

**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:

Open Ended Working Group on Financial Terms of a Contract

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 63

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**.

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

We thank the Chair for the revised text presented on the screen and will consider it further as it is integrated into the consolidated text. For now, we have copied the intervention we made so that the Chair and assistance from Norton Rose have it for their records:

“We support reference to the Economic and Planning Commission in this context. We note that UNCLOS Annex III Article 13 paragraph 14 requires recommendations of the Economic Planning Commission and the LTC before rules, regulations and procedures are adopted in relation to incentives to further the objectives set out in article 13(1) and would therefore recommend a reference to the two bodies in the alt paras of the Chair’s proposed text. Similarly we would agree with the proposal of several delegations previously to include reference to Standards and Guidelines, which can provide further definitions and explanation with regards incentive options.

Our initial view is that we do not support the idea of financial incentives to encourage contractors to go beyond legal obligations and best business practices. Contractors are already obliged to employ ‘best environmental practices’. This should include the concept of continuous improvement, and contractors should be benchmarked against each other. Reducing environmental impacts to as low as reasonably possible should be a requirement, not a bonus extra. We are concerned that introducing a system that rewards better environmental practices (a) undermines the meaning of ‘best environmental practices’ and implicitly allows that poorer practices are an option, and (b) may be open to abuse, such that financial benefits for humankind are driven down in return for protection of the marine environment.

We would also like to repeat a point the Pew made last week, and we think China identified: i.e. that there is another prohibition on subsidisation in section 6 of the Annex to the 1994 Agreement which alludes to the agreements of what is now the WTO, and specifically says there shall be no subsidization of activities in the Area except as may be permitted under the agreements. Has this been considered in this WG, and if not, will it be considered how to operationalise it in the Regulations? Would welcome clarity here.”