

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 27TH SESSION:
COUNCIL - PART II**

Informal Working Group - Inspection, Compliance and Enforcement

Please fill out one form for each textual proposal which your delegation(s) wish(es) to amend, add or delete and send to council2022@isa.org.jm.

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

The Pew Charitable Trusts

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

DR 102

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.

- The facilitator’s proposed amendments are reflected in **red**.
- Our proposed amendments are indicated as in-line edits in **blue**. Proposed deletions of text proposed by the facilitator appears in strikethrough and **bold**.

Regulation 102

[Vessel notification.] Electronic monitoring [and data reporting system]

~~1. A Contractor shall restrict its mining operations to the Mining Area.~~

2. All ~~[mining vessels]~~vessels, [Installations] and mining collectors [involved in exploitation activities under the Exploitation contract activities] shall be fitted with [an electronic monitoring system] and [a satellite positioning device]. Such system shall record [in real time], inter alia, the date, time and position of all mining activities, [and, where technically possible, shall also provide environmental data]. The detail and frequency of reporting shall be in accordance with the Standards and taking into account the Guidelines.

2.bis The Contractor shall use the best-available techniques to monitor in real-time and in the actual environment the mining impact, including the removal of mineral resources, plume dispersal, chemical emissions, introduction of other pollutants, light and sound, **allowing for adaptive management during the mining operation.**

2ter The electronic monitoring system shall also encompass the monitoring of mining impacts, implementing the obligations under Regulation [46ter], **allowing for adaptive management during the mining operation.**

3. The Secretary-General shall notify the sponsoring State and shall issue a compliance notice under regulation 103, where ~~[he or she determines from]~~there is reasonable evidence to suggest based on] the data transmitted to the Authority that unapproved mining activities have occurred or are occurring

4. Please indicate the rationale for the proposal. [150 word limit]

Regarding **paragraph 1**, this provision goes far beyond electronic monitoring which is the subject of this draft regulation. We suggest this paragraph be moved to DR 18.

With regards to **paragraph 2**, we agree with the amendment that draws a distinction between a vessel's electronic monitoring system and a satellite tracking system, both of which are needed. Our understanding of the distinction is that the electronic monitoring system may involve multiple instruments and will provide real-time information on specific mining activities and environmental data. Whereas a satellite tracking system, is a piece of kit in operation at all times to provide information specifically to identify vessel position, navigation status, course and speed. As the two different mechanisms cover different information that may be used for different purposes, it may be better to separate them into two separate provisions. We also suggest deletion of 'where technically possible' in paragraph (2). It is technically possible for remote monitoring to provide environmental data, and it should be a requirement of all Contractors, without caveat. The details of what type and level of data reporting may vary according to technological possibilities and that can be covered by more detailed guidance given in Standards and Guidelines, or in the Environmental Management and Monitoring Plan.

We support the addition of **paragraph 2bis**, but with the preference to delete the final 8 words, which relate to adaptive management. If adaptive management is feasible in the context of deep seabed mining, the concept will require further elaboration and discussion, which may include the ISA prescribing how monitoring data should be used by the contractor as a feedback loop to aim for continuous improvement. But it does not necessarily follow that the use of best available techniques for real-time monitoring will allow for adaptive management, and so this particular text insertion at the end of paragraph 2bis seems premature, and too brief and vague to have useful operational effect.

We also suggest consideration is given to combining paragraphs 2bis and 2ter.

With regards to **paragraph 3**, the proposed insertion of a 'reasonable evidence' requirement here is helpful to ensure accuracy about the confines of the Secretary-General's powers and role. We also recommend insertion in paragraph 3 of a requirement for the Secretary-General to notify the sponsoring State, upon issue of the compliance notice to its contractor. Notification to the sponsoring State seems appropriate and can help to inform the State's performance of its regulatory duties.

With regards to **paragraph 3bis**, we like this proposal, although we query whether it might be better relocated in draft regulation 98 on inspectors powers. Also, at the beginning of 3bis a plan is mentioned, and we are not sure specifically what plan this refers to - it would be good to clarify this.

Lastly, we thank the Secretariat for the recent publication on the technical study on remote monitoring systems in support of inspection and compliance in the Area. In our review of the study we noted that the authors have several policy recommendations that would help inform the development of these Regulations and be useful to further discuss. Given the policy implications of this study, are there any plans to present the study to Council members and discuss what elements should be incorporated in these Regulations?