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 64bis-Qui

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 and the intersessional working group for this textual proposal. We are still considering the proposal but did have two questions that would be helpful to gain clarity on:

Firstly: Does this provision apply equally, and work in practice, for contractors without a sponsoring State. Namely a State Party who holds an ISA contract directly, as is the case in several existing ISA exploration contracts? Also the Enterprise.

Secondly: the acknowledgement in these new regulations of the possibility of State subsidies recalls for us the provisions of the 1994 Agreement (Annex, section 6) which states that there shall be no subsidization of activities in the Area except as may be permitted under agreements of the World Trade Organisation. We are unclear whether this has ever been discussed at the ISA. The State funding of ISA contract activity, and particular complexities about arrangements for onward processing, sale, import, and export of the mineral resources from the Area, makes it hard to know how to apply this prohibition. We are also unclear whether there are any relevant such WTO agreements - though these would appear to be a necessary prerequisite in order for these Regulations to permit subsidization of exploitation in the Area? This is important, not only to ensure compliance with the international regime agreed by consensus, but also because there is great public interest in avoiding introducing new environmentally harmful subsidies.

We would be grateful for further information or reassurance with regards this issue on subsidies.