

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH SESSION:
COUNCIL - PART I**

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:

Informal Working Group on Inspection, Compliance and Enforcement

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

The Pew Charitable Trusts

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

DR 100

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.

Regulation 100

Inspection Reports

1. No later than thirty days after the end of an inspection, the Inspector shall prepare and deliver a report ~~[promptly] [without delay]~~ to the ~~[Compliance Committee] [Inspectorate] [Chief Inspector]~~ in accordance with the template and other requirements ~~[of the relevant Standards and in accordance with relevant Guideline] contained in any applicable [applicable] Standard~~ setting out the findings and any recommendations for improvements in performance, procedures or practices by a Contractor. The ~~[Inspectorate] [Inspector(s)] [Compliance Committee] [Chief Inspector]~~ shall send the report to the ~~[Compliance Committee and the] [Secretary General, [who shall send a copy of the report to the Contractor and its sponsoring State or States] [the Commission and the Council] [Contractor and its sponsoring State or States, as well as the Compliance Committee] [as soon as it is completed and [the Secretary General shall send immediately a copy of the report to the Contractor].~~ [The Compliance Committee shall ask the Secretary-General to send a copy of the report to any relevant coastal State or flag State, the Contractor and sponsoring State or States ~~and, if appropriate, the relevant adjacent coastal State or States and the flag State~~ and to publish a copy of the report in the Seabed Mining Register, excluding confidential information.]...

1 ter The sponsoring State or States shall within a reasonable period, provide to the Secretary-General, who shall transmit to the Compliance Committee, details of any regulatory or other action taken or to be taken as a result of the Inspectors' findings or recommendations.

2. The [Compliance Committee] ~~[Inspectorate]~~ shall pursuant to regulation 96 bis paragraph 6, [in their annual] report [annually] to the Council [under regulation 96(1)(k) ter include details] on the findings and recommendations following the inspections conducted in the prior Calendar Year, ~~[as compiled in a report by the Inspectors] [and any compliance actions taken by the Compliance Committee]~~ and shall make any recommendations to the Council on any regulatory [enforcement] action to be taken by the Council under these regulations and an exploitation contract. Taking account of any regulatory action taken by the sponsoring State or States or corrective actions taken by a contractor to address the findings or recommendations. [The Council may request the Legal and Technical Commission to review the findings and recommendations of inspection reports and provide recommendations to the Council on regulatory improvements]. ~~[The Council shall invite the attention of the Assembly to cases of non-compliance in accordance with Article 162(2)(a) of the Convention.]~~

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

We would like to bring back paragraph 1ter from the previous version of this text, which has the sponsoring State provide details of any regulatory or other action it is taking as a result of the inspection report. We thought this paragraph was quite useful both to help demonstrate how the sponsoring State is acquitting its duty to assist the ISA to ensure compliance, and also to help the ISA coordinate regulatory activities and avoid duplication. This is also relevant to paragraph (2) of this regulation, which requires the ISA to take into account regulatory action taken by the State. If this paragraph 1 ter is to be deleted, we would find it helpful to have more rationale as to why.

For paragraph 2, we are not sure the amendment to 'enforcement' action makes sense here. It is unlikely to be an effective regulation if the ISA waits for an annual report containing recommendations before taking enforcement action against contractors for non-compliance. It seems to us that this annual report would be more useful as a trigger for general actions by the Council to review or amend the ISA's compliance regime, where the report shows trends or issues that can be remedied by attention to relevant rules or programmes of the ISA, so we support the reference to regulatory improvements in this paragraph. But enforcement action against individual contractors should be taken as and when necessary, and ideally immediately upon the relevant organ if the ISA becoming aware of issues of non-compliance. The last sentence also brings up the issue again of what decisions the LTCC may also need to be reviewed before being passed along to the Council.