

**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:

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.

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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.

For all of our submission for this working group:

- The facilitators’ proposed amendments are reflected in red and blue
- Our proposed amendments and explanations are reflected in magenta. Deletions of proposed facilitator are in **bold-strikethrough magenta**

Support 2 alt

Support 3 alt -pending modifications

3. alt Where the proposed modification under paragraph 2 ~~above~~ is determined to constitute a Material Change, the Council, based on the recommendations of the Commission, shall determine whether the Contractor is required to undertake an environmental impact assessment and prepare an environmental impact statement of the proposed modification in accordance with Regulations [46bis] and [47], respectively. The Environmental Impact statement and any revisions to ~~may have a potential impact on~~ the Environmental Management and Monitoring Plan or Closure Plan, ~~such plans~~ shall be dealt with in accordance with the procedure set out in regulation 11, prior to any consideration of the modification by the Commission.

4. The Secretary-General ~~may propose to and~~ the Contractor ~~may agree to~~ a change to the Plan of Work that is not a Material Change ~~in accordance with the relevant Standard~~, to correct minor omissions, errors or other such defects. ~~After consulting the Contractor, the Secretary-General may make the change to the Plan of Work, and the Contractor shall implement such change.~~ The Secretary-General shall so inform the Commission ~~and the Council~~ at ~~its~~ their next meeting.

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

Regarding 2alt., like many other delegations, we support this alternative language. Several Member States' submissions in November 2018 called for further clarity as to what constitutes a "Material Change", and voiced concerns over the role of the Secretary-General in making that determination. The addition of Standards would set firm parameters for what comprises a 'material change'. Also, introducing a role for the LTC in assessing whether a proposed modification to the Plan of Work is a 'material change' appears sensible to assuage concerns raised by stakeholders about inappropriate delegation of discretionary decision-making powers to the Secretary-General of the ISA.

Regarding 3alt, like the African Group and United Kingdom we prefer this alternative text, pending some modifications. The draft Regulations presently do not contain any screening provisions (i.e. the assessment of which types of activities trigger an EIA requirement and which can be performed without an EIA). Presumably the determination of a material change would be one instance where screening should occur, as proposed changes could result in different Environmental Effects that may be of some significance. As currently drafted, paragraph (3) allows changes to an EMMP that was originally based on a specific EIA and EIS, without giving the ISA power to require further EIA/EIS. This seems problematic. In addition to the revised language proposed above we recommend including a screening provision before, or within, regulation 46bis (we can provide textual suggestions if that would be helpful).

Regarding para 4, we would prefer the original text, pending some revisions. This permits minor changes to be made, while limiting the discretion of the Secretary-General by requiring any changes to be in accordance with the relevant Standard and to keep the Commission and Council aware of such proposals should they disagree. It also gives the Contractor the right to agree to the amendments, which seems in keeping with Article 19, Annex III to UNCLOS.