

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 27<sup>TH</sup> SESSION:  
COUNCIL - PART I**

***Informal Working Group - Environment***

*Please fill out one form for each textual proposal which your delegation(s) wish(es) to amend, add or delete.*

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

Federal Republic of Germany

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

Draft Regulation 52

**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.**

Regulation 52     Review of the ~~Performance~~ performance assessments of the Environmental Management and Monitoring Plan

1. ~~A Contractor~~The Authority shall ~~conduct~~review the performance assessments of the Environmental Management and Monitoring Plan undertaken by the Contractor in accordance with the relevant Standards and Guidelines to assess:

- (a) The compliance of the mining operation with the plan; ~~and~~
- (b) The continued appropriateness and adequacy of the plan, including the management conditions and actions attaching thereto; and
- (c) ~~The conformity~~compliance of the plan with the relevant Regional Environmental Management Plan.
- (d) The accuracy of the findings of the environmental impact assessment as set out in the Environmental Impact Statement which informed the Environmental Management and Monitoring Plan.

1.bis In conducting a performance assessment of the Environmental Management and Monitoring Plan, the Contractor shall:

(a) Take into account changes in knowledge, technology, mining patterns, monitoring techniques and detection capabilities,

(b) Take into account the outcomes of management reviews of the environmental



assessment and to compile a report for submission to the Secretary-General and review by the Commission.

~~6-7.~~ 7. Where a Contractor has previously submitted two successive unsatisfactory reports and the Commission has reasonable grounds to believe that a performance assessment cannot be undertaken satisfactorily by a Contractor in accordance with the Guidelines, the Commission may procure, at the cost of the Contractor, an independent competent person to conduct the performance assessment and to compile the report.

~~7-8.~~ 8. Where, as a result of paragraphs 5 and 6 above, a revised assessment and report is produced, paragraph 4 above shall apply to the revised assessment.

~~8-9.~~ 9. Where, as the result of a review by the Commission under paragraph 4 above, the Commission concludes that a Contractor has failed to comply with ~~the terms and conditions of~~ its Environmental Management and Monitoring Plan or that the plan is determined to be inadequate in any material respect, the Secretary-General shall:

(a) Issue a compliance notice under regulation 103 and take any appropriate action as needed, which may require suspension of activities until the matter is resolved;

~~(a)~~ (b) Inform the Sponsoring State; and/or

~~(b)~~ (c) 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 subject to the process under regulation 11.

10. The Commission shall report annually to the Council on such performance assessments and any action taken pursuant to paragraphs 5 to 8 by it or the Secretary General. Such report shall include any relevant recommendations for the Council's consideration.

11. The Secretary-General shall effectively manage the information from a performance assessments of the Environmental Management and Monitoring Plan and utilize it to identify gaps in knowledge concerning the marine ecosystems including their sensitivity and resilience, the determination of environmental quality standards and appropriate exploitation equipment.

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

We support most amendments by the Facilitator (in blue). In addition, we suggest a few amendments (red). It is unclear why this regulation has been changed into the "review" of performance assessments (see heading) while it was originally a regulation on the duty by the contractor to develop and submit such assessments. We support the addition of Para 1d as the ISA should retain its powers to require a Contractor to re-visit an EIS and its conclusions

and to consider how this evaluation feeds into the EMMP, particularly in the event that monitoring shows any EIA finding to be materially flawed. The suggested new Para 1bis aims to introduce some important objectives of the performance review. Further additions shall further clarify and specify the performance assessment, its reporting and utilization by the authority.