

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28<sup>TH</sup> 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](mailto: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 96bis

**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. The Compliance Committee shall be comprised of ten [fifteen] members [~~of the Commission~~] with appropriate expertise to carry out the functions of the Compliance Committee in accordance with this regulation.

2. The Compliance Committee shall, inter alia:

(a) provide recommendations to the Council **and Chief Inspector** on the administration and management of the roster of Inspectors and matters relating to inspection, compliance and enforcement **including clarifying what constitutes non-compliance** in accordance with relevant policies or directions issued by the Council;

**(a bis) develop a general compliance and enforcement strategy**

**(a ter) develop a tailored inspections programme for each contract**

(b) Review the annual reports of Contractors **and report to the Council the results of the review**;

(c) Examine reports and recommendations from the Chief Inspector and Inspectors, and other relevant data and information;

(d) Report to the Council, the results of inspections and resulting recommendations for enforcement action, in a timely and comprehensive manner and coordinate compliance matters with other organs of the Authority that play a role in inspection, compliance and enforcement;

(e) Convene, with the support of the Secretary-General, a process to liaise with Contractors in cases of non-compliance or complaints;

(e) bis Investigate allegations from members of the Authority, members of the Commission, relevant coastal States or the Secretary-General, as well as from observers of the Authority and other Stakeholders on possible instances of Contractor non-compliance, including through any whistle-blowing procedures under regulation 101 bis;

(f) Consult and cooperate, through the Secretary-General with sponsoring States, flag States, port States and competent international organizations as regards compliance and enforcement measures;

(g) Make recommendations to the Council for the issue of emergency orders and appropriate penalties; ~~and~~

(g) bis Undertake in collaboration with the Secretary-General compliance promotion activities to promote understanding of and compliance with the Rules of the Authority, including dissemination of best practice arising from inspection activities;

(g) ter Appoint, where time is of the essence, a competent independent expert to perform any or all of the functions of an Inspector where the nature or subject matter of an inspection requires specialist knowledge or experience that is not available on the approved roster of Inspectors; and

(h) Perform any other duties that the Council directs in writing.

3. The Compliance Committee shall develop its own rules of procedure, ~~under the rules of procedure of the Commission.~~

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

As a general comment we see merit in alternative proposals put forward regarding the creation of a compliance committee (with a similar function) not within the LTC, but under the Council, or as mixed model. We cannot support the LTCCC model for reasons of capacity, specialised expertise, responsiveness, separation of powers (e.g. rule making and enforcement), and independence. We also wonder if, before allocating any new role to the LTC, there should be some independent assessment carried out (e.g. under Art 154 UNCLOS) to evaluate LTC's current performance, accountability and governance systems and importantly as Germany and others just indicated the LTC's workload?

Regarding paragraph 2(a), we believe the responsibility to manage the roster should rest with the Chief Inspector and not the Compliance Committee so suggest including "and the Chief Inspector" after Council . Also in 2a) We welcome the facilitator's previous inclusion of clarification of what is non-compliance and suggest re-insertion of "including clarifying what constitutes non-compliance" after "and enforcement"

Recognizing that initially there are likely to be limited contracts, we welcome Brazil's suggestion that the compliance committee develop a general compliance and enforcement strategy and furthermore suggest the CC develop a tailored inspections programme for each contract, so suggest a new a) bis and a) ter accordingly.

Furthermore, we welcome the efforts to streamline the rest of the 96 bis, but believe some critical provisions were not carried over from the previous text. These pertain to investigation of allegations; promotion of compliance best practice; and the appointment of independent experts in the absence of relevant expertise within the roster of inspectors. We also suggest including a reference to the whistle-blowing procedures as we believe this should be retained (see 101bis) and that either the compliance committee or Assembly (as a broader general policy) should develop such a document.