

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH SESSION:
COUNCIL - PART I**

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.

DR 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.

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].~~

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

We support the deletion of this square-bracketed proposal at the end of paragraph 2. 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 penalize, not just recover costs) e.g. monetary penalties, suspension, termination, if appropriate.