

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 98

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. An Inspector may, for the purposes of monitoring or enforcing compliance with the ~~Rules, regulations and procedures~~ of the Authority *[NB this proposed amendment also requires this defined term to be reinstated in the Schedule]* and the terms of the Exploitation Contract:

[(h) bis Issue a "do not disturb notice", in writing, in order to allow the further inspection, examination or measurement of, or the conducting of tests concerning, any ship, Installation, equipment or facilities ~~engaged in used to carry out~~ Exploitation activities and activities related to such ~~E~~exploitation activities in the Area.]

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

The Consolidated Regulations included wholesale replacement of the previous defined term ‘Rules of the Authority’ with the non-defined UNCLOS term ‘rules, regulations, and procedures’. This does not always work. Paragraph (1) is a good example. With this drafting, an Inspector may not be lawfully able to use any of the powers listed in DR98 in the event of a breach of a Standard, or a Council decision, for example – as these are not clearly included in the term ‘rules regulations and procedures of the Authority’.

It may be helpful in this paragraph to make use of the new defined term ‘Related Activities’. (which seems to have been added to the Schedule of this Consolidated Regulations text, but then barely used).

In relation to sub-paragraph (h)(bis), for a ‘do not disturb notice’ to have enforceable effect, it would be helpful to have an attendant requirement upon Contractors (e.g. in 96(ter)) to require compliance with any such 'do not disturb' notice.

As a practical matter, we wonder if the Council has given thought to how an individual inspector may manage interpretation or translation, where they do not share a language with the persons running the operations that are being inspected? This also relates to the point raised by a couple of different Council members in the November 2023 session, that ‘an Inspector’ may be a misnomer, as a multidisciplinary team - or a company – may in fact be required for any inspection, in order to cover all the necessary functions.