

## TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 29<sup>TH</sup> 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](mailto: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.

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### 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. If, as a result of an inspection, an Inspector has reasonable grounds to determine that any occurrence, practice or condition endangers or may endanger the health or safety of any person or poses a threat of **{Serious} Harm-harmful effects** to the Marine Environment [...]

2. ter **Unless otherwise stated, an instruction issued pursuant to this regulation shall have immediate effect and, ~~An instruction~~** shall specify the information to be provided to the Inspector by the Contractor to demonstrate the steps being taken to implement the instruction within the specified period.

3. ter The Compliance Committee may:

[...]

(b) **where identifying a material flaw in substance or procedure**, revise or set aside an instruction issued under paragraph 1 above as soon as practicable, **stating the reasons**; [...]

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

In relation to paragraph (1), like others, we note that ‘Serious Harm’ to the Marine Environment is an extreme and prohibited degree of harm that UNCLOS describes as triggering emergency orders from Council, or disapproval of whole areas for Exploitation. This seems too high a threshold for action by an Inspector, so we recommend replacing with ‘harmful effects’ (drawing from Article 145 UNCLOS).

We propose reinstatement of the wording previously included at the beginning of paragraph (2)(ter) but which appears to have been omitted in the re-drafting process for the Consolidated Regulations.

We believe for accountability and due process purposes, paragraph (3)(ter) should specify grounds for when the Compliance Committee can revise or set aside an instruction of an Inspector (such as where they find the original decision was flawed or unfounded), and also a requirement that the Committee gives its rationale.