

**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.

1. Name of Working Group:

Informal Working Group on 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.

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

(a) [an electronic monitoring system] [A device] ~~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.~~...]

[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 ~~Inspectorate~~ [Compliance Committee] ~~Council~~ shall notify 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.

3 bis. The ~~Environmental Monitoring and Management~~ Plan shall include:

(a) a description of the monitoring technology and system to be implemented, including the types of data to be collected and monitored, and frequency of monitoring and data that can be collected and monitored in real-time;

(b) a description of how the monitoring data will be transmitted during operations, how the data will be labelled and monitored by qualified personnel, and how the data will be stored;

(c) the qualifications and proposed location of the personnel monitoring the data; and

(d) a description of the procedures for providing the Authority and the sponsoring State or States access to or receipt of the monitoring data for the purposes of monitoring compliance with the terms of an exploitation contract and collection of data.

4. A Contractor shall permit the Inspectors having access to any monitoring or surveillance systems and equipment.

5. All data received and transmitted to the Authority ~~[Compliance Committee]~~ ~~[the Inspectorate]~~ under this regulation shall ~~also~~ be transmitted to ~~the Council and~~ 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]

For paragraphs 2 and 2ter, we consider the reference to adaptive management to be inappropriate and request its deletion. If the ISA is taking an adaptive management approach to the matters under its regulation, this should be covered and explained carefully in separate provisions or standards. It is important that adaptive management is properly understood by all parties. It should not be used to enable environmentally risky mining in circumstances of uncertainty, with adjustments made as and when unacceptable harm occurs. It should be about the contractor operating a cycle of continuous monitoring, learning and improvement: a systematized approach to a feedback loop and corrective actions. This should be incorporated into a contractor's environmental management system in any event. We therefore do not agree with the references to adaptive management here, which are unexplained and may be open to unhelpful interpretation.

For paragraph 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 '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.

For paragraph 3bis, we wonder whether it might be better to move these details to the Annex or Regulation that sets the requirements for the EMMP, and delete this (3) bis text.

For paragraph 4, this content may be better relocated in DR 98 on Inspectors' powers. Indeed it may be better deleted altogether, as already covered in DR96ter(4)(f) of the new text (or DR96(5)(f) of the original text).