

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

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.

1. Name of Working Group:

Inspection, Compliance and Enforcement

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

The Pew Charitable Trusts

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

DR 102

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.

- **Red font** are proposed amendments by the Facilitator in this revised text.
- Our proposed amendments and our questions or comments regarding the facilitator’s remarks are indicated as in-line edits in **blue**. Proposed deletions of text proposed by the facilitator appears in strikethrough and **bold**.

2. All installations, **vesselships** and mining collectors involved in exploitation activities under the Exploitation contract shall be fitted with:

(a) an electronic monitoring system which shall record, where technically feasible in real time, inter alia, the date, time and position of all mining activities, and environmental data, [including Underwater Cultural Heritage]; and

(b) The electronic monitoring system shall also encompass the monitoring of the environment, implementing the obligations under Regulation [46ter], ~~allowing for adaptive management during the mining operation.~~

(c) a satellite tracking system to enable identification of each **vesselship** and determination of its position, navigation status, course and speed. The detail and frequency of reporting shall be in accordance with the Standards and taking into account the Guidelines.

2 bis. The Contractor shall use the best-available environmental techniques to monitor in real-time, [where practicable] and in the actual environment the mining impact, including the removal of mineral resources, plume dispersal, chemical emissions, introduction of pollutants including light and sound, [The electronic monitoring system shall be in accordance with the Environmental Monitoring and Management Plan.

~~[2 ter. The electronic monitoring system [should][shall] also encompass the monitoring of mining impacts and be in accordance with the Environmental Monitoring and Management Plan, as well as include a survey of the seabed to identify Underwater Cultural Heritage implementing the obligations under~~

~~Regulation 46, [allowing for adaptive management during the mining operation].~~

3. The Compliance Committee shall notify the ~~[Contractor and the]~~ sponsoring State or States and shall issue a compliance notice under regulation 103, where there is reasonable evidence to suggest based on the data transmitted to the Authority that unapproved ~~[or unreported]~~ mining activities ~~[or Environmental Effects]~~ have occurred or are occurring.

...

5. All data received and transmitted to the Authority under this regulation shall be transmitted to the sponsoring State or States ~~[and non-confidential data be made publicly available in real time on the Authority's website].~~

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

As a general comment, we wonder whether this section should be taken out of ICE (which is about ISA inspections) and put the vessel location part into the Institutional Matters WG where contractor obligations are covered, and put the environmental monitoring part into the Marine Environment WG, where requirements for environmental monitoring are covered. It seems like the ISA is confusing different responsibilities, and different types and purposes of data recording and reporting here.

We suggest to delete in paragraph 2(b) the reference to adaptive management. The e-monitoring system does not itself 'allow for adaptive management'. It just provides data. The ISA Regulations and the contractor's Plan of Work may allow for adaptive management on the basis of that data. But if so, this needs to have its own regulation explaining what 'adaptive management' means in this context of DSM in the Area, and how it will be applied, with what procedural safeguards.

Para 2bis, we would suggest adding "including the removal of mineral resources, plume dispersal, chemical emissions, introduction of pollutants including light and sound" after the words "mining impact". Whilst this may be detailed in the EMMP, we nevertheless think it helpful to retain the language above suggested for deletion. We also wonder how the electronic monitoring system aligns with the contractor's Environmental Management System. We presume it is part of it, but this isn't clear from the Regulation.

Regarding sub para 3, we suggest adding 'unreported' to 'unapproved' in paragraph (3), as this would cover – for example – where a Contractor is mining within their Plan of Work but is not reporting accurate quantities of ore, for royalty purposes.

We would also suggest adding 'or Environmental Effects' to 'mining activities' as again there may be a scenario where the Contractor's activities fall within the Plan of Work, but the impacts they are having do not.

Regarding para 5, we believe it is critical to keep the final sentence to provide additional transparency and help build public trust in both the contractors operations and the ISA's oversight and procedures.