

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 29TH SESSION:
COUNCIL - PART II**

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(s) of Delegation(s) making the proposal:

The Pew Charitable Trusts

2. Please indicate the relevant provision to which the textual proposal refers.

Draft regulation 11

3. 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. The Secretary-General shall, within 7 Days after determining that an application for the approval of a Plan of Work is ready to progress pursuant to Regulation 10:

(a) Taking into account the confidentiality of the data, place the application, ~~the Environmental Plans~~ and all ~~non-confidential~~ documentation submitted and associated with it, ~~including any supporting material~~ on the Authority’s website ~~for a period of 90 Days~~, and notify and invite members of the Authority, the Finance Committee, relevant adjacent coastal States, [and any other States adjacent to the Exploitation Area when they are potentially the most affected States], Stakeholders, ~~and the general public~~ to submit comments in writing within 90 Days, in accordance with the applicable Standards and taking into consideration Guidelines. ~~[All comments shall be published at the Authority’s website.~~

~~[(b) Request the Commission to provide its comments on the Environmental Plans and the non-confidential parts of the Test Mining study within the 90 Day comment period.]~~

~~[(c) Based on the assessment of the Commission, if necessary, establish an independent review team, making use of the roster of competent independent experts, if any, to provide comments on the Environmental Plans within the comment period.]~~

2. The Secretary-General shall, within 7 Days following the closure of the comment period, provide all submissions received, and any comments from the Secretary-General to the applicant and publish all submissions and comments provided at the Authority’s website.

2 bis The applicant shall consider the comments provided pursuant to paragraph 1 and shall, as appropriate, revise the [Application] or provide responses to the relevant and substantive comments, as to how they were taken into account and submit any revisions and responses to the Secretary-General ~~within a period of 30 Days following the close of the comment period or such longer period as determined by the Secretary-General following a request by the applicant.~~

2 ter The Secretary-General shall provide comments submitted pursuant to paragraph 1, and any revisions and responses to comments submitted pursuant to paragraph 2 bis, to the Commission.

3. The Commission shall, as part of its examination of an application under Regulation 12 and assessment of applicants under Regulation 13, examine the comments submitted under paragraph 1, together with any revisions and responses provided by the applicant under paragraph 2 bis, and any additional information provided by the Secretary-General under paragraph 2.

4. Notwithstanding the provisions of Regulation 12 paragraph 2, the Commission

shall not consider an application for approval of a Plan of Work until the application has been published and if necessary, revised in accordance with this Regulation.

5. The Commission shall prepare a draft report on the application and all documentation submitted and associated with it ~~{Plan of Work and the accompanying plans and information}~~, which shall be published at the Authority's website [subject to the redaction of any Confidential Information as may be necessary] for consultation for [x days].

5bis. Upon receipt of comments from the consultation under paragraph 5, the Commission ~~and~~ shall finalize its report and its recommendations which shall be included as part of the reports and recommendations to the Council pursuant to Regulation 15. The report shall include:

- (a) Details of the Commission's determination under Regulation 13 (4);
- (b) Details of the comments and responses submitted under paragraphs (1) ~~and~~ (2 bis) and (5);
- (c) Any further information provided by the Secretary-General under paragraph (2);
- (d) any amendments or modifications to the application recommended by the Commission under Regulation 14 and changes subsequently made to application documents by the applicant; and
- (e) the relevant rationale for the Commission's determination, with specific explanation as to any comments or responses that are disregarded.

[6. In preparing its report under paragraph 5, the Commission ~~may~~ shall seek advice from competent independent experts as necessary.

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

Regarding paragraph (1)(a), like Costa Rica, Australia, Norway, Germany, France, Spain, Japan, Belgium, Netherlands, African Group, Denmark and Fiji, we support reference to the application (as a whole) so as to allow and suggest deleting the reference to Environmental Plans and to similar drafting adjustments throughout the regulation where appropriate. This will allow the publication and consultation on all non-confidential parts. We also agree with Norway, France Denmark and the African Group that there should be no time limit on the publication of the application. We also recommend that the Finance Committee be one of the groups notified of the consultation period, as they may have helpful input on certain aspects of the application such as amount of the Environmental Performance Guarantee

With regards to the overall application process and recognizing that the Stakeholder group work still needs to be reflected in the regulations - we note that paragraph 1(b) has the LTC review the Environmental Plans concurrently with the public consultation, and then paragraph (3) and DR 12 have the LTC review the application (including the Environmental Plans, and any related updates or submission) again. This seems inefficient to us. One option would be for DR11(1)(b) to be deleted, leaving the LTC to commence its review after the stakeholder consultation has been run. We also recommend that another consultation take place on the draft report of the LTC. We have suggested some text along these lines but are flexible with the wording.

For 2bis, we support Norway's suggestion to delete 30 day response time as seems unnecessary.

We support the comments made by Costa Rica, Germany, Belgium, Brazil and Denmark regarding the mandatory use of experts, though consider (1)(c) and (6) could be merged. We consider the use of independent experts to be a cross-cutting issue that needs further work, including to identify: who qualifies as an independent expert, how this is assessed, when such expertise can or must be used, and by what procedure and on what terms those experts may be selected and used. We recommend such procedures be included in a Standard or policy document.