

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH 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 of Working Group:

Inspection, Compliance and Enforcement

2. Name(s) of Delegation(s) making the proposal:

Federal Republic of Germany

3. Please indicate the relevant provision to which the textual proposal refers.

DR 104

Green text is in original draft; **blue text** indicates Germany's textual proposals

4. 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.

Draft regulation 104

Power to take remedial action

1. Where a Contractor fails to take action required under regulation 103, the Authority ~~[through the Secretary General]~~ may carry out any remedial works or take such measures as it considers reasonably necessary to prevent or mitigate the effects or potential effects of a Contractor's failure to comply with the terms and conditions of an exploitation contract. **The Council shall determine the nature of such works or measures and the manner in which they are to be carried out.**

2. If the Authority takes remedial action or measures under paragraph 1 above, the actual and reasonable costs and expenses incurred by the Authority in taking that action are a debt due to the Authority from the Contractor ~~[and may be recovered from the Environmental Performance Guarantee lodged by the Contractor, and thus extinguishing the Contractor's debt and putting an end to the dispute].~~

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

Germany would prefer to delete the words "through the Secretary-General" in paragraph 1 as this may imply that the Secretary-General has the discretionary power to act on behalf of the Authority to undertake remedial work. If there is the need to remove any ambiguity as to which organ of the Authority is empowered to act, we

propose that the Council be explicitly mentioned (since it is the Council that ultimately takes action under regulation 103, which is referred to at the outside of this provision).

- We support the text deletion in paragraph 2, since this is not the purpose of the Environmental Performance Guarantee / Decommissioning Bond.