet the requirements of Regulation 59, the Commission shall require the Contractor to make and submit amendments to the Final Closure Plan as a condition for recommendation of approval of the plan in accordance with paragraph 3 of this Regulation.~~

4. alt If the Commission determines that the Final Closure Plan does not meet the requirements of Regulation 59:

(a) The Commission shall request require the Contractor in writing to make and submit amendments to the Final Closure Plan as a condition for recommendation of approval of the pPlan 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 Closure Plan for the Commission's consideration, within 90 Days of the date of the request in sub-paragraph (a);

(c) The Commission shall consider any representations under sub-paragraph (b) and any revised Final 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 decision under paragraph 4 above and provide the Contractor with the opportunity to make representations or to submit a revised Final Closure Plan for the Commission's consideration, within 90 Days of the date of notification to the Contractor.~~

~~6. The Commission shall consider any such representations made, or {any} revised Final Closure Plan submitted by the Contractor when preparing its report and recommendations to the Council.~~

7. 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 their {the Commission's} report to the Council on the Final Closure Plan.

8. The Council shall consider and take a decision ~~{based}~~ on the report and recommendation of the Commission ~~relating to the approval of the Final Closure plan and the amount of the Environmental Performance Guarantee.~~ The Council's decision shall include such directions to the Contractor as the Council considers appropriate.

9. 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 61

Post-closure ~~M~~monitoring pursuant to Closure Plans / ~~[Closure Monitoring]~~ **Implementation of the Final Closure Plan**

~~1. A Contractor shall implement the Final Closure Plan in accordance with Best Environmental Practices and Good Industry Practice and shall report to the Secretary-General on the progress of such implementation on an [annual] [two-year] basis [after an initial 5 year period] [or on a case-by-case basis agreed by the Council on recommendation from the Commission]. This report shall include a summary of the results of monitoring, conducted in accordance with the applicable Standard and pursuant to the post-closure monitoring programme, and management actions taken in response to any adverse Environmental Effects identified through monitoring, until completion [of execution] of the Final Closure Plan.~~

~~1.1. bis~~ The purpose of ~~post-c~~losure monitoring is to:

(a) ~~To o~~Obtain evidence that the ~~e~~Contractor fulfilled its obligations under these Regulations ~~including with regards to the effective protection of the Marine Environment [including any remediation measures required by the Closure Plan], and to verify that there are no more impacts from the Exploitation activities arising after Closure cessation;~~

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

~~[(b) To implement [accompany and document] Assess the r~~Restoration and ~~r~~Rehabilitation ~~(wherever possible) of the Marine Environment in line with the Closure objectives; and]~~

~~(c) To get new knowledge and data about ecosystems and possibility of their restoration and rehabilitation.]~~

2. The Contractor shall continue to monitor the Marine Environment for ~~the a such~~ period set out defined in the Final Closure Plan after the cessation of activities and until the ~~C~~losure objectives have been met achieved as set out in the Closure Plan. ~~[and for the duration provided for in the Standards and taking into account Guidelines.]~~

~~3.1. Alt.~~ 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 monitoring programme, and management actions taken in response to any ~~[residual][remaining]~~ residual adverse Environmental Effects identified through monitoring, until completion ~~of execution~~ of the Final Closure Plan.

4. Such reports shall will be submitted in accordance with the approved Environmental Monitoring and Management Plan with the following schedule: on an annual basis during the first [3]/[5] years after cessation of mining activity, on a two-year basis during the next [4]/[6] years, on a five-year basis during the remaining term of the Closure Plan. This schedule The frequency of reporting ~~[may]~~ be adjusted by the Council based on recommendations from the Commission. If significant adverse Environmental Effects are detected, the Contractor shall report more frequently as required by the Council.

5.2. bis Monitoring data, ~~{collected by the Contractor pursuant to this Regulation, Regulation 92 bis~~ and its Final Closure Plan, ~~}~~ shall be released publicly in an accessible format, according to Regulation 92 bis, the applicable Standard and taking into consideration Guidelines. ~~[at in] intervals [set out defined] in the Final Closure~~

~~Plan, according to the Standard, adhering to internationally recognized data principles, consistent with Best Scientific Practices, [in annual intervals].~~

~~6. 3.~~ Upon completion ~~of implementation~~ of the Final Closure Plan, the Contractor shall, in accordance with the procedure described in the applicable Standard, hire a competent, independent and accredited Independent Auditor to conduct a final compliance assessment and submit a final compliance assessment report, in accordance with ~~according to~~ the applicable Standards and taking into consideration the Guidelines, to the Secretary-General to ensure that the Closure objectives contained in the Final Closure Plan ~~has have been met [successfully delivered] [met].~~ Such The reports shall be reviewed by the Commission at its next meeting, provided that it has been published on the website of the Authority~~circulated~~ at least 30 Days in advance of the meeting.

~~7. 3. bis~~ The Commission shall ~~provide submit~~ a report of its review under paragraph 6 and recommendations to the Council for consideration, ~~who which~~ shall decide whether, the objectives of the Final Closure Plan have been met achieved, ~~which decision shall be relevant to the retention, release, forfeiture or use by the Authority of the Contractor's Environmental Performance Guarantee.~~ The Commission's report and Council's decision shall be published ~~at on~~ the Authority's website in accordance with Regulation 92.

8. 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.

~~9. 4.~~ If, ~~on the basis of the auditor's report and Commission's recommendations provided pursuant to paragraphs 3 and 3bis,~~ the Council decides that a Contractor has failed to meet the ~~[conditions of, or deadlines related to]~~ [objectives of] objectives of the Final Closure Plan and reporting thereon, the Council shall ~~either: direct the Contractor [what further action must be taken to achieve satisfactory delivery of the Closure Plan] to take the necessary action to achieve the objectives of the Final Closure Plan.~~

(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.

4. Please indicate the rationale for the proposal.

Proposed additions are underlined in bold; proposed deletions are ~~struckthrough in bold~~.

In summary, substantial amendments have been made to provide clarity in these three regulations where there was overlap or ambiguity, and to:

1. Set out clear and measurable Closure objectives, linked to the environmental goals & objectives described in 44ter;
2. Describe the continuation of the Environmental Monitoring and Management Plan throughout the Closure period, to ensure long-term consistency in monitoring throughout Exploitation; and
3. Direct the Council with regards to releasing or using the Environmental Performance Guarantee.

Regulation 59

Paragraph 1: The Closure Plan should be ‘consistent with’ other environmental plans, and any applicable REMP. As a Closure Plan is required as part of an application for a Plan of Work, we suggest that this Regulation should refer to an applicant *preparing* a Closure Plan, and a Contractor *maintaining* it. Reference to Regulation 7 is not necessary, and stakeholder consultation is detailed separately in paragraph 2ter.

Paragraph 1.bis: Amendments to simplify, provide clarity and only refer to measurable objectives specific to the Closure Plan:

(a): To align with UNCLOS Article 145.

(b): We suggest that (b) is a general responsibility that is provided for in Part III Section 3 of the Regulations for the duration of the Contract, and as Closure is defined in the Schedule as an Exploitation activity, all Regulations in Section 3 will continue to apply. As such, this could be deleted.

(c): Language of (c) is not well defined. As (c) overlaps with (f) we have considered them both together. We instead propose a replacement for (c) and (f) - with a closure objective that is clear and measurable. We also note that considerations of this objective should be explicitly linked to the environmental goals and objectives in Regulation 44ter. We suggest that our proposal would need to be accompanied by a definition of Ecosystem Integrity in the Schedule and could work with others on a drafting proposal.

(d): Merging of sub-paragraph (d) with (e). The change from ‘the’ to ‘any’ is because we would not always anticipate adverse Environmental Effects resulting from Closure itself.

(g): We propose that a further objective should be included to refer to the removal of equipment.

Paragraph 2: Separation of the chapeau for Paragraph 2 into two paragraphs for clarity.

(a) and (a)bis: Sub-para (a) could be deleted, as it overlaps significantly with (a)bis. We suggest that the words “to inform Closure” should be added to the end of (a)bis.

(a)ter: We suggest that ‘Best Available Techniques’ should be added to (a)ter.

(b): Paragraph is split into (b) and new b(bis) as it describes two distinct actions, and we emphasise the link to the EMMP.

(b)bis: Deletion as this is inherent in submitting a Closure Plan to the Authority.

(c): The first part of (c) would be better placed in Annex VIII; we also suggest that the second part of (c) is duplicative of the Closure objectives in Paragraph 1.bis and could be deleted.

(d): Deletion of (d) as this is a requirement that extends for the duration of the Contract.

(e): Much of this sub-paragraph is duplicative of earlier sub-paragraphs. We consider that our alternative to (c) would sufficiently address this, and so (e) could be deleted.

(f): We consider that this is a particularly important clause to introduce the objectives required of Contractors in Annex VIII, and have the following amendments to ensure that it is clear that these project objectives must refer to the overarching Closure objectives in paragraph 1.bis, but also to align with the language of the EMMP objectives in Annex VII.

(f)bis: We have moved the first part of this sub-paragraph to para 1.bis; and consider that the remainder of this detail should be moved to the Standard. This sub-paragraph could then be deleted from paragraph 2.

(g): Deletion as this sub-paragraph is not well defined.

Paragraph 2.bis: We agree that the Contractor shall ensure transparency and undertake Stakeholder consultation. However, we suggest that the chapeau should be amended to include both applicant and Contractor to include all stages of the development and maintenance of a Closure Plan.

(a): We propose that this sub-paragraph could end after ‘in accordance with Regulation 93bis’, as the additional wording is unnecessary in light of the UK’s proposal for Regulation 57. Under that proposal, if a Closure Plan (one of the Environmental Plans) requires updating as a result of a Material Change to a Plan of Work, the Stakeholder Consultation Process applies, because the full Closure Plan process must be followed (see UK proposal Regulation 57(4)(c)).

(b): This sub-paragraph could begin at ‘Engage with...’ to fit with the new chapeau. We note that the language on ‘potentially directly affected stakeholders’ needs to be considered throughout the Regulations. As we will suggest in discussions on Regulation 93bis, we believe ‘relevant’ to be more appropriate.

Paragraph 3: We propose that the text in the first set of brackets should be replaced with ‘on the basis of information arising from the implementation of the Plan of Work’, as all operational and monitoring experience and learning from the Contractor’s activities under the Exploitation contract should inform the review and update of the Closure Plan.

Paragraph 4: We consider the previous drafting for this paragraph more clearly set out the regularity of updates required for the Closure Plan than new Paragraph 4 – in which much of the detail is lost. We support the requirements for a Closure Plan to be updated if there is (a) a material change, and (b) every 5 years if no Material Change has required an update during that period. Annual updates to the Plan and resubmission for approval risk insufficient time for Stakeholder consultation to be undertaken to inform the Authority’s decision, and would not give enough time for the Contractor to implement the updated Closure Plan prior to the next annual submission. This would hinder continual improvement to the Closure Plan in light of new information. We also want to avoid overlap between these periodic reviews and the drafting of the Final Closure Plan, as described in Regulation 60.

Paragraph 5: This paragraph could be deleted, as it is repetitious of paragraph 2.bis(a).

Paragraph 6: The UK considers the process for modification of a Plan of Work set out in the UK’s proposal for Regulation 57 should apply to any proposed update to a Closure Plan. We therefore propose deleting paragraph 6 and inserting a cross-reference to Regulation 57.

Regulation 60

Title: We note that there are a number of ways in which the end of Commercial Production is referred to across these three regulations. We suggest that this should be standardised, and our preference is to use ‘cessation of Commercial Production’, which aligns with the definition of Closure in the Schedule. As such, we propose amending the title of this regulation.

Paragraph 1: We suggest that there is no need to refer to an ‘updated’ Closure Plan – all Plans at the point at which they are submitted to the Authority are ‘draft’ or ‘proposed’ documents, and this is implicit in the approval process set out in these Regulations. We also suggest the use of the phrase ‘cessation of Commercial Production’.

Paragraph 1bis and 2: Amendments to align with language on stakeholder consultation throughout the draft Regulations.

Paragraph 4: Paragraphs 4, 5 and 6 proposed as a single paragraph, and replacing ‘require’ with ‘request’ to align with the powers of the LTC.

Paragraph 5 and 6: In line with our proposal for paragraph 4, paragraphs 5 and 6 could now be deleted.

Paragraph 7: We have proposed language to ensure that it’s clear that the review will consider the costs of implementing the Final Closure Plan in the review of the EPG.

Paragraph 8: We propose amendments to make the Council's direction to the Contractor clear.

Paragraph 9: We consider 7 days appropriate in this circumstance as it is a simple administrative upload of documents. This should be in accordance with Regulations 92 and 92bis. However, we also suggest that it should be made clear that this is an action for the Secretary-General.

Regulation 61

We have proposed a re-ordering of paragraphs in this Regulation; we have amended the numbering to align with the new structure. The comments below relate to the previous paragraph numbering:

Title: As this regulation covers more than just Closure monitoring, we suggest that the title should be amended.

Paragraph 1: This paragraph should be moved to follow paragraph 2. We also suggest that this paragraph should be divided for clarity and propose a reference to the EMMP. We suggest that any further detail on timelines is added to the Standard.

Paragraph 1.bis: We have some proposals for the content of the sub-paragraphs, for clarity, including the simplification of (a), and its division into two separate objectives.

Paragraph 1bis(c): We consider that the objective in (c) is currently too broad; the request to document restoration/rehabilitation is already captured in (b), and the requirement to make data available is captured in 2.bis, so we suggest that sub-paragraph (c) could be deleted.

Paragraph 2: We suggest that monitoring should continue until the Closure objectives have been met, and propose edits to make that clear.

Paragraph 2.bis: We are supportive of the link to Regulation 92bis, so that it is clear that environmental data is publicly released in accordance with 92bis but suggest that placement of this reference should be after 'according to'. We also consider that this should refer to the Final Closure Plan.

Paragraph 3: Minor editorial changes.

Paragraph 3.bis: We consider that it is important to fully describe the decision-making process for releasing the Environmental Performance Guarantee in this and the following paragraphs.

Paragraph 3.ter: A new paragraph to describe actions if the Council determines that the objectives have been met.

Paragraph 4: We have proposed text that describes that the Council has the option to either instruct the Contractor to do further work to achieve the Closure objectives, or for the Authority to use the Environmental Performance Guarantee itself to achieve the Closure objectives.

***** To note:** This proposal does not cover definitions in the schedule relevant to Closure as we believe further discussion is required through the intersessional working group. We also note that there should be further discussion and engagement with the EMMP intersessional working group to further consider the relationship between Closure Plans and the EMMP.