

**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:

Open Ended Working Group on Financial Terms of a Contract

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 75

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 Secretary-General, [by itself or at the request of the Council] or Council, may [request an] audit of the Contractor’s records and [all subcontractors’ records associated with the exploitation activities] [the records of subcontractors’ directly engaged in the Contractor’s eExploitation activities] in the Area..

(...)

5. Members of the Authority, in particular a Sponsoring State or States, shall, ~~to the best of their abilities~~, cooperate with and assist the [Secretary-General] [relevant organ of the Authority] and any [Inspector] [auditor] in the carrying out of any audit under this regulation, and shall facilitate access to the records of a Contractor by an [Inspector] [auditor] and assist in the exchange of information relevant to a Contractor’s obligations under this Part.

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

We continue to believe that this regulation duplicates Part XI on inspections and so should be deleted except to state “The Council or Compliance Committee may request an audit of the Contractor’s records, which shall be undertaken at the Contractor’s sole cost, by an independent auditor approved by the Council.”

We believe this DR75 and its alignment with the ISA’s general inspection and compliance regime, needs more consideration. A financial audit, and an inspection of facilities or books, are separate functions, carried out by different types of professionals and generally with different approaches, objectives and methodologies. Whilst the ISA Inspectorate may include forensic economists, and may include within its scope financial monitoring, we’ve not heard this proposed before, and it may need further discussion. In the meantime, we consider it would be better to have a distinct record audit requirement in this section of the regulations. And then to cover

access to facilities, equipment, records etc. for inspection and compliance assurance purposes separately in Part XI. So these aspects should be removed from this regulation, to avoid duplication.

In para 5, we support the deletion of the qualifier 'to the best of their abilities' and also recommend that the cooperation requirement is broadened to include any relevant organ of the Authority and not just be limited to the Secretary General.