

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28<sup>TH</sup> 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](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.**

DR 58

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

1. ~~Activities under a Plan of Work shall be reviewed at~~ At intervals not exceeding five years from the date of signature of the exploitation contract, or ~~more frequently at the request of the Commission or the Council including where, according to the relevant organ of the Authority, as appropriate in the opinion of the Secretary-General, there have occurred~~ any of the following events or changes of circumstance have occurred ~~in taking into account the applicable standards:~~

~~(a.bis) Identification of a new environmental risk, or a significant change to existing risk calculations~~ Information has come to light that was not available when the Plan of Work was approved, including changes in Best Available Techniques or Best Available Scientific Evidence, and shows that more appropriate conditions are necessary to deal with the Environmental Effects of the activity;

~~(a.ter)~~ An indication that the cumulative impacts as a result of ~~the~~ Exploitation activities exceed any environmental objectives or thresholds as established under the applicable Regional Environmental Management Plan;

~~(a.qtr) New information relevant to the effective protection of the marine environment.~~

~~(e) Changes in ownership or financing which may adversely affect the financial capability of the Contractor;~~

~~(f) Changes in Best Available Techniques;~~

~~(g) Changes in Best Available Scientific Information Evidence; or~~

~~(h) Operational management changes, including changes to subcontractors and suppliers; or, the relevant organ of the Authority as appropriate shall Secretary-General may review with the Contractor the Contractor’s activities under the Plan of Work, and such organ shall recommend to the Council discuss whether any modifications to the Plan of Work are necessary or desirable.~~

~~(i) Adverse impacts on the environment or other activities have arisen that~~

were not anticipated, or are of a scale or intensity that was not anticipated, when the Plan of Work was approved.

2. In performing a review required in accordance with paragraph 1, the Contractor shall commission a competent independent expert or experts to undertake A review of activities ~~shall be undertaken~~ in accordance with the ~~relevant regulations~~, Standards and ~~taking into account the~~ Guidelines. The Secretary-General ~~or~~ and the Contractor ~~may~~ shall invite the sponsoring State or States, and ~~relevant coastal States~~ to participate in the review of activities ~~perform by the appropriate organ~~.

~~Alt 1. 3. The organ-person or persons in charge of the review shall report on each review to the Commission and Council, the sponsoring State or States and the relevant coastal states. Where, as a result of a review, modification-material changes need to be made to the Plan of Work is recommended by the reviewer, the Contractor, or the Commission shall recommend said changes to the Council, and the Contractor shall implement such changes as soon as viable. Where, as a result of a review, the Contractor wishes to make any changes to a Plan of Work and such changes are Material Changes requiring the approval of the Council, based on the recommendation of the Commission, the Contractor shall seek that approval in accordance with~~ regulation 57 shall apply .

4. For the purpose of the review, the Contractor shall provide all information required by the ~~independent expert or experts to the~~ Secretary-General in the manner and at the times ~~the Secretary-General~~ requested.

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

For para. 1, suggest minor drafting improvements of this paragraph (1), including to clarify which organs of the ISA are empowered to act here.

For para 1(a)(bis), the proposed amendment seeks to incorporate the issues covered by this provision, a.qtr, (f) and (g), while using language more consistent with the rest of the Regulations.

For para 1(c), as previously proposed by Canada, we would recommend deletion of this text. If there is a change in financial capability such that a Contractor is not able to deliver the existing Plan of Work, the appropriate response would be either to withhold consent to the change in ownership, or issue a compliance action / contract suspension, rather than expediting a regular review process that leads to an amended Plan of Work.

For para 1(h), rather than grant wide discretion to the Secretary-General (and the Contractor itself), it would be more sensible to ensure that reviews take place as a matter of course and are carried out by independent persons.

We suggest some drafting amendment to this paragraph (2). We believe it should be clear from the regulation who is undertaking the review (which is not achieved by the passive drafting of 'shall be undertaken'). We also consider that the review should be undertaken by an independent party (and not the Secretary-General as proposed).

For para 3 alt, we support the alternative text, pending some modification. This Alt. text appears to move away from the notion of an independent reviewer, and also seems to overlap unnecessarily with DR 57.

For para 4, although information may flow through the Secretary-General to ensure that experts are supported and data management practices are followed, for efficiency, it would seem sensible for the experts themselves to request directly the manner and timing of information provided.