

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH
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.

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 57

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.

1 alt. Activities under a Plan of Work shall be reviewed at intervals not exceeding five years from the date of signature of the exploitation contract, or more frequently at the request of the Commission or the Council, including where any of the following events or changes of circumstance have occurred:

1 (a bis alt.) Information has come to light that was not available when the Plan of Work was approved, including changes in Best Available Techniques or Best Available Scientific Information, and shows that more appropriate conditions are necessary to deal with the Environmental Effects of the activity;

~~1 (e) [(e) Changes in ownership or financing which may adversely affect the financial capability of the Contractor;]~~

~~(f) **Significant** Changes in Best Available Techniques;~~

~~(g) **Significant** Changes in Best Available Scientific Information;~~

~~(g bis.) **Significant** Changes in Best Environmental Practices;~~

2. [alt 1. In performing a review required in accordance with paragraph 1, The Contractor shall commission a competent, independent expert or experts to undertake a review under paragraph (1)] [alt 2. A review of activities under paragraph (1) shall be undertaken by the Contractor and verified by an independent expert] in accordance with the relevant regulations, Standards and **taking into account** the Guidelines. The [Secretary-General][or][and][the Contractor] shall invite the sponsoring State or States, and relevant

coastal States, to participate in the review of ~~activities~~ ~~the Plan of Work~~. **The results of the review shall be compiled as a report.**

~~[[3 alt.] The organ~~ **person or persons** in charge of the review shall report on each review to the Commission and Council, the sponsoring State or States and the relevant coastal States. Where, as a result of a review, ~~material changes~~ **the Council, Commission, Contractor or reviewer identifies that modifications** need to be made to the Plan of Work, ~~the Commission shall recommend said changes to the Council, and the Contractor shall implement such changes as soon as viable. Where, as a result of a review, the Contractor wishes to make any changes to a Plan of Work and such changes are Material Changes requiring the approval of the Council, based on the recommendation of the Commission, the Contractor shall seek that approval in accordance with regulation 57(2) and, where applicable, regulation 57(3) shall apply.~~

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

Para 1: We prefer para 1 alt, which provides better drafting clarity, as well as clarifies which organs of the ISA are empowered to act here.

We prefer a bis alt, which incorporates the issues covered by this provision, a.qtr, (f) and (g), while using language more consistent with the rest of the Regulations

We support a quin and a sexies which seem appropriate triggers for a change of circumstance to be included in this provision. On a quin, we would just note that although it is noted that such event should - in addition to triggering this review - also trigger a more immediate response, either to modify the operation (and the Plan of Work) or even to initiate an Incident response (depending on the severity of the impacts).

Subparas (e) (f) (g) (gbis): We would recommend deletion of sunpara e. If there is a change in financial capability such that a Contractor is not able to deliver the existing Plan of Work, the appropriate response would be either to withhold consent to the change in ownership, or issue a compliance action / contract suspension, rather than expediting a regular review process that leads to an amended Plan of Work.

We also prefer deleting subparas f,g and gbis which are captured in a bis alt.

Para 2: We support the edits to para 2 which now makes the provision clearer in terms of who is conducting the review. We believe the review should be undertaken by an independent party and might be better captured in alt 1.

Para 3: We support the alternative text, along with the edits in red.