

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.

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

Pew's 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~~.

1. Name of Working Group:

IWG Environment

2. Name(s) of Delegation(s) making the proposal:

Pew Charitable Trusts

3. Please indicate the relevant provision to which the textual proposal refers.

DR 56

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.

(a) alt The requirements and modalities governing contributions to the Fund in accordance with regulation 56, including the establishment of the minimum size of the fund, and the modalities for replenishment of the fund upon disbursement

(c)alt "Establishment of rules, guidelines and modalities for determining entities eligible to access the Fund, which may include states and private entities that have suffered damages"

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

On subpara (a), we believe 'financing the funds' might not be the most appropriate term to use. We suggest instead rewording the provision to state instead that the rules and procedures shall include, "The requirements and modalities governing contributions to the Fund in accordance with regulation 56, including the establishment of the minimum size of the fund, and the modalities for replenishment of the fund upon disbursement".

On subpara c, similarly, we believe more clarity could be provided in the entities that can access the funds and the process to do so. We would suggest replacing the current text with, “Establishment of rules, guidelines and modalities for determining entities eligible to access the Fund, which may include states and private entities that have suffered damages”

On subpara (d), we think there is merit in enumerating in an indicative list what types of damage and purposes are eligible for claims. This would also be helpful in clarifying the overarching goal of the ECF.

On para (f), we would seek clarification as it is not our understanding that a Contractor can pull money out of the Fund post-closure. In our understanding, the ECF is like another form of insurance – with payments premised on probability that some accidents may occur, but all contribute to ensuring that the loss is covered. Refunds should not be made available – as payment into the fund is simply the cost of maintaining this insurance. For instance, insurers do not refund money once the insured ceases operations.