

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 29TH 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.

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.

1. A Contractor shall pay to the Authority, [Alt 1. from the date of commencement of Commercial Production in a Contract Area] [Alt 2. from the effective date of an Exploitation Contract and for the term of the Exploitation Contract and any renewal thereof an annual fixed fee. The amount of the fee shall be established by the Council as required under paragraph (1) (d) of Section 8 of the Annex to the Agreement. on the advice of the Finance Committee, and with the aim to cover the likely costs associated with the Authority’s management of the contract, including staffing the Secretariat and conducting inspection and enforcement activities.

[...]

~~3. ——— Where the date of commencement of Commercial Production occurs part way through a Calendar Year, a prorated annual fixed fee shall become due and payable to the Authority within 30 Days of such commencement date.~~

[...]

~~{4. In any Calendar Year, the annual fixed fee may be credited against any royalty or other amount payable under Part VII of these Regulations.}~~

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

It is important that the ISA is properly capacitated to fulfil its mandated regulatory functions and that its costs are appropriately allocated to the parties who stand most to benefit from it. In that regard, we welcome the Secretariat’s recent paper on annual fees and strongly agree that the annual fixed fee should commence from signature of contract and not from the beginning of commercial production, which may be achieved some years after the contract has started. Hence we propose adoption of the alt 2 language in paragraph (1) of DR85.

Though we have not made a separate submission on DR84, we would also suggest that – should the proposed amendment to DR85(1) be adopted, then the annual reporting fee in DR84 could be deleted and rolled up into this annual fixed fee instead.

We object to paragraph (4), as it would mean that for each dollar of revenue collected from the annual fixed fee, the royalty payment will be reduced by a dollar, so royalties paid would not increase the ISA's overall revenue collection. That is effectively funding the ISA's regulatory costs out of a pot that would otherwise be distributed for the benefit of humankind, and particularly developing countries. If the purpose of this fee is to cover ISA costs, it should not be credited against the royalty. We therefore propose deleting this paragraph (4).

We also would like to add our support to the addition of sub-paragraph 3bis(a) which indicates that there are repercussions in the event of failure to make annual fee payments.