

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28<sup>TH</sup> 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](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 98

**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. An Inspector may, for the purposes of monitoring or enforcing compliance with the Rules of the Authority and the terms of the **Exploitation** contract:

(b) bis Inspect any **[relevant]** documents or items which are necessary to monitor the Contractor’s compliance, all other recorded data and samples and any **vesselship** or Installation used **[to carry out Exploitation activities and activities related to such exploitation activities in the Area] in-connection-with activities in the Area** including its log, equipment, records and facilities and question relevant personnel.

...

(e) Inspect ~~[for test]~~, or **[request testing of]**, any machinery or equipment under the supervision of the Contractor or its agents or employees that, in the Inspector’s opinion, is being or is intended to be used for the purposes of the Exploitation activities;

~~[(f) [After due notification to the Authority giving reasons for the same, s]Seize document[s], article[s], substance or any part or sample of such for examination or analysis that the Inspector may reasonably require;]~~

~~[(g) Remove representative samples or copies of assays of such samples from any vesselship or equipment used for or in connection with the Exploitation activities that the Inspector may reasonably require;]~~

(h) Require the Contractor to carry out such procedures in respect of any equipment used for or in connection with the Exploitation activities as may be deemed necessary by the Inspector; and,

~~[(h).bis. [Issue a] A "do not disturb notice", in writing, in order to allow the further inspection, examination or measurement of, or the conducting of~~

tests concerning, any ~~vessel~~ship, installation, equipment or facilities used [to carry out Exploitation activities and activities related to such exploitation] ~~in connection with~~ activities in the Area.]

(i) Upon written authorization from the Council, [an Inspector may] perform any other prescribed function of the Authority as its representative.

{3. Before an Inspector may seize any document under paragraph 1(f) above, the Contractor may copy it.}

{4. When an Inspector seizes or removes any item under this regulation, the Inspector shall issue a receipt for that item to the Contractor.}

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

Regarding (1)(b)bis, this para appears duplicative of new DR96 ter (3), with small differences. This duplication and conflict should be removed. We also question whether reference to “Exploitation activities” would restrict Inspectors access to documents or items related to exploration activities which could nevertheless be relevant for ascertaining exploitation compliance.

Regarding (1)(e), We propose including the words “or request testing of” after “inspect”. We consider it may be necessary for the inspector to see equipment/machinery being operated to carry out a thorough inspection, but understand concerns that testing of machinery or equipment requires training that the inspector will likely not have. As such, we believe this provision could be reworded to enable the Inspector to request the Contractor to test the equipment for the purposes of the inspection.

Regarding (f), We are unclear what “due notification to the Authority” means here. Does it mean ‘from’ the Authority? If this is the case, we suggest deleting it as we consider ‘may reasonably require’ is sufficient on its own and that paragraph 3 below provides the necessary safeguards.

Regarding (3) and (4), we support their inclusion as well as paras 1(f) 1(g) 1(h)(bis) which are bracketed in this version. Original documents or samples may be required for evidentiary purposes in national proceedings. In addition, samples may need to be seized for additional testing, such as checking metal content that is claimed for royalty purposes or to test environmental samples. It is therefore important for the ISA to retain maximum (reasonable) powers.