Papua New Guinea

OFFSHORE MINING POLICY

“Serving the interests & aspirations of the people of PNG”
Introduction:

- Resources sector including mining is back-bone of PNG economy (64% of GDP)
- Driving GDP growth > 9% (stronger than China)
- Holds promise of PNG becoming middle-income nation (e.g. Malaysia) within 5 decades
- Within this sector offshore (seabed) mining has significant potential
- Second country in the world to issue commercial licence for ‘deep’ sea mining (to about 1,600 m depth)
- Makes PNG a pioneering world leader - exciting new frontier
Shallow Water Diamond Mining Namibia
(shoreline to ~ 300m depth)
Deep seabed mining proposed in PNG (~ 1,600 m)
**Offshore Mining Policy is needed to:**

- Clearly lay out the Govt’s aims and objectives for the sector
- Provide certainty to industry for investment and development
- Provide certainty to the people in terms of benefits and risks
- Provide safe-guards for the environment and other marine users

*In March 2011 consultancy commissioned to:*

- Draft a new, updated Offshore Mining Policy
- Recommend legislative reforms to implement the policy

Conducted in parallel with:

- Review of *Mining Act* and *Mining (Safety) Act*
Definition of ‘offshore’: 

PNG Mining Act 1992:

• “land” includes–
  • the offshore area being the seabed underlying the territorial sea from the mean low water springs level of the sea to such depth as admits of exploration for or mining of minerals;

- UN Law of the Sea Convention permits PNG to regulate mining to the extent of Continental Shelf (200 nm or more)

  - ‘the offshore area being the seabed and the subsoil thereof from the mean low water springs level of the sea to the outer extent of the Continental Shelf
Provincial Boundaries
(currently not aligned with maritime zones)
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Purpose & Aims

Purpose

• To promote and support the development of offshore mining in PNG, and to guide the development of this emerging industry in an orderly, sustainable and environmentally and socially responsible manner.

Aims

1. consistent and compliant with relevant international conventions and standards, including the United Nations Convention on the Law of the Sea,

2. investment climate, fiscal regime and regulatory framework that encourages investment in and development of offshore mining in PNG.

3. encourage value adding and maximum economic benefits to PNG, including on-shore/downstream aspects of the industry within PNG,
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Purpose & Aims

Aims (continued)

4. **ensure equitable sharing of benefits** from offshore mining at the National, Provincial and Local levels

5. **ensue** that offshore mining does not unduly interfere with or negatively impact on other legitimate uses of the coastal and marine environment,

6. **Protect** PNG’s precious coastal and marine environment, biodiversity, ecology and living marine resources, from which our people have lived sustainably for 1,000s of years, from the potential impacts of offshore mining.
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International Legal Context

- LOSC
- IMO Conventions
- Noumea Convention
- Bilateral Treaties – e.g. Torres Strait Treaty with Australia
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National Legal Setting

- Mining Act 1992 (with amendments to address offshore)

- Mining (Safety) 1977 (with amendments to address offshore)

- Environment Act 2000 (with Environment Policy on Offshore Mining to be developed)

- Maritime safety and pollution legislation (IMO Conventions)

- Fisheries Act

- Many other laws (taxation, customs, industrial relations etc)
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Ownership of Minerals

LOSC – The Area’ (beyond national jurisdiction):

- “Common Heritage of Mankind”
  
  Managed by International Seabed Authority (ISA) for benefit of all nations

PNG – all minerals:

- “Common Heritage of the Nation”

  Owned and managed by the State for the benefit of all citizens
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Tenements Regime

As per Mining Act 1992:

- Exploration Licence (larger for offshore)
- Mining Lease (actual mine)
- Lease for Mining Purposes (ancilliary infrastructure)
- Mining Easement (roads, powerlines, pipelines etc)

Relinquishment of Exploration Licences

New for offshore:

- Retention Licence
- Pilot Mining Permit
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Fiscal Regime

- As per Mining Act 1992
- Plus Taxation and related laws
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Benefits Sharing

- As per Mining Act 1992

- Plus amendments to provide for national mapping and identification of customary Traditional Sea Users (TSU) (vs ‘land’ owners)

- New concept of Coastal Areas of Benefit (CAB)

- Memorandum of Agreement (MoA) to provide for benefits sharing
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Regulation of Safety

- As per Mining (Safety) Act 1997 (with amendments re. offshore)
- Plus PNG maritime safety legislation / IMO Conventions
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Environment Protection

As per Environment Act 2000
- Environmental Impact Assessment (EIA)
- Environmental Permits
- Consultation
- Compensation
- etc

Plus new *Environment Policy on Offshore Mining* (under Environment Act) to implement relevant/appropriate parts of:
- LOSC
- Noumea Convention
- ISA Environment Regs
- International Marine Minerals Society (IMMS) *Code of Environmental Practice for Marine Mining*
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Environment Protection

- Strategic Environmental Assessment (SEA)
- Seabed Protection Areas (SPAs) – propose 20% of PNG Continental Shelf to be protected from mining
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Marine Scientific Research (MSR)

- Part XIII of LOSC

- PNG has *Guidelines* on MSR - Legislate to give force of law

- Ensure consistency with exploration provisions of Mining Act

- Include mandatory for all MSR and exploration *data to be provided to the State* and participation by Nationals in MSR and exploration

- Establish *National Marine Research Vessel* – available to region
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Technology Transfer

- Part XIV of LOSC
- Incorporate in amendments to Mining Act 1992 re. offshore mining
- Respect Intellectual Property rights
- Establish Regional Training Centre of Excellence for Offshore Mining in PNG with industry and donor support
a take-home message

- Compliance with international law and standards is essential
- Regional harmonization and standardization can be useful
- However, significant diversity between countries in the region, e.g.
  - **PNG** population of 6 million and GDP growth of 9%
  - **NZ** population of 4 million and GDP growth of 0.8%
  - **Cook Islands** population of 11 and no GDP
  - **Tonga** located in outer space
- One size does not fit all
- Need to tailor offshore mining regime to suit each country’s needs and circumstances
- Must respect sovereign right of Nations to make their own laws and manage their own resources,
- in accordance with their national development goals and aspirations,
- and consistent with international law
Who knows what the future holds?
Seabed mining today – and tomorrow? . . .
What we do today will affect those to come

Do we want them to thank us . . . ?

Or curse us . . . ?
Tankyiu Tru

Meitaki Maata