

Statement from The Pew Charitable Trusts on Item 12: Draft regulations for exploitation of mineral resources in the Area (Roadmap)

Thank you Mr. President. Excellencies, Distinguished Delegates, Colleagues,

We thank the SG for his report and the proposed roadmap. Much of what we might say has already been said by others, so we will take the floor here, as briefly as we can, to reemphasize a number of points already expressed. First, to affirm that we share the concern expressed by others that the proposed roadmap is both at once too much and too little. Too much in that a series of 3 week meetings will tax the capacity of all stakeholders to effectively contribute to the discussion of the regulatory framework for exploitation. Too little in that even with this additional time, it will be a great challenge to see these consultations successfully conclude with all of the regulations' constituent elements and all of the ISA's responsibilities adequately addressed. The Council must consider its full suite of options. No doubt we should work intensively over the coming months to progress our discussions about the regulatory framework for exploitation. That may necessitate intersessional exchanges, as Canada, Italy, and other have noted – other multilateral processes and organizations have shown that proactively facilitated and inclusive correspondence and virtual discussions can be useful tools, particularly in resolving technical issues, and should be considered and perhaps first attempted as an alternative to the time and expense of the intensive meeting calendar now under consideration. Moreover, the road map is premised on the notion that, following Nauru's notification, the regulatory framework for the exploitation regime must be adopted and finalized by July 2023. However, it is our understanding that while provisions of Section 1, paragraph 15 of the 1994 Implementing Agreement do indeed call upon the Council to complete adoption of the exploitation regime, they also provide for alternative scenarios in which such elaboration or adoption cannot be completed. As Germany notes, at some point, the Council will need to consider these alternative scenarios and an amendment to the roadmap that provides for that structured consideration would be most welcome and, as Germany noted, need not preclude the ongoing elaboration of the regulatory regime.

But as we forge ahead in the interim and to organize the Council's work over the coming months, we will need more specifics. In addition to the substantive issues raised by Germany, among the outstanding procedural questions we must answer would be: When and how will the most recently established informal working groups commence their work? How will they exchange information and coordinate? How will the gaps explicitly identified by the LTC as requiring further elaboration in the draft submitted to the Council in 2019 be addressed? What will become of the many previous stakeholder submissions on the regulations and standards and guidelines? What will be the process for revisiting the existing draft S&Gs and developing the next round of S&Gs? If outside assistance is engaged to support the development of the regulations, how will proposals be solicited and evaluated, including the request for a consultant on the standards and guidelines recently posted to the Authority's website? Even this long list is necessarily incomplete, but all of these questions would benefit from focused consideration by the Council and we would wholeheartedly agree that a dedicated task force would be useful to that end.

Further, we stress that timeline for all of these activities must account for adequate stakeholder consultations. Public participation in environmental decision-making is an international norm and a human right. The net must be cast particularly wide for the ISA. Because the ISA administers our common heritage, decisions taken by the ISA will be relevant to all humans, current and future. In thinking about the roadmap sufficient time must also be factored in for proper public consultation

procedures, including for States who wish to conduct their own national level consultations. This means that not only must member States and stakeholder have an opportunity to submit comments, they should also see their comments addressed – either reflected in successive drafts or receive an explanation as to why they are not.

The aim of our work over the next two years should be a robust and holistic framework which guarantees the protection of the marine environment and which is reflective of the views of ISA's diverse stakeholders. These overarching goals must ultimately dictate the timeline and the approach for adopting the exploitation regime.

I thank you.