

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.

DR 91

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. Upon expiration termination of an Exploitation Contract in accordance with regulation 18 ter, or if an application for renewal is refused after the original expiration date, upon the date of the refusal; or if an Exploitation Contract is terminated before its expiration date, upon the date of the termination] The Contractor shall transfer to the Authority, [to the extent feasible] within [90][180] Days [from the date of the expiration of the contract, the date of the refusal of an application for renewal, or date of termination of the contract] in accordance with the provisions of this Regulation and the [applicable] Standard[s], and taking into consideration account Guidelines:~~

~~(a) transfer all data and information that are required for the effective exercise of the powers and functions of the Authority in respect of the Contract Area, and;~~

~~(b) to the extent requested by the Authority, transfer biological, chemical and geological samples collected under the Contract to the Authority or other location(s) specified by the Authority in accordance with the provisions of this Regulation and the [applicable] Standard[s], and taking into consideration account Guidelines.~~

~~[2. Upon termination or expiration of an Exploitation Contract, the Contractor and the Secretary-General shall consult together and, in accordance with the provisions of this Regulation and the [applicable] Standard[s] and taking into consideration account the Guidelines, the Secretary-General shall specify the data and information to be submitted to the Authority. [within 90 Days].]~~

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

DR18(ter) sets out all the circumstances in which a contract may end (termination by the ISA, natural expiration, surrender by the Contractor). This aligns with Annex X (standard contract clauses) which specifies that termination may arise “for any reason (including the passage of time).” If that draft I of DR18(ter) is retained, then DR91 can be greatly simplified by cross-reference to DR18(ter).

Paragraph (2) as drafted raises questions of legal competence about the functions and role of the Secretary-General, and concerns about uniformity of approach raised by the process. Paragraph (1) and the applicable Standards will better provide for a more uniform and systematic approach. Therefore, we propose deletion of paragraph (2).

We note that DR91 is restricted in its scope to ‘information’ We consider that longer-term custody of the biological, chemical and geological samples Contractors collect during the Contract term, as part of the common heritage of humankind, should also be covered in the regulations.