

**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 95

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. ~~alt.~~ The Commission or other subsidiary organs of the Authority ~~where so requested by the Council~~, shall, from time to time, ~~[where appropriate or upon request by the Council,]~~ develop Guidelines of a technical nature, in order to assist in the implementation of these Regulations, taking into account the views of ~~relevant~~ Stakeholders.

4. Guidelines are only of a recommendatory nature., ~~[yet Contractors shall ensure they are apprised of the Guidelines and take them into account in their performance of functions under these regulations and their contract.. The observance of a Guideline by a Contractor may serve as supporting evidence of compliance by that Contractor with the relevant Rules of the Authority to which the Guideline relates. The Authority may also request applicants or Contractors to identify and explain departures from Guidelines].-~~

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

Regarding Paragraph (1), we support the comments made concerning the need for clarity on how Stakeholders will be consulted on Guidelines, and the need for clear procedures for Stakeholder consultation in the development and maintenance of the ISA’s regulatory framework, of which Guidelines are an important part. This DR95(1) refers to ‘the views of Stakeholders’, but does not speak to how Stakeholders should be consulted (or even require this), nor explain when, or who should carry out the consultation. It is a duty with no one to carry it forward, and no accountability for its observation. This applies to DR 94 as well. We reiterate that these broader consultation procedures cannot be deferred until a later date or another instrument, as they are vital to understand how the Regulations will operate.

We suggest reinsertion of the deleted text in para 4. Absent this deleted text, the Regulations do not indicate the status or importance of Guidelines, and there is no general wording requiring Contractors to apprise themselves of Guidelines in their conduct elsewhere. In addition, text has also been deleted from the Standard Contract Terms requiring Contractors to “*observe, as far as reasonably practicable, any guidelines which may be issued by the Commission or the Secretary-General from time to time*” (section 3(c), Annex X). We consider that the ISA should use Guidelines as a means of compliance assurance, so that adherence to a Guideline, while not mandatory, provides a measure of comfort that the relevant outcome will meet ISA rules. We also support the

last line to paragraph (4), enabling the ISA to ask Contractors to explain departures from Guidelines. This is recommended both to help the ISA in reviewing Contractor compliance, and also so that the ISA is able to keep up-to-date with possible new and improved methodologies, and the currency of the Guidelines.