

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28<sup>TH</sup> SESSION: COUNCIL -  
PART III**

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:**

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 1

Red text is in original draft; magenta text indicates Pew's new textual proposals or support for a proposal from a range of options

**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.**

~~3. Subject to paragraph 1 and the Schedule, terms used in other rules, regulations and procedures of the Authority shall have the same meaning in these Regulations.~~

4. Terms and phrases used in these regulations are defined ~~for the purposes of these regulations~~ in the schedule ~~and the Standards and Guidelines~~.

6. These regulations are ~~accompanied~~ ~~complemented~~ by Standards and Guidelines, ~~and Regional Environmental Management Plans, as may be adopted by the Authority from time to time,~~ as referred to in these regulations and the annexes thereto, as well as by further rules, regulations and procedures of the Authority, in particular on the protection and preservation of the Marine Environment [alt 1. including regional environmental management plans, [and conservation and management measures]] [alt 2. (6.bis) These regulations are further complemented by regional environmental management plans.]

9. These ~~R~~regulations shall be applied in a uniform and non-discriminatory manner. [*One delegate suggests moving paragraph (9) to a new Regulation 2(7)*].

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

We propose deleting para 3. The provision seems unnecessary. The drafting is also unclear if other RRs should follow the definitions in these Regulations, or vice versa. Finally we think it may be factually incorrect, as each set of ISA rules, regulations and procedures generally tend to set their own definitions and don't seek to influence other instruments.

We propose deleting 'and the Standards and Guidelines' in paragraph (4). It does not make sense that subsidiary instruments - including those that may be developed after the adoption of the Regulations - would

be able to define terms in these Regulations. It may work the other way round, that is: Standards and Guidelines may adopt the same defined terms as used in the Regulations. But that is not what this paragraph (4) says, and also we consider that would be better expressed within the Standard or Guideline itself, on a case-by-case basis.

In para 6, we would suggest using the term “accompanied” rather than complimented, when describing Standards and Guidelines. Additionally, we propose adding a reference to REMPs after Standards and Guidelines. The Council has indicated that REMPs (DR 44bis) will be a crucial part of the ISA’s environmental management regime and should be developed in conjunction with the Regulations. REMPs, albeit policy documents, are likely to contain important provisions relevant to the protection of the marine environment (e.g. designation of protected areas, non-spatial management measures) and so should be included in this list.

Pew has recently published a paper on the issue of giving legal effect to REMPs and management measures contained within them and we invite delegates to read the paper available on the ISA’s website here: [https://www.pewtrusts.org/-/media/assets/2023/10/giving-legal-effect-to-remps\\_pew-charitable-trusts.pdf](https://www.pewtrusts.org/-/media/assets/2023/10/giving-legal-effect-to-remps_pew-charitable-trusts.pdf)

We agree with the inclusion of new provision in para 9 - several member States have proposed inclusion of ‘non-discrimination’ wording elsewhere in the Regulations, and this point was raised last Friday, in the Open Ended Working Group on the Payment Regime. We believe that a generic and universal provision at the outset of the Regulations would better serve this purpose. If this new paragraph (9) is retained, or moved to Draft Regulation 2 as suggested, which also seems logical, then other references throughout the Regulations to uniform and non-discriminatory treatment should be deleted. Expressly requiring that certain paragraphs should be applied uniformly, but not others, may unhelpfully suggest some discriminatory treatment is permissible.