

**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 3

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.

(d) The Authority shall consult and, where relevant, cooperate with Sponsoring States, ~~coastal States adjacent to the Contract Area, port States, flag States, competent international organizations and other relevant parties as appropriate, to develop measures to implement in these Regulations, including to:~~

(i) Ensure effective ~~pp~~protection of human life and property at sea, and effective ~~P~~protection of the Marine Environment, with respect to activities in the Area;
(...)

(f) Members of the Authority, Sponsoring States, Contractors, and the Enterprise shall, in conjunction with the Authority, cooperate with each other, ~~as well as with other Contractors and national and international scientific research and technology development agencies~~ with a view to:

(i) Sharing, exchanging and assessing ~~environmental~~ data and information ~~for about~~ the Area, including by use of data repositories and open-access databases;
(...)

(vi) Developing incentive ~~structures~~ mechanisms, including market-based instruments, to support transfer of technology and capacity ~~enhancement~~ building of developing states, ~~and to enhance the environmental performance of Contractors beyond the legal requirements~~ including through technology development and innovation.

~~[(h) The Council shall, taking into account recommendations by the Commission, adopt Standards and Guidelines [concerning the duties mentioned in subparagraphs (c) to (g)] which establish requirements, obligations and procedural arrangements, including standardized data templates and methodology for data collection and analysis [within 3 years after the adoption of these Regulations or before any Commercial Production commences, whichever takes place first]~~

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

In paragraph (d) there may be a typo: ‘implement in these Regulations’ should read ‘implement these Regulations’. Also in sub-paragraph (d)(i) we do not think the capitalised ‘Protection’ before ‘of human life and property at sea’

makes sense considering the defined term 'Protection' in the Schedule relates specifically to the environment. We would suggest clarifying this throughout the Regulations, with the defined term being re-phrased as 'Protection of the Marine Environment'. Then, in other instances, such as discussing health and safety, the usual meaning of the word 'protection' can be used.

We support inclusion of sub-paragraph (d)(iii) and the proposed changes made by Germany at the march meeting. This appears to be the principal part of the Regulations that would ensure the need for cooperation between the ISA and member States in the event that inspection or enforcement activities are required to take place under national jurisdiction outside the ISA's jurisdiction and helps to clarify the scenario of joint work on inspection and enforcement activity within national jurisdictions.

In sub-paragraph (f)(i) we query why only 'environmental' data and information only is covered? We suggest that the word 'environmental' should be deleted, or 'and other' should be added after it. In our view, there may be other types of data that would benefit from wider. Recognizing that this would only be done within the prescriptions of other Regulations that preserve the confidentiality of proprietary information. In regard to our proposal to widen this paragraph to relate more broadly to any 'data and information' about the Area, we recall that the geological resources of the Area are the common heritage of humankind, and the revenue they generate is to be equitably shared for the benefit of humankind, hence there is a wide public interest in information pertaining to the geology and the economics.

As mentioned by Norway, we are also unsure about the proposal that 'environmental performance...beyond legal requirements' should be incentivised. We would prefer that all Contractors are obliged as a contractual duty to apply high standards and innovation towards optimal and ever-improving environmental performance at all times. But we are open to further discussions, as we do see the benefit in the ISA incentivising investment in additional research and development that may not occur without such incentive.

In reference to paragraph (g), the previous co-facilitators had invited delegates to consider whether the latter part of the paragraph should be moved into a standalone provision (i.e. "The content of any such studies shall be in accordance with specific terms of reference and applicable Standards, and taking into consideration Guidelines.") We would support that proposal to split this wording into a separate Regulation, for the reasons given by the co-facilitators in the previous text as i.e. this sub-paragraph's focus is on cooperation duties and obligations of Contractors and member States, so is not the right place to introduce an obligation on the ISA in relation to the content of these studies. But a new Regulation that does operationalise the necessary studies, and other aspects of the required Economic Assistance Fund for land-based mineral-producing countries, would be very welcome. As general comment, and as mentioned by Spain and Singapore, this regulation is not clear about who and how States are responsible for coordinating with each other. If this level of detail is not wanted in the regulations it would be helpful to indicate that this will be further elaborated in relevant Standards and Guidelines.

Regarding paragraph (h), if this is not retained in the regulations then we would welcome a Council decision on this issue, recognizing the issues raised by the UK and Singapore. Standardized data templates and methodology will help provide clear expectations for Contractors, reassurance to stakeholders about levels of scientific rigour, and comparable data, usable not only for individual project management but also for regional environmental assessments and future environmental rule-making. We welcome the proposal by UK to develop a list of subjects to be covered by S&Gs and what phase of S&Gs will cover them. We believe this list would be useful in deciding how much detail to include in the regulations, recognizing that S&Gs are or are not planned.