

**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.im](mailto:council@isa.org.im).*

**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 31

\*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. Contractors shall, consistent with any relevant [Standards and taking into account any relevant] Guidelines, carry out ~~exploration and~~ exploitation [activities] under an exploitation contract with reasonable regard for other activities and infrastructure in the Marine Environment, in accordance with articles 87 and 147 of the Convention, [the Plan of Work] and the approved Environmental Management and Monitoring Plan, [Regional Environmental Management Plan] and Closure Plan.

1bis. Each Contractor shall exercise due diligence to ensure that it does not cause damage to submarine cables or pipelines or interfere with other activities uses of the sea in the Contract Area ~~or the surrounding Marine Environment~~. In particular, the Contractor shall:

- (a) comply with the measures it agreed with the operators undertaking other [activities in the Contract Area or the surrounding Marine Environment uses of the sea and of submarine cables and pipelines] to reduce the risk of damage to any in-service cables and pipelines; and

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

**Para 1:** We support the re-insertion of reference to Standards, to leave open the possibility that this may be a subject on which binding subsidiary instruments are found to be useful. We also consider it important that REMPs are referenced here, as we consider REMPs would be the ISA's policy tool for mapping out other marine uses/activities in the relevant region.

**Para 1bis:** The reference to ‘measures agreed’ by the Contractor with other operators in the Contract Area seems unsupported as there does not seem to be an equivalent requirement for the Contractor to make such agreements. It should be clear that this does not only apply to cable operators.

We also consider that the obligation should relate to marine users not only in the Contract Area, but also the surrounding marine environment - as the Contract Area as currently defined means only the seafloor, and would not cover activities in the water column or ocean surface. Article 147 of the Convention refers to the Marine Environment, and not the Area.

With regards to 1 bis alt which has now been deleted, we found these provisions useful in supplying further detail as to how Contractors can comply with this regulation. We note that Article 147(2) of UNCLOS provides, amongst other stipulations, that activities in the Area should not be established where “interference may be caused to the use of recognised sea lanes essential to international navigation or in areas of intense fishing activity.” We therefore support the proposed paragraphs (a) and (b) which provide regulatory clarity, namely, directing Contractors to check public information about vessel movements around the Contract Area, and conduct proactive outreach to any other marine users identified. We also query as mentioned by other member States whether this DR should include a complaints mechanism for proponents of other marine uses and activities in case the Contractor is alleged to have breached its obligation to have due regard for other marine uses and activities.