

**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 8

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.

~~[5. In the application, the applicant shall provide an overview of other potential legitimate activities in the marine environment covered by the application, and a statement confirming whether the area under application or any part of it has received attention under any other international organisation or treaty regime.]~~

5 Alt. For any part of the area under application, to the extent practicable after reasonable investigations, the applicant shall provide an overview of other potential legitimate activities in the Marine Environment covered by the application and indicate in the application, whether the area or any part of it is designated or managed [or under active consideration] under any international regime or international organization. The applicant will also indicate that it is aware of its obligation of reasonable regard to other activities in the Area in accordance with Article 147.

Move 10(5) to this regulation – (5) Where an application concerns a Reserved Area, the Enterprise shall be given an opportunity to decide whether it intends to carry out activities in the area in accordance with Article 9 of Annex III to the Convention, ~~[and Section 2 of the Annex to the Agreement].~~ [and Section 2 of the Annex to the Agreement].

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

Support removing square brackets around (4), as mentioned by France, Canada, Germany, Chile, Netherlands, UK, Norway, African Group, Fiji, Belgium, Denmark and US.

With regards paragraphs (5) or (5 alt) we consider they both contain relevant substance, and as suggested by Norway, should be merged. In addition, as mentioned by the US, we suggest deletion of the proposed final sentence of paragraph (5)(alt) requiring an applicant to indicate awareness of the obligation of reasonable regard to other marine users, as same duty is adequately covered elsewhere and in more enforceable terms in the draft Regulations (including: DR13(4)(b) and (5)(b) or DR13 alt. (6)(c) and (8); DR15(2)(d); and DR31).

DR8 does not cover a situation in which the area under application is a reserved area. Article 9 of Annex III to UNCLOS stipulates that a plan of work for a reserved area can only be considered if the Enterprise has taken a prior decision not to carry out activities in that reserved area, and if the applicant is a developing State or sponsored by a developing State. The 1994 Agreement, Annex, Section 2(5) adds that an application for a reserved area is also permitted where the applicant is the contractor who contributed the original reserved area, and the Enterprise has independently functioned for 15 years without submitting an application for the reserved area; but only where the applicant offers to include the Enterprise as a joint venture partner.

DR10(5) currently covers the right of first refusal for the Enterprise for a reserved area where a developing State intends to apply, but we consider it would be better placed in this DR8. The other rules about reserved areas do not appear to be reflected in the Regulations. DR19 reflects that a contract 'may' be a joint venture with the Enterprise, but not that such an offer must be made, in the case of a proposed application over a reserved area by the original contractor. We consider it may be helpful to see these points from added here in DR8, so that there is no ambiguity about who can or cannot apply for a reserved area under the Exploitation regime. Clarity of eligibility criteria will also assist the LTC to implement DR15(2)(b)(vi), which requires the LTC to recommend disapproval of an application where the applicant is ineligible for a reserved area.