

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 27TH 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.

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 44

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.

- The facilitator’s proposed amendments are reflected in **red**.
- Our proposed amendments are indicated as in-line edits in **blue**. Proposed deletions of text proposed by the facilitator appears in strikethrough and **bold**.

1. The Authority, sponsoring States, the Enterprise and Contractors shall ~~each, within their respective competence,~~ adopt, plan, implement and modify measures necessary for ensuring effective protection of the Marine Environment, ~~including [rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species] and other forms of marine life,~~ from harmful effects ~~[directly resulting from Exploitation in the Area or from shipboard dewatering immediately above a mine site of minerals derived from that mine site,]~~ [which may arise from ~~activities in the Area,~~ in accordance with ~~the Rules of~~ the Authority, referred to in regulation 45 ~~and the applicable Regional Management Environmental Plan,~~. To this end:

(1)(i) Apply the precautionary [approach] ~~[principle], as reflected in principle 15 of the Rio Declaration on Environment and Development~~ and the ~~ecosystem-based management approach~~ to the assessment and management of risk ~~of harm~~ to the Marine Environment from Exploitation in the Area;

~~1(iv) Ensure~~ accountability and transparency in the assessment, evaluation and management of Environmental Effects ~~and risks~~ from Exploitation ~~in the Area,~~ including through ~~S~~stakeholder ~~participation~~ and the timely ~~public~~ release of ~~relevant~~ environmental data and information ~~at regular intervals and in an accessible format through the Authority’s website.~~

~~(1)(v) In implementing the regulations,~~ act so as not to transfer, directly or indirectly, damage or likelihood of damage from one part of the environment to another or transform one type of pollution into another.

(1)(b) In taking all necessary measures to ensure that the Contractor carries out Exploitation in the Area in conformity with the terms of its contract and its obligations under the Rules of the Authority related to the effective protection for the Marine Environment from harmful effects, the Sponsoring State shall at a minimum assist the Authority to implement, mutatis mutandis, the measures set out under paragraph (a)(i) to (iv) above.

~~We recommend paragraph 3 be retained - 3. The Legal and Technical Commission shall make recommendations on the implementation of paragraphs 1 and 2 above.~~

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

Regarding paragraph 1, as noted by several member States, 'Exploitation' is a defined term that means deriving minerals from a mine site, is restricted to 'in the Area', and includes processing at the site, making the additional text to this effect redundant. Also, we recommend deleting the phrase "within their respective competencies", understanding that the relevant actors can only act within their respective competencies, but all will take measures to protect the marine environment within the rules of the Authority.

Regarding paragraph 1, subparagraph i, we believe that a reference to the precautionary principle is critical, but agree with other member States that a more evolutionary interpretation would be most useful and so would support deletion of the reference to the Rio Declaration in favor of a more practical approach to precaution that will flow throughout the regulations.

Regarding subparagraph 1(a)(iv), we welcome the addition of Stakeholder participation and public release of environmental data and information at regular intervals and in an accessible format through the Authority's website. We do believe that all environmental data should be considered relevant and be made publicly available. With that said, it is unclear what "relevant" means in this provision, so we would recommend deleting it.

Regarding subparagraph (1)(b), several interventions were made at the March meeting seeking clarity on the roles and responsibilities of ISA, states, and contractors. We agree with Belgium's intervention in July that It might be helpful to remove 'mutatis mutandis' references throughout this DR44 and instead have separate paragraphs delineating responsibilities, respectively, for the ISA, sponsoring States, the Enterprise and Contractors, flag States, and the LTC. Along these lines, we would like to note that Sponsoring States have duties independent of its obligation to assist the ISA to exercise control over its sponsored contractors. As such, we would recommend expanding on those obligations here or cross-referencing other regulations, if applicable.

Lastly, regarding paragraph 3, we would prefer that this text be retained, as the LTC does have important contributions to make in interpreting and implementing these provisions in undertaking its duty to recommend rules, regulations and procedures to the Council.