

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 27<sup>TH</sup> SESSION:  
COUNCIL - PART II**

***Informal Working Group - Environment***

Please fill out one form for each textual proposal which your delegation(s) wish(es) to amend, add or delete and send to [council2022@isa.org.jm](mailto:council2022@isa.org.jm).

**1. Name(s) of Delegation(s) making the proposal:**

The Pew Charitable Trusts

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

DR 46ter

**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.**

1. ~~A The Contractor, through the~~ pursuant to its Environmental Management and Monitoring Plan required under Regulation 48, ~~and 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~~ risks or ~~Environmental~~ eEffects of ~~pollution and other hazards~~ to the ~~m~~Marine eEnvironment ~~of 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 eEnvironment.
2. ~~A The Contractor shall cooperate with the Authority and the sponsoring State or States in the establishment and implementation of monitoring programmes.~~ shall ~~establish and implement an environmental management and monitoring programme plan,~~ after approval by ~~cooperate with~~ the Authority and the sponsoring State or States ~~in the establishment and implementation of the Contractor’s environmental monitoring programmes~~ ~~environmental management and monitoring plan.~~
3. The Contractor shall report annually in writing ~~in accordance with these regulations~~ to the Secretary-General on the implementation and results of the ~~an environmental management and~~ ~~programme plan~~ ~~programme~~ referred to in paragraph 2, in accordance with regulation 38, paragraph 2(g), and shall ~~submit~~ ~~release publicly, in an accessible format, at monthly intervals,~~ data and information ~~in the required standardized format, and~~ in accordance with the ~~relevant applicable~~ Standards, and taking into account the ~~relevant applicable~~ Guidelines ~~and recommendations issued by the Commission.~~ The Secretary- General shall transmit ~~such annual~~ reports to the Commission for its consideration pursuant to article 165 of the Convention ~~and publish them pursuant to Regulation 38(3).~~
4. 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 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.

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

General comment - As noted by several member States at the March 2022 session, the links between this regulation and regulations on the environmental management and monitoring plans are unclear. We recognize that the facilitator has tried to clarify this link, but we believe it would be best to incorporate elements of the environmental monitoring programme in the existing regulations on environmental management and monitoring plans (Regs 48 & 51-52) rather than keep them separate.

If this regulation is retained we suggest the following revisions:

**For paragraph 1**, we agree with Costa Rica's July intervention and recommend adding a reference to the relevant Standard for environmental management and monitoring plan, as DR 45 clearly specifies that there will be an applicable Standard for monitoring. We also recommend deleting "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).

**Regarding paragraph 2**, 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.

**Lastly, paragraph 4's** 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.