

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 27TH SESSION:
COUNCIL - PART III**

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:

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.

Draft regulation 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.

The facilitators’ proposed amendments are reflected in **red**.

Our proposed amendments and our questions or comments regarding the facilitator’s remarks are indicated as in-line edits in **blue**. Where we propose deletions of the facilitator’s text this is shown ~~in strikethrough and bold~~.

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~~.

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

We do not support the square-bracketed proposal (and indeed are surprised to see it remain in the facilitator’s text after at least 5 Council members requested its deletion in July’s Working Group session), while none supported it.

If a contractor has failed to take action required under DR103, that’s a serious non-compliance concern. Although the ISA can use the Environmental Performance Guarantee to cover costs it may incur taking its own remedial action, we believe the ISA should retain the option to consider further sanctions (that are aimed to penalise, not just recover costs) e.g. monetary penalties, suspension, termination, if appropriate.