

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 29<sup>TH</sup> 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](mailto: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.**

NEW DR37 bis

**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.**

**Regulation 37 bis      Transfer of Technology**

*[placeholder pending further discussion: The Contractor shall adhere to and implement the commitments set out in the Plan of Work for the transfer of technology, in line with the applicable Standards, and taking into account Guidelines.]*

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

We wish to propose a new DR 37 bis with the aim to resolve a general and significant point of omission we have noted in the current draft Regulations relating to technology transfer.

Articles 144 and 274 of UNCLOS and section 5 of the Annex to the 1994 Agreement impose specific obligations upon the ISA, States Parties, and Contractors (where so requested), in relation to promoting, encouraging or facilitating the transfer to developing States of technology and scientific knowledge relating to activities in the Area, so that all States Parties benefit therefrom.

We are concerned that this important pillar of UNCLOS does not appear to be adequately reflected or operationalized in the draft Regulations. The only current references that we can see are for:

(i) for potential financial incentives to enter into joint venture with the Enterprise (with the associated objective of ‘stimulating’ transfer of technology to developing States) [DR63(2)] and

(ii) a reference to State consultation and cooperation towards ‘Developing incentive structures mechanisms, including market-based instruments, to support transfer of technology’ [DR2(f)(vi)];

neither of which seem very effective in facilitating, let alone *requiring*, transfer of technological data or knowhow to developing States. The Regulations as currently drafted seem to us to fall short of the regime envisioned by UNCLOS and the 1994 Agreement in this respect.

We therefore propose a place-holder DR37(bis), and would welcome further work to operationalize this obligation in the Regulations. We note this may include (in addition to this DR37bis) other new insertions

e.g. to Part II of the Regulations ('Applications for approval of Plans of Work in the form of contracts') such as:

- A requirement for a contract applicant to propose relevant commitments in its application for a plan of work for exploitation (in line with Standards / Guidelines), and for the LTC and Council to take the adequacy of those commitments into account in assessing application for the plan of work; and
- A requirement that the commitments are incorporated into the contract and plan of work.

We are flexible about the location of this proposed new DR[38 bis]. If it is retained in this location (Section 7 of Part III 'Rights and Obligations of Contractors') then we suggest the section is re-named accordingly to cover both training and technology transfer. Another option would be to merge the text of the proposed new DR38bis with DR37 ('Training Plan'), so that same regulation covers both aspects. The 'Training Plan' could also be broadened into a 'Training and Technology Transfer Plan'.