

**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 54

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 54

Establishment of an Environmental Compensation Fund

1. The Authority hereby establishes the Environmental Compensation Fund (“the Fund”).

2. The rules and procedures of the Fund ~~will~~ shall be established by the Council on the recommendation of the Finance Committee before any grant of an exploitation contract under these regulations ~~the commencement of commercial activities.~~
 - (a) the promotion of the participation of vulnerable communities and ~~relevant~~ Stakeholders in decisions about disbursement of funds;
 - (b) a mechanism for financing the funds in accordance with regulation 56, including replenishment upon disbursement;
 - (c) a description of how the funds and any interest generated will be managed and by whom;
 - (d) the process for accessing the funds;
 - (e) the type of damages and purposes eligible for claims against the funds;
 - (f) the standard of proof required for claims against the funds;
 - (g) a policy on refunds of Contractor payments into the funds; and,
 - (h) a process for determining disbursements or refunds from the funds

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

We note that some useful examples of minimum requirements for the Rules and procedures, are listed in the facilitator’s document in the text-box after draft regulation 56.

These would include rules and procedures for:

- financing of the fund,
- management of the fund,
- claims made by injured parties against the fund,
- disbursements or refunds from the fund, as well as
- replenishment of the fund after payments out.

Our proposal would therefore be that these points should be expressly listed in draft Regulation 54 as items that must be included in the rules and procedures of the Fund that are to be established.

Source: Fifth Report of the Code Project - Part 1 and Part 2 (Pew, 2019) and June 2019 submission on legal liability made by the Africa Group [ISBA/25/C/25]