

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

*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](mailto:council@isa.org.jm).*

**1. Name of Working Group:**

Institutional Matters

**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.**

Draft Regulation 3

**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.**

The facilitators’ proposed amendments are reflected in **blue**.

Our proposed amendments and our questions or comments regarding the facilitator’s remarks are indicated as in-line edits in **magenta**. Where we propose deletions of the facilitator’s text this is shown ~~in strikethrough and bold~~.

(d) The Authority shall consult and cooperate with sponsoring States, coastal ~~S~~states, flag States, **port States**, competent international organizations and other relevant bodies as appropriate, to develop measures to implement these regulations, including to:

(i) Ensure effective protection of the health and safety of life and property at sea and of the Marine Environment, with respect to activities in the Area;

(ii) Exchange information and data to facilitate compliance with and enforcement of applicable international rules and standards;

**(iii) Facilitate access to sites and items that may fall outside the Authority’s jurisdiction to be inspected under these Regulations for the purposes of Contractor compliance monitoring and enforcement.**

(e) Contractors, the Enterprise, sponsoring States, **relevant adjacent coastal States**, and members of the Authority shall cooperate with the Authority in the establishment and implementation of programmes to observe, measure, evaluate and analyse the impacts of Exploitation and related activities on the Marine Environment including at the regional scale, to share the findings and results of such 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;

(f) Members of the Authority, sponsoring States, Contractors and the Enterprise shall, in conjunction with the Authority, 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 **and about** the Area, including by use of data repositories and open-access databases;

(g) 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 enable access to such information, upon the request by the ~~Secretary-General~~ Economic Planning Commission, or other appropriate organs of the Authority to facilitate the work of the appropriate organs of the Authority to prepare studies of the potential impact of ~~E~~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 Guidelines

(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).

## 5. Please indicate the rationale for the proposal. [150-word limit]

DR3(d) appears to be the principal part of the Regs that would cover the need for cooperation between the ISA and member States in the event that inspection or enforcement activities are required to take place under national jurisdiction e.g. facilities onland need to be inspected, or personnel onshore need to be questioned. The ISA does not have jurisdiction to conduct such activities within national jurisdiction without the permission and cooperation of the relevant State. This may be the sponsoring State, but may also be a port State, or other State in which the Contractor has physical presence or operations. As drafted, DR3 does not appear to cover this scenario very robustly and we would propose that the cooperation duties between the ISA and States are further bolstered in DR3(d), in order to clarify the above-described scenario of joint work on inspection and enforcement activity within national jurisdictions.

Regarding paragraph (f)(i) - we query why this sub-paragraph covers 'environmental' data and information only. We suggest that the word 'environmental' should be deleted, or 'and other' should be added after it. In our view, there may be other types of data that would benefit from wider dissemination e.g. economic, geological, technological. Indeed the header paragraph refers specifically to 'technology development agencies' and we recall also the many technology transfer provisions and requirements regarding scientific knowledge sharing (not limited to environmental data) that are contained in UNCLOS, but which are not well-reflected in the Regulations currently.

Regarding proposed paragraphs (i) and (j), as there are no well-established practices for performance and monitoring of deep-sea mining world-wide we recommend that the ISA should establish compliance monitoring practices in provisional form and then test and refine them in detail during a pioneer phase. Source: White Paper, Dr. Kevin Murphy (Pew, 2020). Also please see: Mark Squillace. 2021. Best regulatory practice for deep seabed mining.