

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH SESSION:
COUNCIL - PART I**

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 of Working Group:

Informal Working Group on Institutional Matters

2. Name(s) of Delegation(s) making the proposal:

The Pew Charitable Trusts

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

DR 11

4. 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.

Alt. [Publication, notification, and review of the Application]

1. The Secretary-General shall, within seven Days after determining that an application for the approval of a Plan of Work is complete under regulation 10:

(a) Place ~~the Environmental Plans application~~ [and any information necessary for their assessment—as well as the non-confidential parts of the test mining study] and all non-confidential documentation submitted and associated with it, including any supporting material on the Authority’s website for a period of ~~[60]~~ [90] Days, and [notify and] invite members of the Authority, [relevant adjacent coastal States], Stakeholders [and the general public] to submit comments in writing, in accordance with the relevant Standards and taking account of the relevant Guidelines; and

(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....~~

2. The Secretary-General shall, within seven Days following the closure of the comment period, provide the comments submitted [by members of the Authority, [relevant adjacent coastal States], Stakeholders, [the general public], the Commission, [the independent review team] and any comments by the Secretary-General] to the applicant [for its consideration].

[2 bis. All comments provided to the applicant pursuant to paragraph (2) shall be published on the Website of the Authority.]

[2 ter.] The applicant shall consider the comments provided pursuant to paragraph (2) and [may-shall] revise the [Environmental Plans [and the test mining study]][the application], as appropriate, ~~or-and~~ provide responses in reply to the [substantive] comments as to how they were

~~taken into account, [as appropriate], and shall submit any revised plans or ions and responses [to the Secretary -General][to the Commission] within a period of [30] Days following the close of the comment period, [unless otherwise decided by the Secretary General after considering a request by the applicant before the time period of 30 Days expires for an extension of the period due to the time required to revise the plans or responses. Notice of the extension of the period shall be posted on the Authority's website]. The Secretary-General shall provide comments submitted to the applicant pursuant to paragraph 2 and any revisions and responses to comments submitted under this regulation 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 Environmental Plans or revised plans [and the test mining study] in the light of the comments [submitted] made under paragraph 1(a) to the applicant pursuant to paragraph 2 2-above,~~ together with any revisions and responses provided by the applicant [provided under paragraph 2 ter.], and any additional information provided by the Secretary-General.

4. Notwithstanding the provisions of regulation 12 (2), the Commission shall not consider an application for approval of a Plan of Work until the [Environmental Plans [and the test mining study]/the application] have-has been published and [reviewed-if necessary, revised] in accordance with this regulation.

5. _____ [The Commission shall prepare a report on the Environmental Plans [and the test mining study]. The report shall include details of the Commission's determination under regulation 13 (4) (e) as well as [a summary of-] the comments [or and] responses [made submitted] under regulation 11 (2) [as well as any further information provided by the Secretary-General under regulation 11(2)] [as well as the relevant rationale for the Commission's determination, with specific explanation as to any comments or responses that are disregarded]. The report shall also include any amendments or modifications to the Environmental Plans recommended by the Commission under regulation 14 [and changes subsequently made to application documents by the applicant]. Such report on the Environmental Plans or revised plans shall be published on the Authority's website and shall be included as part of the reports and recommendations to the Council pursuant to regulation 15. [In preparing the report, the Commission [may][shall] seek advice from competent independent experts as necessary. [In such case, the Commission shall clarify the necessity of advice from experts and seek prior approval of the Council.] The experts shall be selected and appointed in accordance with the [relevant Guidelines] [Annex [xxx]]]

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

As a general comment, DR 11 will need to be modified based on the outcome of the intersessional working group on stakeholder consultations. Once there is more clarity on what an overarching provision on stakeholder consultations constitutes (proposed DR 93bis), this regulation will need to be revised to ensure consistency and include adequate cross referencing. As such, we consider this submission to reflect our preliminary comments.

We believe DR11 should be amended so that the whole application is included in the public consultation process (save for confidential information), and not only the Environmental Plans. We consider it may be misleading to separate parts out and review them in isolation. The other parts of the application, including the Mining Workplan, Financing Plan, Training Plan etc. may contain information relevant to stakeholders commenting on an application. As such, we think consideration should be given in DR11(1)(a) to refer to the 'application', rather than the 'Environmental Plans'. We also agree with the insertion in sub-paragraph (a) that refers to 'information necessary for assessment'. In our view it is important that all non-confidential documentation associated with the application is shared - including supporting materials such as external

advice and reports, evidence reports and expert statements, to enable informed public consultation and participation in the ISA's decision-making process. Some of these examples could be explicitly added to sub-paragraph (a).

We wonder if para 1(b) can be deleted. The LTC will conduct its own review of the application, as noted in DRs12(3) and (5) in order to inform its recommendation. That review will include the results of the stakeholder consultation. It seems inefficient for the LTC to do an initial review during the same time as the stakeholder consultation, and then do another review again afterwards. This sub-paragraph (b) also appears to conflict with sub-paragraph 12(4), which specifically prevents the LTC from reviewing an application until after the stakeholder consultation period has expired. So it seems to us that (b) could be deleted, to avoid confusion and conflict between provisions. And the LTC can commence its review after the stakeholder consultation has been run.

We strongly support new para 2bis.

For 2ter, we wonder if a time limit is necessary here as any delays in an application process seem likely to be more a matter of material concern to the applicant than the ISA. So, it could reasonably be left in the applicant's hand as to how long they wish to take to respond to the comments received.

For paragraph 5, we wonder if it makes sense to relocate this to regulation 12. We have proposed some language in our DR12 submission.