

**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.im.

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.

76

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. The Secretary-General may, by notice to a Contractor who has lodged a royalty return, request the Contractor to provide information to support the matters stated in the royalty return within 90days of such a notice.

1bis. Where the Secretary-General so determines, taking into account the relevant guidance provided by the Council and following any audit under this Part, or by otherwise becoming aware that any royalty return is not accurate and correct in accordance with this Part, the Secretary-General may, by written notice to a Contractor, request any additional information that the Secretary- General considers reasonable in the circumstances, including the report of an auditor.

2. A Contractor shall provide such information requested by the Secretary-General under paragraph 1bis within 60 Days of the date of such request, together with any further information the Contractor requires-deems relevant for the Secretary-General to take into consideration.

[4. bis If the Contractor is not satisfied with the Secretary-General’s confirmation or revision of the assessment, the Contractor may request a review of that decision in writing and provide any further information the Contractor wishes the Secretary-General to consider within 30 Days of a decision being made. The Secretary-General shall, in consultation with the Finance Committee, then re- consider and either affirm, revise, or revoke the assessment, taking into account the further information provided by the Contractor, within 60 Days.]

[4. ter The Secretary-General shall provide the Council with each approving assessment confirmed or revised according to paragraphs 4 and 4bis above, including any information or recommendations provided by the Finance Committee under paragraph 4bis. The Secretary-General shall provide the Contractor the written notice of the decision of the Council.]

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

We recommend merging the request in DR 72 for further information from the Contractor by the Secretary-General with this regulation, which seems to be dealing with the same issue – albeit with different deadlines. We wonder if the two can be merged to avoid duplication, but in a way that retains appropriate triggers and timeframes for when the SG can make such a request and the Contractor’s reply.

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As a general point and was raised by other member States in July 2023, the Secretary-General seems to be the organ solely responsible for dealing with royalties, this includes receiving the royalty return, determining whether more information is needed, determining if there should be a refund, agreeing with the Contractor where their records will be held, assessing whether a royalty return is correct and levying a charge for outstanding amounts - even receiving an appeal to that levy themselves. The ISA's subsidiary organs are frequently omitted from procedures in this Part of the Regulations, and nor do the Council or the Assembly seem to be involved as a back-stop or overseeing this stage. This seems at odds with how other matters are dealt with in the Regulations, and we wonder if other ISA organs should be more involved in the management of royalties (such as the Finance Committee, or the Compliance Committee), and the Secretary-General less relied upon - as is currently drafted in this Part of the Regulations?

Regarding para 4bis/4ter, it is unclear to us if the Council affirms (or revokes) the determination of the Secretary-General or is merely made aware of the determination with no action required by the Council. The last sentence of 4ter seems to imply there is a decision of the Council, but then paragraph 5 only references paragraph 4 and 4bis which do not give an indication of Council involvement in the determination. It seems appropriate to us that the Council should be given a chance to affirm or revoke the determination of the Secretary-General, otherwise it seems to us that the SG really has not oversight (both taking the decision and then reviewing it's own decision). Regardless, we consider that the review of the decision/determination would benefit from the involvement of the Finance Committee, at the very least in a consulting role. Alternatively this language could mirror DR77(2)alt which seems to strike an appropriate balance.