

**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.**

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**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.**

2. Such annual reports shall be in accordance with applicable Standards and taking into consideration Guidelines and include:

(a) Details of ~~the~~ Exploitation work activities carried out during the Calendar Year, including equipment used, maps, charts and graphs illustrating the work that has been done and the data and results obtained, reported against ~~and noting variance from~~ the approved Plan of Work;

(b) The quantity and [quality] [dry metal content] of the Resources [recovered]/[extracted] during the period and the [volume]/[tonnage] [in dry metric tons and wet metric tons] of Minerals and metals [produced]/[recovered], marketed and sold during the Calendar Year, reported against the [Plan of Work]/[Mining Workplan];

~~(c) Details of the equipment used to carry out Exploitation, and in operation at the end of the period, if different from the Plan of Work;~~

(d) An annual financial report, in conformity with internationally accepted accounting principles and certified by a duly qualified firm of public accountants, of the actual and direct Exploitation expenditures, which are the capital expenditures and operating costs of the Contractor in carrying out the programme of activities during the Contractor’s accounting year in respect of the Contract Area, together with an annual statement of the computation of payments paid or payable by the Contractor to the Authority, governments, state enterprises, and other contractors, as well as payments and other forms of financial benefit received by the Contractor from Sponsoring States, and reported against the Financing Plan;

(e) Information on compliance with health, labour and safety standards;

(e) bis Details of any ~~accidents~~ Notifiable Events or Incidents arising during the period;

(f) Details of training carried out ~~in accordance with~~ reported against the Training Plan;

(g) The actual results [and data] obtained from environmental monitoring programmes, including observations, measurements, evaluations and the analysis of environmental parameters, reported against [the Strategic Environmental Goals and Objectives in Regulation 44ter, the relevant Regional Environmental Management Plan including its Regional Environmental Objective and] [where applicable, any criteria and] [thresholds included in the applicable Standards, and against the Environmental Management and Monitoring Plan], together with details of any response actions implemented under the plan ~~and the~~ actual costs of compliance with the plan as well as changes made to the Contractor’s Environmental Management System;

[(g) bis A statement indicating whether and how the results obtained from environmental monitoring programmes help to reduce knowledge gaps, particularly with respect to Environmental Impacts of activities in the Area;]

[(g) ter Details of all revenues and operating costs associated with activities in

handling and processing, including carbon emissions, to the degree available to support transparent identification of Best Environmental Practices;]

(h) A statement that all risk management systems and procedures have been followed and remain in place, together with a report on exceptions and the results of any verification and audit undertaken internally or by independent competent persons, ~~[appointed or employed by the Contractor];~~

(i) Evidence that insurance is maintained, including the amount of any deductibles and self-insurance, together with the details and amount of any claims made or amounts recovered from insurers during the period;

~~(i)(bis) Details of any new permits, licences, approvals, certificates, and clearances, not issued by the Authority, which are relevant to the lawful performance of the Exploitation Contract, that were obtained by the contractor (or which terminated) during the reporting period;~~

(j) Details of any [material] changes made in connection with subcontractors engaged by the Contractor during the Calendar Year;

[j] bis Details about any changes made to the Contractor's business structure or collaborations, including but not limited to their subcontractors, holding company, subsidiaries, affiliates and ultimate parent companies, agencies and partnerships;]

(k) The results of any Exploration activities, including environmental data and updated data and information on the grade and quality of Resources and reserves identified in accordance with ~~the International Seabed Authority Reporting Standard for Reporting of Mineral Exploration Results Assessments, Mineral Resources and Mineral Reserves and~~ applicable Standards and taking into consideration Guidelines;

(l) A statement that the Contractor's Financing Plan has been adhered to and is adequate for the following period;

(m) Details of any Material Change in the reporting period as well as [proposed]/~~[significant]~~ modification to the Plan of Work ~~[and the reasons for such modifications];~~

~~(n) Details of any changes made to the Contractor's Environmental Management System in accordance with Regulation 50 bis;~~

(o) Details of any consultations carried out with coastal States, other marine users, or any other Stakeholders, including pursuant to Regulations ~~s~~ 31;

(p) A summary of any complaints or whistleblowing reports received by the Contractor during the reporting period and details of how these have been dealt with;

(q) A summary of any performance assessments pursuant to Regulation 52, or review of activities pursuant to Regulation 58 during the reporting period;

(r) A summary of how the Contractor has dealt with any inspection reports, Inspector instructions, compliance notices, monetary penalties or any other regulatory monitoring inspection, [compliance] or enforcement action taken by the Authority or the Sponsoring State [or States] in relation to contractor compliance during the reporting period;

(s) Evidence that the Environmental Performance Guarantee has been paid or maintained in accordance with the ~~[contract terms]~~ Exploitation Contract [rules, regulations and procedures of the Authority];

(t) A summary report of the discharges registered in accordance with Regulation 53 ~~ter~~; and

(u) The [indicative] planned date of Closure, and an explanation of any changes to the date, if applicable, in accordance with Regulation 59.

~~[2. bis The Secretariat shall arrange for the effective management of the submitted information in order to overcome existing gaps in knowledge concerning the marine ecosystems including their sensitivity and resilience, the determination of environmental quality standards and appropriate exploitation equipment.]~~

[2 bis Alt. The Commission shall review annual reports received, and shall prepare and submit to the Council a summary report which shall record any trends or findings from the review, and any related recommendations for the Council's consideration. The report ~~should~~ shall include any information relevant to the formulation by the Authority of rules, regulations and procedures concerning Protection of the ~~marine~~ Marine environment ~~Environment~~ and human health and safety.]

~~[2. ter In reviewing annual reports, the Commission shall prepare for the Council a report that summarises trends or findings from the annual reports, including but not~~

~~limited to any knowledge and information relevant to the continuous improvement of the Regulation and the management of activities in the Area, with a particular emphasis on information relevant to better understanding marine ecosystems and the impacts of activities in the Area on such ecosystems [as well as safety and mining equipment.]~~

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

Generally, we support the content of DR38.

Consideration could be given to adding another sub-paragraph e.g. (2)(i)(bis), to reflect relevant obligations placed upon Contractors in DR43, as well as international certifications that may be required (e.g. DR13(3)(a)):

Regarding paragraph(s) (2)(bis), we support the principle of the ISA using the information it receives from annual reports in a strategic way, as well as for monitoring individual contractors. But we find the drafting of the original (2)(bis) too specific to marine ecosystems. We therefore prefer the (2)(bis)(alt) broader formulation. We think paragraph (2)(ter) maybe actually be another alternative (2)(bis), mislabeled? If so, we could also support that as an alternative. If 2bis is retained, we recommend that ‘appropriate exploitation equipment’ be replaced with ‘Best Environmental Practice’ noting that this term includes ‘Best Available Technology’.

We note a number of drafting issues in paragraphs (2) and (2)(bis), which we set out below.

- **Paragraph (2)(f):** ‘*in accordance with*’ should be replaced by ‘**reported against the Training Plan**’.
- **Paragraph (2)(h):** delete ‘*appointed or employed by the Contractor*’ as this unnecessarily narrows the scope of the provision, as an ‘*independent competent person*’, may be appointed by the ISA or other source in some circumstances, but any findings reported by them to the Contractor would remain relevant to their annual report.
- **Paragraph (2)(j)(bis):** add the word ‘*company*’ after ‘*holding*’.
- **Paragraph (2)(k):** add environmental data, i.e. ‘*including environmental data and updated data and information on the grade and quality of Resources...*’
- **Paragraph (2)(k)** refers to ‘*International Seabed Authority Reporting Standard for Reporting of Mineral Exploration Results Assessments, Mineral Resources and Mineral Reserves*’. We are unsure what document is meant, but presume it refers to Annex V of this set of LTC Recommendations for the Guidance of Contractors? [https://www.isa.org.jm/mining\\_code/isba-21-ltc-15/](https://www.isa.org.jm/mining_code/isba-21-ltc-15/) In any case we think this should just refer to Standards and Guidelines for the sake of future proofing the regulations. which case we suggest giving the document its correct name and provide the ISBA number for the avoidance of doubt. This will help clarify that the document referred to is a Recommendation document, not a Standard for the purposes of these Regulations.
- **Paragraph (2)(l):** add ‘*...Financing plan has been adhered to and is adequate for the following period*’.
- **Paragraph (2)(m):** consider inserting reference to ‘**Details of any Material Change in the reporting period**’ as well as details of modifications to the Plan of Work.
- **Paragraph (2)(m):** delete ‘*significant*’. The Annual Report is a good opportunity for the Contractor to detail any changes made to the Plan of Work during the reporting period. Inclusion of changes perceived as minor will assist the ISA check that these really were minor – and that DR57 has been applied appropriately in all cases.
- **Paragraph (2)(n):** delete and merged with 2(g). We also recommend deleting ‘*in accordance with Regulation 50 bis*’. This could inadvertently reduce the scope of the reporting, by excluding any changes made that were *not* made in accordance with DR50(bis) (which requires the change being notified to the ISA in advance and processed under DR57 as a modification of a Plan of Work).
- **Paragraph (2)(o):** The word ‘**Regulation 31**’ should be singular (not ‘*Regulations 31*’).
- **Paragraph (2)(p):** we suggest clarifying that this provision refers to ‘*complaints or whistleblowing reports received by the Contractor during the reporting period*’, so as not to cause confusion with, or inappropriately oblige the Contractor to respond to, complaints or whistle-blowing reports received by the ISA.
- **Paragraph (2)(r):** replace the word ‘*monitoring*’ (which is generally used in the Regulations to refer to a Contractor’s obligations to track environmental impacts caused by its activities), with the word ‘**inspection**’ (which is generally used in the Regulations to refer to the ISA’s compliance assurance oversight).
- **Paragraph (2)(s):** change ‘*contract terms*’ to ‘**Exploitation Contract**’.
- **Paragraph (2)(bis):** capitalize ‘**Exploitation**’.

- **Paragraph (2)(bis)(alt):** change '*should*' to '*shall*'. Capitalise '*Marine Environment*'. It may also be helpful clarification to add '*human*' before '*health and safety*'.