

**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 12 & 12bis

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.

Regulation 12

[General]

1. The Commission shall examine applications in the order in which they are received and determined to have preference and priority in accordance with regulation 10 by the Secretary-General and shall assess applications in accordance with this regulation and against the criteria contained in regulation 13, in order to make a report and recommendation to the Council whether the Plan of Work under application should be approved, or disapproved, pursuant to regulation 15.

2. The Commission shall consider applications expeditiously and shall endeavor to submit its reports and recommendations to the Council no later than 120 Days from [the date of the completion of the requirements for review of the Environmental Plans, in accordance with regulation 11 (1)(a)](4) and subject to regulation 14 (2) whichever date occurs later out of:

(a) the close of the comment period, in accordance with Regulation 11(1)(a), or

(b) the date of submission of a revised plan, in accordance with Regulation 11(2)ter.]

~~[2bis. If an application is overly complex or incomplete information has been submitted by the applicant, the Commission may delay its reports and recommendations under regulation 12(2) by a further 90 Days.]~~

3. The Commission shall, in considering a proposed Plan of Work, apply the Rules of the Authority in a uniform and non-discriminatory manner, [and ensure its compliance with [shall have regard to] [apply] [the Rules of the Authority/] the principles, policies and objectives relating to activities in the Area as provided for in [the Convention,] [the Preamble and Part I of these regulations] [and in particular the manner in which the proposed Plan of Work] [contributes to realizing benefits for [is in the interests of] [hu]mankind as a whole [in

accordance with decisions of the Council and Assembly] [and ensures the effective protection of the marine environment]] and may not recommend approval of any Plan of Work that is found not to [apply / comply / conform].

[3bis. The Commission in considering a proposed Plan of Work may seek advice and reports from competent independent experts on any matters considered to be relevant.]

4. In considering the proposed Plan of Work, the Commission ~~[shall may]~~ shall take into account:

(a) [Relevant] ~~Any~~ reports from the Secretary-General

~~[(a)bis. Any comments received—submitted to the applicant together with any revisions and responses provided by the applicant pursuant to regulation [11(3)] d following the publication of the Environmental Plans or the Commission's report on the Environmental Plans pursuant to regulation 11];~~

~~[(a)bis. alt. Any comments made by Stakeholders;]~~

~~[(a)ter. Any advice or reports received from any competent organ of the United Nations or of its specialized agencies or any international organizations with competence in the subject-matter;]~~

[(a)quater. Relevant reports from the Finance Committee.

(b) Any advice or reports sought by the Commission ~~[or the Secretary-General]~~ from ~~independent competent~~ independent experts persons in respect of ~~[the application][the Environmental Plans] [environmental matters] to verify, clarify or substantiate the information provided, methodology used or conclusions drawn by an applicant;...~~

~~[Regulation 12 bis.~~

~~General obligations of contractors~~

~~In conducting their activities in the Area, Contractors shall at all times:~~

~~(a) comply with the applicable obligations created by the provisions of Part XI of the Convention, the rules, regulations and procedures of the Authority, the decisions of the organs of the Authority and the terms of its contract with the Authority; and~~

~~(b)(a) Comply with the national laws, regulations and administrative measures of the sponsoring State or States made pursuant to articles 139 and 153 (4) of the Convention and article 4 (4) of annex III to the Convention.]~~

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

We believe it would be helpful for paragraph 1 to include reference to the order in which applications are determined to have preference and priority, not only order of receipt. We also believe this DR12(1) can be used to provide a clear and centralised statement to tie together the different provisions that place review and reporting obligations upon the LTC and which could also help clarify the application process. Language could be adapted from regulation 11(5) with references to reports and recommendations in that provision moved to regulation 15.

Regarding para 2, we believe it is unnecessary to stipulate how long the Commission shall consider an application for and submit its recommendations. The Commission should be allowed flexibility in case of unanticipated intervening events (e.g. the receipt of two or more applications simultaneously) or likely complexities (especially at the first application) rendering the 120-day requirement unreasonable. We propose deletion of any timeframes for the submission of reports and recommendations to the Council. The exploration regulations provide a helpful precedent here - wherein they do not stipulate any rigid timeframes for the submission of its reports to the Council. Furthermore, should there be a timeframe we welcome Australia's recommendation for the insertion of a 'stop the clock' provision and look forward to seeing their textual proposal on that matter.

For paragraph 3, like others we consider that a majority of the content would be better placed in DR13 as it provides criteria for evaluation of the application and that the provision could end following '...non-discriminatory manner'. With that said, DR 1 already include provisions requiring application of the Rules of the Authority in a non-discriminatory manner, so this provision may not be needed at all. At the end of para 3, we would want to add language to stipulate that the LTC may not recommend approval of any Plan of Work that is found not to conform to the listed requirements.

For the chapeau of paragraph 4, like others mentioned in July, we prefer going back to "shall" and to delete "may". The list that follows contains items that the LTC should review, and we do not believe there is any reason that the LTC should be given discretion not to take them into account.

We would prefer retaining paragraph 4(a)ter as reports from other international institutions may be very relevant. We would also add a provision under para 4a to include the role of the Finance Committee.

In para 4(b) we would delete the last 2 lines, after "in respect of the application". It seems to us that the LTC should be able to seek advice from experts on any matter that will assist them with their consideration of the application, and so there is no need to limit that in scope and type here.

Lastly, while we support DR12bis in principle and do believe it is a better substitute for DR 7(2), we believe that the same matters are also now covered by DR18bis (in the President's text), which seems to be an even better location for these provisions. We would suggest deletion of DR12bis, and suggest elements of sub-paragraph (b) be added to DR18bis, as the point about national laws is not fully covered in DR18bis.