

**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:**

Informal Working Group on 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 7

**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.**

2. Each applicant, including the Enterprise, shall, as part of its application, provide a written undertaking to the Authority that it will:

(a) Accept as enforceable ~~[during all stages of the process chain]~~ and comply with the applicable obligations created by the provisions of Part XI of the Convention, ~~[the Agreement]~~ the rules, regulations and procedures, ~~[including the Standards]~~ of the Authority, the decisions of the organs of the Authority and the terms of its contract with the Authority;

(b) Accept control by the Authority of activities in the Area ~~[during all stages of the process chain]~~ as authorized by the Convention;

(c) Provide the Authority with a written ~~[substantiated]~~ assurance that its obligations under its contract will be fulfilled in good faith; and

~~[(d) Comply with the national laws, regulations and administrative measures of the sponsoring State or States made pursuant to articles 139 and 153 (4) of the Convention and article 4 (4) of annex III to the Convention]~~ -

~~[Alt. proposal to delete (2) and all its sub paragraphs, because an applicant should already be subject to the relevant instruments and requirements, and a written statement does not give them new legal force.]~~

3. An application shall be prepared in accordance with these regulations ~~[and applicable Standards] [as well as the respective Regional Environmental Management Plan]~~ and accompanied by the following:

(a) The data and information to be provided pursuant to section 11.2 of the standard clauses for exploration contracts, as annexed to the relevant Exploration Regulations;

~~[(a)bis. A test mining study prepared in accordance with Regulation [48bis] Paragraph 2 or 3, as applicable, and Annex [IVter]]~~

(b) A Mining Work Plan prepared in accordance with annex II to these regulations;

(c) A Financing Plan prepared in accordance with annex III to these regulations;

(d) An Environmental Impact Statement prepared in accordance with regulation 47 and in the format prescribed in annex IV to these regulations;

(e) An Emergency Response and Contingency Plan prepared in accordance with annex V to these regulations;

(f) A Health and Safety Plan and a Maritime Security Plan prepared in accordance with ~~[Regulation 30 and]~~ annex VI to these regulations;

(g) A Training Plan in fulfilment of article 15 of annex III to the Convention, prepared in accordance with ~~annex VI bis to these regulations and~~ the Guidelines;

(h) An Environmental Management and Monitoring Plan prepared in accordance with regulation 48 and annex VII to these regulations ~~[which documents that management and monitoring are in compliance with the applicable Regional Environment Management Plan];~~

~~[(h)bis. Information regarding the environmental management system that the Contractor will implement in accordance with [regulation 46];]~~

(i) A Closure Plan prepared in accordance with regulation 59 ~~[of]~~ and annex VIII to these regulations; ~~and~~

~~(j) \_\_\_\_\_~~ An application processing fee in the amount specified in appendix II.

~~(k) \_\_\_\_\_~~ A copy of the Contractor's code of Conduct or other rules applicable to all staff involved in the execution of a proposed Plan of Work, including policies pertaining to personnel safety, environmental compliance, inclusivity, gender equality and diversity, which shall conform in material respects with the rules applicable to staff of the Enterprise or any other rules proposed by the Authority; and

~~(l) \_\_\_\_\_~~ A copy of documents to evidence the applicant's Environmental Performance Guarantee, in accordance with regulation 26

4. Where the proposed Plan of Work proposes two or more non-contiguous Mining Areas, the Commission ~~may shall~~ require separate documents under paragraphs 3 ~~[(b)], (d), (h) and (i) and (1)~~ above for each Mining Area, unless the applicant demonstrates ~~[to the~~

satisfaction of the Commission] that a single set of documents is appropriate, taking account of the relevant Guidelines.

[5. Where a single set of documents is submitted by the applicant proposing a Plan of work for two or more non-contiguous Mining Areas and the Commission considers it is not appropriate, the Commission ~~may~~ shall reject the application and request separate documents under paragraphs 3 [(b), (d), (h) ~~and (i), and (l)~~] above for each Mining Area.]

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

Regarding paragraph 2 and the facilitators comment, we agree with the delegation who suggests that the Regulations should impose direct obligations upon contractors via DR12 bis. However, we note that the undertakings contained in sub-paragraphs (a), (b) and (c) are specific requirements of UNCLOS (Annex III, Article 4, paragraph 6). As such we suggest retaining them, but to adhere more closely to the wording used in UNCLOS. We note in particular that the terminology proposed here 'during all stages of the process chain' is not used elsewhere in the Regulations or in the Convention, and may be open to subjective interpretation. Therefore, we suggest this phrase be deleted.

For paragraph 3, we strongly support retaining reference to Standards and REMP's while noting that REMP's themselves are policy documents, but that aspects of them, such as APEI's, must be given legal force through the regulations. Council may wish to have a broader discussion on the elements of REMP's which should have binding effect on contractors and ensure that is properly reflected in the regulations.

On paragraph 3(g), does not provide guidance on the required content of the Training Plan. Under UNCLOS, 'training is envisioned as a key non-monetary benefit resulting from the implementation of part XI and as a means to introduce a degree of equity within the regime of the ISA for developing States, by sharing knowledge and building capacity' and the Contractor's programme of training is a specific requirement of Annex III to UNCLOS. As such, we suggest that either a new annex be developed to address this gap or to make it clear in this provision that these requirements will be contained in a future Standard

For paragraph 3(f), we support the suggestion that the Health and Safety Plan and the Maritime Security Plan be dealt with in separate regulations and Annexes.