

**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.

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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.

2. The Council, based on the recommendations of the Commission, may decide to adjust the rates of payments [taking into account the Resource Category and the ~~level of maturity and~~ development of Exploitation activities in the Area, as well as the principles under Article 13 of Annex III to the Convention and Section 8 of the Agreement] and any other changing circumstances the Council reasonably deems relevant.

(...)

4. An adjustment to the rates of payments shall [apply to all Contract Areas ~~but shall~~ only apply by agreement between the Authority and the Contractor for Contract Areas where ~~both either~~ of the following conditions are met:
- a. The first five years of Commercial Production in the Contract Area have ~~not~~ elapsed; and/or
 - b. The Contractor ~~does not hold~~s rights to another Contract Area of the same Resource Category for which the first five years of Commercial Production has elapsed.

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

We suggest that paragraph (1) in the original text, or paragraph (2) in the Alt text, should reflect that the Council’s decision to adjust the rates of payment can take into account any other changing circumstances that the Council reasonably deems relevant, and not be limited only to the maturity of Exploitation activities.

We disagree with how paragraph 4 has been drafted. There is no requirement in UNCLOS that a change to the regulations, or a change to the payment rate, must be agreed by a contractor to be effective. The ISA should be able to adjust the rate of payments to existing contracts, with equal application across all contractors (current and future) and without giving any contractor an effective right to veto that adjustment in relation to their individual contract. We believe this text was introduced to reflect the African Group’s submission after Part I of this session but does not accurately reflect the proposal. The submission proposed to allow changes in the structure of the payment regime and changes in the rates of fiscal instruments to be applied to existing contracts after five years of commercial production have been completed. So the African Group’s proposal is to apply the changes automatically, after the 5-year period of production has elapsed, not to require the Contractor’s prior agreement to that change, which is how 4 currently reads.