

Meeting of the International Seabed Authority

Resumed Session of the Council

October 31st to November 11th, 2022

Proposal by Costa Rica for a new Section

Section 2bis27th

Title: **Compliance**

New Regulation 102bis: **Compliance Committee**

Costa Rica proposes to add a new section 2bis entitled “Compliance”, and thereunder, a new regulation 102bis entitled “Compliance Committee”. This could be worded as follows:

1. *The Council shall establish a Compliance Committee to assist the Council in carrying out its responsibility to exercise control over activities in the Area and to ensure compliance by Contractors. The Secretary-General, and the Commission shall assist and support the work of the Compliance Committee.*
2. *Alt 1. The Compliance Committee shall consist of [ten/fifteen] members, elected by the Council from nominations by members of the Authority.*
2. *Alt 2. A dedicated unit comprising of ten members with the relevant expertise within the Commission shall carry out the functions of the Compliance Committee.*
2. *Alt 4. The Compliance Committee shall consist of [ten/fifteen] members], comprising [five/seven] members selected by the Commission from among members with relevant expertise and [five/eight] members elected by the Council from nominations by members of the Authority.*
3. *Members elected to the Compliance Committee shall have the relevant qualifications and expertise that specifically relate to compliance and enforcement, as determined by the Council. In addition, the composition of the Compliance Committee shall reflect equitable geographic distribution. Members elected to the Compliance Committee shall serve for an initial term of three years, which can be extended for another term.*
5. *The Secretary-General or his representative, as well as the Chair of the Commission, shall be invited to attend public meetings of the Compliance Committee, without the right to vote.*
6. *The functions of the Compliance Committee shall include, inter alia:*
 - a) *To issue recommendations to the Council on matters relating to compliance, including clarifying what constitutes non-compliance;*
 - b) *To , along with the Commission, review the annual reports of Contractors and consider any instances of non-compliance;*
 - c) *To receive reports and recommendations from Inspectors or the Commission, and to consider any instances of non-compliance;*
 - d) *To coordinate compliance matters with other organs of the ISA that play a role ensuring compliance, including the Commission and the Inspectors, as well as the Secretariat;*

- e) *To receive complaints from members of the Authority, members of the Commission or the Secretariat, as well as from Observers and other Stakeholders on possible occurrences of Contractor non-compliance;*
- f) *To request the Secretariat to provide advice or assistance to Contractors in cases of non-compliance to help bring them into compliance;*
- g) *To convene, with the support of the Secretariat and the Commission, a process to liaise with Contractors in cases of non-compliance or complaints, including conducting oral hearings;*
- h) *To exercise the powers under regulation 103, and in urgent cases, to take any interim measures where necessary;*
- i) *To make recommendations, together with the Commission, to the Council on the issuance of emergency orders and appropriate penalties; and*
- j) *To make recommendations to the Council, together with the Commission, on the establishment of proceedings at the Seabed Disputes Chambers in cases of serious or persistent non-compliance, where appropriate.*

7. The role of the Compliance Committee may be activated in any of the following cases:

- a) *At the request of a Sponsoring State acting on its own or on behalf of its Contractor requesting for assistance on compliance;*
- b) *As directed by the Council or the Assembly on any matters relating to possible non-compliance by Contractors and the Enterprise;*
- c) *Upon receipt of a complaint or at the request of any member of the Authority and Observers on matters relating to possible non-compliance by Contractors and the Enterprise;*
- d) *Upon receiving the inspection report from the Inspectors, specifically where non-compliance has been identified;*
- e) *Upon receiving the report or recommendations from the Commission, including its findings based on the evaluation of the annual reports submitted by the Contractor, specifically where non-compliance has been identified;*
- f) *At the request of the Secretary-General, specifically to examine any instances of possible non-compliance by Contractors or the Enterprise;*
- g) *At the request of the Enterprise, specifically on matters relating to its own compliance.*
- h) *On its own initiative.*

8. Decisions of the Compliance Committee shall be taken by consensus. If all efforts to achieve consensus has been exhausted, decisions shall be taken by a majority of members present and voting. In the case of a tie, the Chair of the Compliance Committee shall have the decisive vote.

9. The Compliance Committee shall meet at regular intervals, and in urgent cases involving instances of non-compliance, shall convene virtually and on short notice. Members of the Compliance Committee shall rotate among themselves on a monthly basis in order to ensure that one member is always available "on call" in cases of non-compliance that require urgent action. In addition, the Compliance Committee shall appoint its own chair and vice chair. The Secretary-General shall facilitate the meetings of the Compliance Committee.

10. The Compliance Committee may request additional information from Contractors, and if necessary, from Sponsoring States. Where non-compliance has been identified, Contractors shall be given the opportunity to submit written statements within 30 days of notification. This shall in no way affect the powers of the Compliance Committee to take interim measures where the circumstances require such immediate action. Contractors may request for a hearing, which shall be accommodated by the Compliance Committee and take place in a public setting.

11. Reports and recommendations prepared by the Compliance Committee, shall be publicly available after confidential information is redacted, should be comprehensive, and reflect any diverging views. The Council shall receive and consider these reports and any recommendations made by the Compliance Committee relating to non-compliance.

12. The Council shall review and ratify measures imposed in the interim by the Compliance Committee, and consider any of its recommendations as soon as feasible or during its next meeting. A member of the Bureau of the Council shall be on-call and convene a virtual meeting of the Council on an urgent basis in cases where Provisional Emergency measures are issued.

13. In the event that compliance concerns an entity sponsored by a member of the Authority that happens to be represented on the Compliance Committee, that member should recuse him/herself from the proceedings.

14. The Compliance Committee shall develop its own rules of procedure, including for the convening of hearings, which shall be approved by the Council.

15. All formal notifications to the Compliance Committee shall be addressed to the Secretary General who shall promptly transmit them to Chair of the Compliance Committee