

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:**

United States

**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.**

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

1. ~~A Contractor~~The Authority shall ~~conduct review the~~ performance assessments of the Environmental Management and Monitoring Plan undertaken by the Contractor a competent and independent auditor hired 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 of the plan with the relevant Regional Environmental Management Plan.

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: (a) an Incident or Notifiable Event;

(b) receipt of an unsatisfactory

annual report; or (c) issuance of a

compliance notice.

3. A Contractor shall hire a competent and independent auditor to conduct the performance assessment and to compile and submit a performance assessment report to the Secretary-General in accordance with, and in the format set out in, the relevant Guidelines.

4. The Commission shall review a performance assessment report 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. The Contractor shall release, in a public and accessible format, environmental monitoring data at monthly intervals.

6. The Authority shall review the environmental monitoring data at monthly intervals, including the comparison of data to parameter- and site-specific baseline data in order to trigger the issuance of compliance notices if needed.

5. Where the Commission 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:

(a) ~~Repeat the whole or relevant parts of the performance assessment, and revise and resubmit the report;~~

(b) Submit any relevant supporting documentation or information requested by the Commission; or

(c) ~~Appoint, at the cost of the Contractor, an independent competent person to conduct the whole or part of the performance assessment and to compile a report for submission to the Secretary General and review by the Commission.~~

6. 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. ~~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. 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; or

(b) 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.

9. 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.

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

We suggest including further clarification and the likely business practices that Contractors should hire a competent and independent auditor to execute the performance assessments and compile the reports. In addition, and in line with previous textual proposals, the United States suggests this regulation cover the Authority's routine receipt and review of environmental monitoring data from the site on a monthly basis. Review of the monitoring data should include the comparison of data to parameter- and site-specific baseline data in order to trigger the issuance of compliance notices as needed.