

**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 104

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 104
Power to take remedial action**

...

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].~~ and may be recovered from the Environmental Performance Guarantee lodged by the Contractor.

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

In our view, the first part of this deleted text should be retained. In our understanding it was only the subsequent text about extinguishing the debt and putting an end to the dispute, that should be deleted. The reason for this it to ensure the ISA can use the Environmental Performance Guarantee to cover costs it may incur taking its own remedial action, and also so that the ISA retains the option to consider further sanctions (that are aimed to penalize, not just recover costs) e.g. monetary penalties, suspension, termination, if appropriate.