

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

***Informal Working Group - Environment***

*Please fill out one form for each textual proposal which your delegation(s) wish(es) to amend, add or delete.*

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

Pew Charitable Trusts

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

DR 3

**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.**

**\*\*Note:** Previously proposed Council amendments are in **Red** and Pew comments are in **Blue**.

~~[(a)alt. Members of the Authority and Contractors shall cooperate with the Authority to provide such data and information upon the request by the Secretary-General in writing with an explanation that such data and information is necessary for the Authority to discharge its duties and responsibilities under the Convention. This provision shall be applied to all members of the Authority and Contractors in a uniform and non-discriminatory manner; ]~~

1(e) Generally and in response to requests from the Authority, Contractors, sponsoring States, **[relevant adjacent coastal States]** and members of the Authority shall cooperate with the Authority **and each other** in the establishment, **funding** and implementation of **research** programmes **to understand the Marine Environment prior to exploitation and** to observe, measure, evaluate and analyse the impacts of exploitation on the Marine Environment, **including at the regional scale**, to share the findings and results of such **research** programmes with the Authority for wider dissemination and to extend such cooperation and collaboration to the implementation and further development of Best Environmental Practices in connection with activities in the Area;

1(f) Members of the Authority, **sponsoring States**, and Contractors shall ~~use their best endeavours~~, in conjunction with the Authority, ~~to~~ cooperate with each other, as well as with other Contractors and national and international scientific research and technology development agencies, with a view to:

(i) Sharing, exchanging and assessing environmental data and information for the Area, **including by use of data repositories and open-access databases**;

(vi) Developing incentive structures, including market-based instruments, to support **[transfer of technology and capacity enhancement of developing states and the Enterprise]** and enhance the environmental performance of Contractors beyond the legal requirements, including through technology development and innovation; ~~and~~

(vi)bis. **Applying an ecosystem approach.**

~~(g)alt. In order to assist the Authority in carrying out its policy and duties under section 7 of the annex to the Agreement, Contractors and member States shall provide or facilitate access to such information upon the request by the Secretary-General in writing with an explanation that such information is necessary for the~~

**Authority to prepare studies of the potential impact of exploitation in the Area on the economies of developing land-based producers of those Minerals which are likely to be most seriously affected. The content of any such studies shall be in accordance with any relevant Standards and take account of the ~~take account of the relevant~~ Guidelines. This provision shall be applied to all Contractors in a uniform and non-discriminatory manner.**

**(h) The Council shall, taking into account recommendations by the Commission, adopt Standards ~~Guidelines~~ concerning the duties mentioned in paras. (e) to (f) which establish requirements, obligations and procedural arrangements, including standardized data templates and methodology for data collection and analysis within three years after the adoption of these regulations or before any mineral production commences, whichever is the sooner.**

(i) The Authority may issue reasonable requests to Contractors, the Enterprise, and member States to participate in joint research or test activities in accordance with directions issued by, and under the control of, the Authority, in order for the Authority to test proposed or adopted rules, regulations and procedures, as well as monitoring practices, and other institutional functioning.

(j) Contractors, the Enterprise, and member States shall cooperate with requests under paragraph (i).

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

Regarding paragraph 1, the original text is preferable to this proposed (a)alt (crossed out above). DR39 already provides the Secretary-General with authority to request data and information. Including an overlapping duty here could cause confusion as some Regulations require Contractors to cooperate and provide data without the request of the Secretary-General (e.g. DR 46-48 concerning the EIS and EMMP). Similarly, all Regulations should be applied to relevant subjects in a uniform and non-discriminatory manner (and a new DR1(8) is proposed to cover that point, above). Expressly requiring that certain paragraphs should be applied uniformly, but not others, may unhelpfully suggest some discriminatory treatment is permissible.

Regarding subparagraph e, we have proposed some text to assist the ISA in encouraging and, as needed, requiring targeted collaborative studies aimed at important areas of uncertainty over environmental impacts that are common to all Contractors within a region and/or resource type. The ISA should be empowered to direct the scope, and control the operation, of such studies. Although we note that a more ambitious programme not captured by this proposed edit would be for the ISA to set up a joint research fund into which Contractors paid a portion of their fees, which could then be used for marine scientific research required to inform the ISA's role as regulator or otherwise to further the ISA's objectives. This may be what is envisaged by, or could be incorporated into, Jamaica's proposal to create a "Environmental Research and Training Fund". A similar aim could also be achieved by Regulations or contract terms requiring or incentivising each Contractor to undertake certain marine scientific research projects outside their Contract Area (e.g. in APEIs), in addition to their Exploitation programme. For more on this topic, please see: [White Paper, Dr. Kevin Murphy \(Pew, 2020\)](#) and Fifth Report of the Code Project - Part 1 (Pew, 2019) ('More Science' section).

Regarding paragraph f, we believe the addition of 'sponsoring States' would make this provision more consistent with (e). Deletion of 'best endeavors' is suggested, as proposed by various members and observers. For subparagraph i, propose this addition based on submissions made by ISA Observer the Deep Ocean Stewardship Initiative ('DOSI'), a network of scientists who bring first-hand knowledge of challenges and opportunities associated with data sharing and use. Regarding subparagraph iii, we recommend that a standardized approach across the region is necessary to obtain robust and comparable data within that region (see submission on the draft Regulations by DOSI). Standardized procedures for REMP development and review should therefore be adopted, as elaborated below (DR44bis, and Annex IVbis). Lastly, we propose the addition of a new subparagraph (vibis) to "apply an ecosystem approach". Cooperative effort will be essential to effective application of an ecosystem approach and this approach should, in turn, form the basis for relevant research initiatives and programmes. For more on this subject, see: [Guilhon, M, Montserrat, F, and Turra, A. Recognition of ecosystem-based management principles in key documents of the seabed mining regime, ICES Journal of Marine Science \[2020\]](#)

Regarding paragraph g(alt), we recommend the inclusion of "member States" as this will be an important source for information about metal supply and demand and prices, which the Economic Planning Commission will need to fulfil its role here.

Regarding the paragraph h, we agree with Germany's proposed addition, but suggest that data-sharing protocols should be in place before mineral production occurs to ensure that monitoring data is recorded and used appropriately. Data and methodology standards across contracts are an important means of the ISA discharging its UNCLOS duties to promote, and coordinate and disseminate the results of, marine scientific research with respect to activities in the

Area, and to ensure effective protection for the marine environment from activities within the Area. Standardized data templates and methodology will help provide clear expectations for Contractors, reassurance to stakeholders about levels of scientific rigour, and comparable data, usable not only for individual project management but also for regional environmental assessments.

Finally, we propose two new paragraphs. The ISA is untested as a regulator, and there are no well-established practices for performance and monitoring of deep-sea mining world-wide. It is therefore recommended that the ISA should establish compliance monitoring practices in provisional form and then test and refine them in detail during a pioneer phase of, for example, an early Contractor test-mine in a joint venture with the Enterprise. This amendment is proposed to allow this.