

**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:**

Protection and Preservation of the Marine Environment

**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 56

**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 Facilitator in this revised text.
- Our proposed amendments and our questions or comments regarding the facilitator’s remarks are indicated as in-line edits in **blue**. Proposed deletions of text proposed by the facilitator appears in strikethrough and **bold**.

1. In adherence to the ~~precautionary~~ polluter-pays principle the Fund will consist of, but not be limited to, the following monies:
  - a. The prescribed percentage or amount of fees paid after approval of a plan of work and prior to the commencement of mining activities (Commercial Production) in the Area under an Exploitation Contract by Contractors or the Enterprise to the Authority;
    - a. alt. The requirements and modalities governing contributions to the Fund in accordance with regulation 56, including the establishment of the minimum size of the fund, and the modalities for replenishment of the fund upon disbursement.
  - b. The prescribed percentage of any penalties paid by Contractors or the Enterprise to the Authority;
  - c. The prescribed percentage of any amounts recovered by the Authority by negotiation or as a result of legal proceedings in respect of a violation of the terms of an exploitation contract;
  - c. alt. Establishment of rules, guidelines and modalities for determining entities eligible to access the Fund, which may include states and third parties ~~private entities that have suffered damages.~~
  - d. Any monies paid into the Fund at the direction of the Council, based on recommendations of the Finance Committee;
  - e. Any income received by the Fund from the investment of monies belonging to the fund;
  - f. An annual levy paid by Contractors or the Enterprise to the Fund;

and

- g. ~~The prescribed~~ Any contributions paid by Ssponsoring States to the Fund.

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

Regarding paragraph (a)(alt), we agree with this provision but believe it has been misplaced here in a list of sources of funding. It should be located in DR54(2) concerning the rules and procedures of the fund and could be merged with existing provisions. This we believe applies to paragraph (c)(alt) as well. For this provision we also recommend replacing private entities with ‘third parties’.

Regarding paragraph (c), we are unsure about the reference to a ‘negotiation’ of some kind of pay-out in relation to a violation of the terms of a contract. To the best of our knowledge, we do not recall seeing such a compliance measure or sanction elsewhere in the Regulations. In addition, sub-paragraph (b) already would include monetary penalties that may be payable in the event of Contractor non-compliance.