

**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 91

**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.**

Title: Information to be submitted upon ~~expiration~~ **termination** of an exploitation contract

~~[2. Upon termination of an exploitation contract, the Contractor and the Secretary General shall consult together and, taking into account the Guidelines, the Secretary General shall specify the data and information to be submitted to the Authority [within 90 Days].]~~

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

In relation to paragraph (1), we agree with others that 'termination' is the correct term in this draft Regulation. We note that the new DR18 ter sets out all the situations of contract termination, which include natural expiry, surrender, as well as termination by the ISA, so that seems the correct term here. We however were also unsure about the inclusion of 'suspension' in this Regulation - which may be temporary, and for a short time - as short as 7 days for example. Our view is that the ISA does not need a wholesale dump of data in a suspension scenario.

We support the deletion of para 2. Paragraph (2) as drafted may give rise to questions of legal competence about the functions and role of the Secretary-General, as well as concerns about uniformity of approach raised by the process. Paragraph (1) - and (1 bis) if retained, or the Standards and Guidelines in any event - combined with the deletion of paragraph (2), would address those issues.

As a general reflection, we also recall discussing in the Open-Ended Working Group yesterday DR74 on books and records, and particularly DR74(4), which requires a contractor to maintain copies of its records for several years after the Closure Plan has been completed, in case the ISA needs to request copies during that later period. So this DR91 should not give a false impression that once the Contractor has transferred certain information at contract termination under DR91, the rest can be destroyed. We

wondered whether it may make sense to relocate that DR74(4) to this DR91, or otherwise merge these two regulations, so their correlation is clear.