

**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 81

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 support 2 alt. as proposed though suggest that reference should be made to any other changing circumstances that the Council reasonably deems relevant, to reflect the 1994 Agreement’s wording ‘in light of changing circumstances’. These may in fact be broader than the stated focus on maturity of Exploitation activities. We wonder how the requirement of non-discriminatory application can be met though, if some contractors were to accept the change, and some do not.

As a general note, we wonder from a procedural standpoint whether it would be lawful for a payment system and royalty rate set in the Regulations (which have been approved by the Assembly), to be amended only by the Council. Assuming this is the case, it seems that changes to rates and systems for existing (and possibly future contracts) should apply only after the Assembly makes its decision.

We support new para 3 as providing clarity and policy direction for why the system is being reviewed in DR 81, and what the objectives of the review should be. There is clear guidance in UNCLOS that ISA should aim to benefit humankind, and secure optimum revenues, so those can be referenced as guidance in terms of the review. This can be expanded in Standards (as per sub-paragraph c) and as with any major decision-making point for the ISA, particularly one with direct relevance to the sale of the common heritage of humankind, it is also useful to add some procedural safeguards, including consultations (as per sub-paragraph d).