

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

Informal Working Group - Environment

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.

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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**.

1. ~~The purpose of a~~ An Environmental Monitoring and Management Plan ~~is to shall~~ manage and confirm that Environmental ~~impacts~~ ~~eEffects~~ meet the environmental ~~[quality]~~ objectives and ~~[environmental performance]~~ ~~s~~Standards for the mining operation.

1bis. The plan shall ~~will contain:~~

- a) include site-specific environmental objectives and environmental performance standards, which are compatible with and designed to achieve the environmental policy and objectives of the Authority and applicable Standards
- b) incorporate measurement criteria, internal thresholds and reflect its methodology to determine whether the environmental objectives are being met and that the operation is compliant with applicable environmental Standards and other Rules of the Authority
- c) reflect any conditions recommended by the Commission, and approved by the Council, in its consideration of ~~included in~~ the Environmental Impact Statement and
- d) ~~will~~ set out commitments and procedures on
 - i. how the environmental impacts of the mining operation will be monitored,
 - ii. how the Mitigation ~~measures~~ ~~measures~~, including pollution control and Mining Discharge in regulations 49 and 50, will be implemented,
 - iii. how the effectiveness of such measures will be monitored,
 - iv. what the management ~~actions and~~ responses will be to the monitoring results and ~~new knowledge~~ ~~and~~
 - v. what ~~management and~~ reporting systems will be adopted and followed. ~~and;~~
 - vi. promoting continual improvement, 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.

3. The Environmental Management and Monitoring Plan shall ~~be cover~~ ~~include the main~~ ~~all aspects~~ ~~matters in the form and deliver the contents~~ prescribed by the Authority in ~~a~~ Annex VII to these regulations and shall be:

- a) Based on the environmental impact assessment and the Environmental Impact Statement;
- b) In accordance with the ~~relevant applicable~~ regional environmental management plan; ~~if any~~; and

[3bis. A Contractor shall reflect in its Environmental Monitoring and Management Plan:

- a. Its methodology for maintaining compliance with the Standards and thresholds of the Authority developed in accordance with Regulations 45 and 94, and any thresholds set by the relevant Regional Environmental Management Plan;
- b. Any conditions included in the Council's environmental impact assessment decision and will set out
- c. Commitments and procedures on how the Mitigation measures will be implemented,
- d. How the impacts of the operation as well as the effectiveness of mitigation measures will be monitored, in accordance with Regulation 46ter and the EMMP Standard;
- e. What the management responses will be to the monitoring results.]

[3ter. The EMMP shall contain a monitoring programme for at least the first seven years of Exploitation, to be conducted by independent experts and in compliance with the applicable Standards.]

5bis The Contractor shall allocate sufficient resources and assign roles and responsibilities to implementation of the Environmental Monitoring and Management Plan in proportion to the relevant risks and impacts.

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

We agree with much of the content added in **paragraph 3bis**, however we believe it would help to clarify the purpose and the content of the EMMP by placing that content in **paragraph 1** as proposed by another member State. We have included a few additional points to ensure compliance with regulator set and site-specific environmental objectives and threshold, which we believe compliments the 3bis proposal and would be preferable to us over the alternative paragraphs proposed for paragraph 1. In addition, we would like some clarification on subparagraph 3bis(b), which seems to be incomplete, unless subparagraphs c-e were intended to be subsidiary (e.g. i-iii) to subparagraph (b).

Regarding proposed paragraph **1bis(d)(vi)**, for reasons of practicality, legality, and commercial fairness, contracts should not be continually revised. Instead, a Contractor can be required via the EMMP to strive for continual self-assessment and adjustment, in pursuit of ever-minimising the adverse environmental footprint of the project. Science-based adaptive management is therefore a key mechanism for the EMMP. This involves reducing uncertainties that remain from the EIA process over time, and responding flexibly to new learning and changing circumstances through continual monitoring and re-adjustment. Incorporating such a routine evaluation-improvement cycle is especially important given the long term (30-year plus extensions) envisaged for exploitation contracts.

For **paragraph 3(b)**, as noted by several member States inclusion of 'if any' after reference to REMPS seems misplaced. We recommend this be deleted.

For **paragraph 3ter**, we agree with the additional layer of monitoring in the earlier period of the contract, to be conducted independently. This would not be instead of the contractor monitoring (as noted by Germany and the United States), but in addition to it, for a set time period. To us this sounds like a good proposal as an additional safeguard, whether applied in the early short-term of the contract as proposed by Germany, or continued for the life of the contract, as proposed by many delegates.

Lastly, we agree with the proposed of **paragraph 5bis**. 5bis helps to avoid any inadvertent suggestion that the expenses associated with the implementation of the EMMP will not be borne by the Contractor, including both personnel and financial resources.