

**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:

Open-ended Working Group on financial terms of a contract

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 39

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.

1. A Contractor shall keep at a place agreed between the Contractor and the Compliance Committee, and make available for inspection and audit in accordance with these regulations, a complete and proper set of books, accounts and financial records, consistent with internationally accepted accounting principles, which must include information that fully discloses all revenues and actual and direct expenditures, liabilities for Exploitation, including capital expenditures and operating costs and such other information as will facilitate an effective audit of the Contractor’s expenditures and costs.

2. A Contractor shall maintain maps, geological, mining and mineral analysis reports, production records, processing records, records of sales or use of Minerals, records of port inspections, customs records, processing plant receipt data or records, environmental data, archives and samples and any other data, information and samples connected with the Exploitation activities in accordance with Standards and taking account of Guidelines. ~~with the Authority’s data and information management policy.~~

4. Upon request of the [Secretary-General/Chief Inspector/Compliance Committee], the Contractor shall deliver to the [Secretary-General/Chief Inspector/Compliance Committee] for analysis a portion of any sample or core obtained during the course of Exploitation activities.

5. A Contractor shall, subject to reasonable notice, permit full access by the [Secretary-General/Chief Inspector/Compliance Committee] to the data, information and samples.

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

Generally, for ease of reference, we consider these provisions should be merged (and aligned) with DR74 (‘Proper books and records to be kept’) which covers similar matters.

Regarding paragraph 1, we consider it important that the place in which the books and records are held is agreed between the Contractor and the Authority. Unless they are held in

a jurisdiction which can be accessed, such as within the Sponsoring State, the ISA's regime for inspections may not function properly.

Regarding paragraph 2, we suggest adding to this list records of port inspections, customs records, and processing plant receipt data or records. We also think that the reference to the Authority's data and information management policy may be better replaced by reference to Standards and Guidelines. The Authority's data and information management policy is not referenced elsewhere, but may be seen as a reference to the ISA's data management strategy, which we believe (though it is hard to know, as we have never seen this document) may relate to the ISA's own data management, and not to Contractor data management.