

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28<sup>TH</sup> 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](mailto: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 81

**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.**

2. The ~~Assembly, Council~~, based on the recommendations of the ~~Commission Council~~~~[and in consultation with Contractors]~~, may revise the system of payments ~~in the light of changing circumstances~~ and following any review under paragraph 1 above, ~~taking into account the economic viability of the project~~ save that any revision shall only apply ~~[to existing exploitation contracts by agreement between the Authority and the Contractor] [after five years of Commercial Production have been completed under that exploitation contract] [from five years after such revising would be adopted] [to (i) new exploitation contracts agreed between the Authority and a Contractor after the revised system of payments is in effect; and (ii) existing exploitation contracts if the Authority and Contractors so agree].~~

3 Recommendations of the Council to the Assembly under paragraph 2:

- (a) take into account the sufficiency of the benefits that are being generated for humankind as a whole in return for the loss of the common heritage of humankind;
- (b) reflect the objectives contained in Article 13, Annex III of the Convention, including to ensure optimum revenues for the Authority from the proceeds of Commercial Production;
- (b) follow the process and consider relevant matters as set out in the applicable Standard; and
- (c) be informed by consultations with relevant experts and stakeholders including the Legal and Technical Commission, Economic Planning Commission and Finance Committee.

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

As a general point we wonder if DR81 and 82 could be combined, as the same considerations and processes would seem applicable to both the reviews of the system of payments, as well as the rates of payments. Or at least the two regulations should better mirror each other.

The wording 'taking into account the economic viability of the project' makes it sound as if this review and revisions of the system of payments may be applied on a project-by-project basis, which we don't believe is the intention, so we suggest we reconsider this wording. Alternative wording might be: "taking into account the Council's view of the sufficiency of the benefits that are being generated for humankind as a whole, in return for the loss of the common heritage of humankind". Also "to ensure optimum revenues for the Authority" as has been included in DR82.

We support the reference to recourse to experts and stakeholders in DR82 (2bis) and have reflected that in DR81 (with some minor amendments).

In relation to both DR81 and 82, we consider that the Finance Committee and/or the Economic Planning Commission may also have a role to play in the review and so we would suggest adding reference to them.

Lastly, we are concerned from a procedural perspective, whether it would be lawful for a payment system and royalty rate set in the Regulations (which have been approved by the Assembly), to be amended only by the Council, as DR81 and 82 implies? Assuming the this is the case, it seems that changes to rates and systems for existing (and possibly future contracts) should apply only after the Assembly makes its decision.