

**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 25

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. At least 12 months prior to the proposed commencement of ~~[Commercial Production]~~[Sustained Large-scale Recovery Operations] ~~production in a Mining Area,~~ the Contractor shall provide to the Secretary-General a Feasibility Study prepared in accordance with ~~[Annex X] and~~ Good Industry Practice, ~~and the applicable Standard,~~ taking into ~~consideration account the applicable~~ Guidelines [as well as the results of the Test Mining study pursuant to Regulation [48 ~~ter bis~~], paragraph 2 or 3, as applicable, and in accordance with Annex [IV ~~ter~~]. ~~and the Secretary-General shall submit this matter to the Commission.~~

~~Ibis. The Contractor shall conduct consultation on the Feasibility Study with all States and Stakeholders in accordance with Regulations 93 bis.~~

~~Iter. Provided the procedure under regulation 93 bis has been completed, if the the Commission shall considers that review the Feasibility Study and determine- whether any Material Change needs to be made to the Plan of Work. Where, as a result of the review Material Change to the Plan of Work is needed,~~ 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 I ter.]~~

~~32. The Contractor may shall not commence Commercial Pp~~roduction in any part of the Area covered by the Plan of Work until either:

(a) The Commission has determined that no Material Change to the Plan of Work needs to be made ~~pursuant to paragraph I ter in accordance with Regulation 57 (2) [and this has been approved by the Council];~~ or

(b) In the event that a Material Change is made, the Council has given its approval to the revised Plan of Work pursuant to ~~[paragraph 2alt5 above]~~[regulation 57]; and the ~~[Authority has confirmed lodgement of] Contractor has lodged~~ an Environmental Performance Guarantee in accordance with Regulation 26.

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

As noted by Germany, we believe it would be helpful to have a discussion on the policy intent of a feasibility study and the inclusion of an Annex or Standard indicating the required content of a feasibility study.

During meetings in 2023, members of the intersessional Working Group on Test-Mining raised that a feasibility study (in the common use of the term in the mining industry) would usually be a study carried out for the operator looking at mineral prospectivity and economic viability of a mineral deposit, 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, and is a commercial tool for the contractor, not a decision-making tool for the regulator.

Unfortunately, the definition in the Schedule to the regulations is not very helpful to clarify if this is the intent in with DR25, as the term 'Feasibility Study' is defined in extremely broad and vague terms and seems to overlaps significantly with the description and purpose of the Mining Workplan required by the Regulations (Annex II).

We believe the intended purpose of the documents required under DR25 is to further validate, or amend, the information that was already submitted at the time of application – not to duplicate it. If this is the case, then different phrasing may work better. For example, DR25 could require the Contractor to carry out validation monitoring for any untested elements in its Plan of Work, and then either confirm the original Plan of Work remains valid or apply for a modification under DR57.

With regards to text, paragraph (1) refer to 'production' whereas new paragraph (3) refers to 'Commercial Production'. Like Canada, we think these should be aligned. We also query whether the newly defined term in the Schedule: '*Sustained Large-scale Recovery Operations*' would be more appropriate in paragraph 1. Indeed, DR25 being triggered by 'Sustained Large-scale Recovery Operations' may avoid a situation in which a Contractor could mine at levels too low to trigger the Commercial Production threshold, thus avoiding the DR25 checkpoint approval process.

In paragraph (1) of DR25, we would also welcome an amendment to allow for stakeholders to have an opportunity to comment on the Feasibility Study (if that terminology is maintained), prior to the Commission's initial assessment. This would be in addition to stakeholder consultation should the Commission decide a Material Change to the Plan of Work is needed and the Contractor subsequently has to submit a revised Plan of Work.

For paragraph (3), as mentioned by the African Group, it should be 'shall' not 'may'. And as mentioned by the UK, the cross references in 3(a) and (b) do not work.