

**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.**

48 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.**

1. [If a Contractor becomes aware that any of the circumstances listed in paragraph 2 below have not been addressed by either an Environmental Impact Assessment or an Environmental management and monitoring Plan, it shall promptly notify the Secretary- General in writing, including:

- (a) a detailed description of the circumstance;
- (b) details of the potential effect on or risk to the Marine environment; and
- (c) details of any Environmental Impact Assessment conducted or to be conducted, or proposed modification to the Environmental management and monitoring Plans.

[2.] A Contractor shall conduct an [additional new] Environmental Impact Assessment in accordance with Regulation 47ter and submit an [additional] revised Environmental Impact Statement [wherein]: The relevant circumstances for the purposes of paragraph (1) are:

- (a) A ~~[Material]~~ Change to an existing Plan of Work is proposed which is likely to [significantly] increase the adverse Environmental Effects [or risks] caused by the activities, and is not covered by Regulation 57(3),
- (b) A [significant ~~Material~~] Change in the Marine Environment [compared to baseline data] is detected through monitoring or other data sources which would call for a new or [revised ~~reviewed~~] Environmental Impact Statement [or Environmental Management and Monitoring Plan],
- (c) An activity described in the Plan of Work is predicted to exceed the impact thresholds set out in the Standards on environmental thresholds,
- (d) An applicable ~~relevant~~ Standard, activity or predicted [significant] impact has not already been addressed by an Environmental Impact Statement, or
- (e) A review of existing Environmental Impact Assessment or Environmental plans is otherwise deemed necessary by the Commission or Council, in accordance with applicable Standards and taking into consideration ~~aeount~~ Guidelines, including following its review of a Contractors’ activities contained in an annual report submitted pursuant to Regulation 38 or review of a Plan of Work pursuant to Regulation 58.

(3) The Secretary-General shall transmit the information received from the Contractor under paragraph 1 above to the Commission. The Commission shall assess the information and determine whether the Contractor shall:

~~(a) undertake an Environmental Impact Assessment and propose to prepare a revised Environmental Impact Statement; or other modification to the plan of work in accordance with Regulation 57.~~

(4) For the avoidance of doubt, any Environmental Impact Assessment and revision to an Environmental Impact Statement conducted pursuant to this regulation shall be subject to the full processes prescribed in these Regulations.

~~(b) prepare a revised environmental management and monitoring plan.~~

~~(4) Where required by the Commission, the Contractor shall submit a revised environmental impact statement or revised environmental management and monitoring plan to the Commission for review.~~

~~(5) Where the Commission determines that any change to the statement or plan constitutes a material change, the procedure set out in Regulation 11 shall apply.~~

~~(6) In the course of conducting a new Environmental Impact Assessment and preparing a revised Environmental Impact Statement as required by any Material Change, a Contractor shall endeavour to engage with potentially directly affected Stakeholders, and in accordance with [Regulation 93 ter], the Standards, and taking into consideration the Guidelines.~~

~~(7) The Contractor shall also conduct a consultation regarding the revised Environmental Impact Statement in accordance with Regulation 93bis.~~

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

We recommend use of defined terms throughout this DR48 ter. We suggest 'Environmental Plans' is a better term to use as it covers the EIS, the EMMP and the Closure Plan, any or all of which may require amendment in the circumstances described in paragraph (2)

We also suggest significant streamlining in the drafting of DR48 bis to avoid the regulation inappropriately overlapping and undermining the provisions of DR57 (which already require a new EIA/EIS/EMMP where a modification is proposed by the Contractor), as well as the various DRs that already set out due process and consultation requirements for an EIA/EIS/EMMP.

The purpose of DR48 bis should be a screening function: to give the ISA oversight and some degree of control as to when a modification of the EIA or plan of work may be required for environmental purposes, rather than relying only on proactive request from the Contractor alone (as is the case in DR57). It is our view that once this screening function has been performed, the procedures set out elsewhere in the Regulations (for EIA conduct, and stakeholder consultation) should be followed, rather than creating a separate or conflicting process here. Our proposed new paragraph (3) may provide some comfort, to clarify that DR48 bis does not intend to allow circumvention of any of the relevant procedural requirements.