

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 27TH
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:

Pew Charitable Trusts

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

DR 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

1 (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 management system conducted under regulation 46(2)(e); and

(c) Engage competent independent experts, which may include those listed in regulation 12(4)(quater.), to review the Environmental Management and Monitoring Plan and the Contractor’s compliance with it, where appropriate.

2. The frequency of a performance assessment shall be in accordance with the period specified in the approved Environmental Management and Monitoring Plan and shall occur at least annually;

2bis. An ad hoc performance assessment may be requested by the Council following:

an Incident or Notifiable Event;

receipt of an unsatisfactory annual report; or

issuance of a compliance notice.

3bis. The Secretary-General shall publish the report and provide opportunity for Stakeholders to

comment, and at the end of that consultation period shall transmit the report and any Stakeholders' comments to the Commission for review.

4. The Commission shall review a performance assessment report ~~and any Stakeholder comments received in relation to it~~ at its next available meeting, provided that the report has been circulated at least 30 Days in advance of such meeting. The Secretary-General shall make public the report and the findings and recommendations resulting from the Commission's review.

5. Where the Commission ~~upon review of the report and any stakeholder comments received~~ considers the performance assessment undertaken by the Contractor to be unsatisfactory, taking account of the Guidelines ~~or and the conditions attaching to the~~ Environmental Management and Monitoring Plan, the Commission may require the Contractor to:

7. Where, as a result of paragraphs 5 and 6 above, a revised assessment and report is produced, paragraph ~~3 bis.~~ and 4 above shall apply to the revised assessment.

8. 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 ~~inform the sponsoring State and shall:~~

8 bis Where, as the result of a review by the Commission under paragraph 4 above, the Commission concludes that a Contractor's Environmental Management and Monitoring Plan is inadequate in any material respect, the Secretary-General shall ~~inform the sponsoring State and shall:~~ 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.

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

With regards to para 1, we believe further text is needed to ensure that during the performance assessment the Contractor should take into account external developments and advances in capabilities. We believe taking account of such developments will be important to ensure the Contractor's application of Best Environmental Practices and continuous improvement through adaptive management. We would also propose insertion here to require Contractors to seek external experts to ensure a properly independent and accurate review. We will submit specific textual proposals to this effect.

On para 2, we agree with the other delegations commenting on the need to specify the frequency of performance assessments, with 12 months being a minimum reporting period. In this regard we note that more regular assessments may be necessary in an environment with high levels of uncertainty.

On para 3 bis - We believe that the review of the EMMP performance assessment should include stakeholder consultation. Thus we propose a new paragraph 3 bis reading

On para 8, we note that this provision should address the inadequacy of an EMMP separately from non-compliance by a Contractor with its EMMP. These are separate issues which may require different enquiries and lead to different outcomes. Failure to comply with an EMMP should lead to a compliance action as indicated by subparagraph (a), while an inadequate plan should lead to a revised EMMP under subparagraph (b). Proposal on 8bis reflects this.

