

TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH SESSION: COUNCIL - PART I

Please fill out one form for each textual proposal which your delegation(s) wish(es) to amend, add or delete and send to council@isa.org.jm.

The facilitators' proposed amendments are reflected in **red**.

Pew's proposed amendments and our questions or comments regarding the facilitator's remarks are indicated as in-line edits in **blue**. Where we propose deletions of the facilitator's text this is shown **in strikethrough and bold**.

1. Name of Working Group:

IWG Environment

2. Name(s) of Delegation(s) making the proposal:

Pew Charitable Trusts

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

DR 46ter

4. 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.

1. A Contractor **shall**, pursuant to its Environmental Management and Monitoring Plan required under Regulation 48 **and in accordance with the Standard on environmental monitoring programmes and other applicable Standards, shall** observe, measure, evaluate and analyse, in accordance with Good Industry Practice, Best Available Scientific Evidence, Best Environmental Practices, and Best Available Techniques, the environmental **metrics relative to thresholds contained in the Standards, and risks to or effects of pollution and other hazards to of pollution and other hazards** Environmental **E**ffects of pollution and other hazards the Marine Environment arising from **Exploitation the mining operation following the approval of the Plan of Work. It shall keep under surveillance the effects of the mining operation to determine whether it is having or likely to have harmful effects on the m**Marine **e**Environment. ~~the mining operation~~ following the approval of the Plan of Work. It shall keep under surveillance, **during all stages of the mining life cycle**, the effects of the mining operation to determine whether it is having or likely to have harmful effects on the Marine Environment **until satisfactory completion of the Closure Plan post-closure monitoring is concluded**.

2alt: A Contractor shall establish and implement an environmental monitoring programme, after approval by the Authority and the sponsoring State or States of the Contractor's environmental management and monitoring plan.

43. The Contractor shall report annually in writing, in accordance with these regulations, to the Secretary-General on the implementation and results of the ~~Environmental Management and Monitoring Plan~~ ~~environmental management and monitoring plan~~ and the environmental ~~management and monitoring programme plan~~ referred to in paragraph 2, in accordance with regulation 38, paragraph 2(g), ~~and the Secretary-General~~ and the [Contractor] shall release publicly, in an accessible format, ~~real time or at~~ monthly intervals, ~~at monthly intervals consistent with best scientific practices,~~ environmental data and information in the required standardized format, and in accordance with the applicable Standards, and taking into account the applicable Guidelines. ~~Other monitoring data, pertaining for example to monitored variations in geochemistry or fauna, shall be released annually in the form of a written report.~~ The Secretary-General shall transmit annual reports to the Commission for its consideration pursuant to article 165 of the Convention and publish them pursuant to Regulation 38(3)

54. In implementing paragraph 1, the Sponsoring State and Contractor shall ~~maintain consultations, including a system of prior notification,~~ with any adjacent coastal State ~~across whose limits of national jurisdiction~~ ~~jurisdiction across whose jurisdiction resource deposits in the Area lie~~ with a view to avoiding infringement of their rights and legitimate interests, including in accordance with Regulation 4.

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

Para 1: We support the deletion of "pollution and other hazards" to ensure the scope to the regulation is sufficiently wide to include all environmental impacts and effects, and not inadvertently to exclude any (e.g. sediment plumes - which are likely to be a major impact from mining, but may not technically fall within the definition of 'pollution' as they involve movement of existing materials, not the introduction of new materials).

The insertion 'during all stages of the mining life cycle' is a useful idea, to ensure the continuing duration of the obligation is clear, however we would propose different wording. Mining life cycle, in common parlance, usually includes the prospecting and exploration phase of a project, which is not the intention here. We suggest as an alternative: 'from the effective date of the contract until satisfactory completion of the Closure Plan'.

Para 2 alt: The current wording implies that the EMMP is implemented after the environmental monitoring programme is approved. Instead, the environmental monitoring programme should be a component of the EMMP and implemented following the approval of that document as well as the overall application for a Plan of Work.

Para 4: It might be more suitable for the Contractor to be required to release the results of the EMMP as outlined in the second sentence, rather than the SG.

Para 5: This para seems to have some typographical errors. Is the intent for the sentence to refer to resource deposits that lie within the limits of national jurisdiction of adjacent coastal states?

The reference to 'resource deposits' could limit this clause to exclude coastal states with an adjacent EEZ that may be concerned about transboundary effects (but who do not necessarily have straddling mineral deposits.) Therefore, we recommend deleting the phrase “across whose jurisdiction resource deposits in the Area lie” and inserting the word “including” after “legitimate interests” to clarify that the rights and interests of coastal States in this regard are not limited to the ones addressed in the specific context of draft regulation 4.

We further recommend that the Authority provide specific procedures and timeframes for consultation. This could be addressed in a Standard and a list of relevant coastal States to be consulted could be included in each REMP.