

**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:

President

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 31

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.

- **Red font** are proposed amendments by the President
- Our proposed amendments are in **blue**. Proposed deletions of text proposed by the facilitator appears in strikethrough and **bold**

1 **alt.** Contractors shall, consistent with Standards and taking into account the relevant Guidelines, carry out Exploitation under an exploitation contract with reasonable regard for other activities in the Marine Environment in accordance with article 147 of the Convention and the ~~approved Environmental Management and Monitoring Plan of Work and Closure Plan~~, the applicable Regional Environmental Management Plan and any applicable international rules and standards established by competent international organizations, and relevant national laws and regulations of sponsoring States and flag States.

1 **alt bis.** Each Contractor shall exercise due diligence to ensure that it does not ~~cause damage to submarine cables or pipelines~~ interfere with other uses of the sea in the Contract Area. In particular, the Contractor shall:

(a) identify current and planned uses of the sea transiting or proximate to the Contract Area through publicly-available data and resources and any other reasonable means.

(b) coordinate directly with the operators undertaking other uses of the sea in order to reduce the risk of interference with those uses as a result of the Contractor’s activities.

(c) comply with the measures it agreed with the operators undertaking other uses of the sea ~~the submarine cables and pipelines~~ to reduce the risk of damage to any in-service cables and pipelines (such as an easement, or a mining exclusion zone within a reasonable radius); and

(d) ensure that any actions it takes will not interfere with the route of a planned submarine cable or pipeline.

2. ~~The Authority, in conjunction with member States, shall endeavour to coordinate, including with other global, regional and sectoral bodies [take measures] in an effort to ensure underscores that Article 147 of the Convention further provides that other activities in the Marine Environment shall be conducted with reasonable regard for the activities of Contractors in the Area which includes but not limited to the Authority's facilitation of the coordination between two parties at early stages. For this reason, the Authority shall promote, inter alia, effective and early stage consultations between the Contractors and the proponents of the other activities in the Area. Member States, in conjunction with the Authority, shall coordinate, including with other global, regional and sectoral bodies, in an effort to ensure that other activities in the Marine Environment are conducted with reasonable regard for the activities of Contractors in the Area”~~

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

For paragraph 1, at this point we do not have a preference for the original or alternative paragraph as we believe there differences are mainly in styles of drafting. That said, whichever formulation is used, we recommend, as was mentioned by Germany, Tonga and Russia during oral interventions the re-insertion of reference to Standards to leave open the possibility that this may be a subject on which binding subsidiary instruments are found useful. We, as mentioned also by Germany and Russia, also recommend that REMPs are referenced here, as this will be the ISA's primary policy tool for mapping out other marine uses in relevant regions.

For paragraph 1 alt bis, we believe, as the United Kingdom and Germany mentioned, that this paragraph is intended to be in addition to the paragraph 1/1alt and regard it as helpful in supplying further detail as to how Contractors can comply with this regulation. We do recommend two further due diligence requirements, which may be presumed by proposed paragraphs (a) and (b) but would for regulatory clarity benefit from being explicitly stated. Namely, checking public information about vessel movements around the Contract Area, and proactive outreach to any other marine users identified. As mentioned by the United States, we also query whether a specific focus on submarine cables or pipelines could suggest priority over other marine users, or that similar due diligence processes are not required for other marine users, which we do not believe is the intention. We wonder if a version of this could be adopted that applies to all marine users, and have suggested an edit to this effect.

Regarding paragraph 2, we find this provision rather confusing with the new suggestions. As mentioned by the African Group, Australia, Norway and Russia during their interventions, the wording selected should reflect that the ISA has no mandate or ability to 'ensure' the conduct of third parties, as such we have suggested a revision of the paragraph. We also consider that the 'early stage negotiations' is better addressed by a specific requirement for due diligence by the Contractors (as per DR31(1)(alt)(bis), including new proposed (a) and (b)).

