

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH 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.

DR 100

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.

- **Red font** are proposed amendments by the Facilitator in this revised text.
- Our proposed amendments and our questions or comments regarding the facilitator’s remarks are indicated as in-line edits in **blue**. Proposed deletions of text proposed by the facilitator appears in strikethrough and **bold**.

1. No later than thirty days after the end of an inspection, the Inspector shall prepare and deliver a report to the Chief Inspector in accordance with the template and other requirements of the relevant Standards and in accordance with relevant Guideline setting out the findings and any recommendations for improvements in performance, procedures or practices by a Contractor, **and also recommendations for possible actions to be taken by the Authority**. The Chief Inspector shall send the report to the Compliance Committee and the Secretary General, [who shall send a copy of the report to the Contractor and its sponsoring State or States]. ~~**The Compliance Committee shall ask the Secretary General to send a copy of the report to any relevant coastal State or flag State, the Contractor and sponsoring State or States and, if appropriate, the relevant adjacent coastal State or States and the flag State and to publish a copy of the report in the Seabed Mining Register, excluding confidential information.**~~

...

1 ter The sponsoring State or States shall within a reasonable period, provide to the Secretary-General, who shall transmit to the Compliance Committee, details of any regulatory or other action taken or to be taken as a result of the Inspectors’ findings or recommendations.

2. The Compliance Committee shall, pursuant to regulation [96 bis paragraph 6], in **their** ~~it~~ annual report to the Council, ~~under regulation 96(1)(e) ter~~ include details on the findings and recommendations following the inspections conducted in the prior Calendar Year and ~~shall~~ make any recommendations to the Council on any ~~enforcement~~ action to be taken by the Council under these regulations and an exploitation contract. **The Council may request the Legal and Technical Commission to review the findings and recommendations of inspection reports**

and provide recommendations to the Council on regulatory improvements, taking account of any regulatory action taken by the sponsoring State or States or corrective actions taken by a contractor to address the findings or recommendations. ~~The Council may request the Legal and Technical Commission to review the findings and recommendations of inspection reports and provide recommendations to the Council on regulatory improvements.~~

3. The Compliance Committee shall report to the Secretary-General any acts of violence, intimidation, or abuse against or the wilful obstruction or harassment by any person of an Inspector, or a representative of a sponsoring State, any other State Party, or other party concerned who accompanies the Inspector, as identified in regulation 96, in the course of their duty. The failure by a Contractor to comply with regulations 96 or 96 ter shall also be reported by the inspectors in their report to the Compliance Committee and to the Secretary-General. Appropriate measures shall be taken in accordance with regulations 99 and 103 respectively.

3 bis. The Secretary-General shall report subject to regulation 100(3) such acts immediately to the sponsoring State or States and the flag State of any vesselship or Installation concerned, [and] the national State of the Inspector for consideration of the institution of proceedings under national law.

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

On DR 100, we would like to bring back paragraph 1ter from the previous version of this text, which has the sponsoring State provide details as to any regulatory or other action it is taking as a result of the inspection report. We thought this paragraph was quite useful both to help demonstrate how the sponsoring State is acquitting its duty to assist the ISA to ensure compliance, and also to help the ISA coordinate regulatory activities and avoid duplication.

In para 2, which focuses on the annual report, we are not sure the reference to 'enforcement' action makes sense here. It is unlikely to be an effective regulation if the ISA waits for an annual report containing recommendations before taking enforcement action against contractors for non-compliance. An annual report would be more useful as a trigger for general actions by the Council to review or amend the ISA's compliance regime where the report shows trends or issues that can be remedied by attention to relevant rules or programmes of the ISA, so we support a reinsertion of the reference to proposed regulatory improvements from the LTC that was found in the previous text. With that said, enforcement action against individual contractors should be taken as and when necessary, and ideally immediately upon the relevant organ of the ISA becoming aware of issues of non-compliance. So it might be useful to include an additional (1 quater.) specifically requiring the compliance committee 'to report to the Council with regard to any compliance action recommended by the CC, in relation to the individual inspector's findings, where relevant'.

The second sentence of para 3 needs to specify who is required to take the action for clarity. We suggest adding after "shall also be reported" the words "by the inspectors in their report to the Compliance Committee and". In this way intimidation or abuse is both an enforceable offence and clearly reported.

