

**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:**

President's Text

**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 25

\*Blue font are proposed amendments by the Council President.

\*Pew's amendments are indicated as in-line edits in red font.

**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.**

1. At least 12 months prior to the proposed commencement of production in a Mining Area, the Contractor shall provide to the Secretary-General a Feasibility Study prepared in accordance with Good Industry Practice **and the relevant Standard**, taking into account the applicable Guidelines ~~[as well as the results of the test mining study pursuant to Regulation [48bis], paragraph 2 or 3, as applicable, and in accordance with Annex [IV ter]].~~ and the Secretary General shall submit this matter to the Commission. If the Commission considers that any Material Change needs to be made to the Plan of Work, the Contractor shall prepare and submit to the Commission ~~[through the Secretary- General]~~ a revised Plan of Work accordingly.

~~[2.alt. Regulation 57 shall apply to a revised Plan of Work submitted by the Contractor under paragraph 1.]~~

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

**Para 1:** As a general comment, we believe this regulation needs further policy discussion by Council, to ensure mutual understanding before further engagement with the text. During meetings in May 2023, members of the intersessional Working Group on Test-Mining queried what would be the requisite contents of the Feasibility Study required under draft regulation 25. It was raised that a feasibility study (in the common use of the term in the mining industry) would usually be an objective study carried out by qualified experts, used by the operator for the purposes of raising capital for a mining project. As such, a

feasibility study would usually occur before commercial-scale mining equipment is built. This raises questions about the current ordering of the Regulation requirements, and/or the meaning and expected content of the 'feasibility study' for the ISA, if it means something different from common usage. We note that the term 'Feasibility Study' is defined in extremely broad (and vague) terms in the Schedule to the Regulations. We also note that the Mining Workplan (Annex II) requires a comprehensive statement of the Mineral Resource including all known details of reserves, with a report to validate this. Also an economic evaluation and financial analysis of the project, projected production rates, and details of test mining. Which sounds very much like the expected content of the Feasibility Study (and the results of the test mining study). Perhaps it should be clarified that the documents required under DR25 are designed to further validate, or to amend, what information was already submitted in the Mining Workplan and Environmental Plans?

In relation to paragraph (1) of DR25, it is unclear why the draft of DR25(1) has shifted away from relying on a Standard to set the requirements for the Feasibility Study, and relying instead only on a non-binding Guideline. We suggest the Standard is reinstated.

**Para 2:** We prefer alt 2 over original para 2 as it was unclear to us why DR57 (Modification of a Plan of Work by a Contractor) would not apply in its entirety to a revision of any of the Contractor's plans, not only the environmental plans. With the scope restricted only to environmental plans, an applicant could obtain a contract based on unsupported or estimated feasibility information, and subsequently request changes to other parts of the Plan of Work, such as its Mining Workplan or Finance Plan, based on new assessments of prospectivity or recovery rates, without stakeholder input or an opportunity for the Council to reconsider its original decision. Changes to any part of the Plan of Work should be included in the procedural safeguards provided by DR25(2).