

TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 27TH SESSION:

COUNCIL - PART 3

Informal Working Group - Inspection, Compliance and Enforcement

Please fill out one form for each textual proposal which your delegation(s) wish(es) to amend, add or delete.

1. Name(s) of Delegation(s) making the proposal: Republic of Costa Rica

2. Please indicate the relevant provision to which the textual proposal refers.

Regulation 100, ISBA/27/C/IWG/ICE/CRP.1/Rev.2

3. 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.

Regulation 100

Inspection Reports

1. ~~[Immediately after]~~ ~~[At]~~ the end of an inspection, the Inspector shall ~~[prepare]~~ and ~~[deliver]~~ a report ~~[promptly]~~ [in accordance with the template ~~to be prescribed in the~~ Standards], setting out the findings and any recommendations for improvements in [performance], procedures or practices by a Contractor. The ~~[Inspector or Inspectors]~~ ~~[Inspectorate]~~ shall send the report to the ~~Secretary-General, [the Commission, and the Council]~~ Contractor and its sponsoring State or States, as well as the Compliance Committee ~~as soon as it is completed].~~ The Compliance Committee shall ask the Secretary-General to ~~shall send immediately~~ a copy of the report to ~~the Contractor and to the sponsoring State or States and, if appropriate, the any relevant coastal State or States and the flag State~~ and to publish a copy of the report, excluding non confidential information, in the Seabed Mining Register.

1. bis The Contractor may within ~~[7-thirty]~~ Days of the date of the Inspector’s report, provide ~~[to the Secretary-General]~~, who shall transmit them to the ~~Compliance Committee.~~ comments ~~to the Inspector on his or her~~ on the findings and recommendations of the Inspector. ~~[The Inspector will forward the comments to the Secretary-General].~~ -

1. ter The sponsoring State or States shall provide to the

Secretary-General, ~~who shall transmit them 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 ~~[Secretary-General]~~ ~~[Inspectorate]~~ The Compliance Committee shall report annually to the Council on the findings and recommendations following the inspections conducted in the prior Calendar Year, [as compiled in a report by the Inspectors] and any compliance actions taken by the Compliance Committee, and shall make any recommendations to the Council on any regulatory action to be taken by the Council under these regulations and an exploitation contract. [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.]

- 2 Bis The Council shall invite the attention of the Assembly to cases of non-compliance in accordance with Article 162(2)(a) of the Convention.

~~[2. Ter Inspection reports drawn up by Inspectors shall constitute admissible evidence in administrative or judicial proceedings.]~~

3. The ~~[Secretary-General]~~ [Inspector] shall report acts of violence, intimidation or abuse against or the wilful obstruction or harassment ~~of an Inspector~~ [in the course of their duty] by any person or the failure by a Contractor to comply with regulation 96 [to the Compliance Committee] and the ~~Secretary-General~~ [

3. bis. The [Secretary-General] shall: ~~R-report~~ such acts immediately to the sponsoring State or States and the flag State of any vessel or Installation concerned, the national State of the Inspector [and the national State of the representatives of sponsoring States, any other State Party, or other party concerned who accompany the inspector] for consideration of the institution of proceedings under national law; and

~~[(b) Report such acts to the [Secretary-General] and consider the exercise of powers under regulation 103.] -~~

4. Where a report is made by an Inspector under sub-paragraph (3), ~~The [Inspectorate]~~ and the Compliance Committee [Inspector] shall notify the Council and ~~[also report acts referred to in para. 3 immediately to the [Secretary-General] and shall]~~ take the appropriate measures under Regulations ~~99 and~~ 103 respectively.

3. **Please indicate the rationale for the proposal. [150 word limit]**

- For paragraph “2bis” We note that Article 162(2)(a) of UNCLOS requires Council to ‘invite the attention of the Assembly to cases of non-compliance’. If that provision of the Convention is intended to include non-compliance by contractors, we suggest that this additional report by Council to Assembly be included at the end of paragraph (2).
- For paragraph 2 ter, additional clarification is needed on the intention of this proposal. To our knowledge, the ISA does not have jurisdiction over what evidence is admissible in any court. As mentioned in DR 97(6), where the ISA is conducting inspections, but the sponsoring State would be responsible for bringing enforcement proceedings, it would be prudent for the ISA to cooperate with Sponsoring States to make sure evidence collected is usable in national civil or criminal enforcement proceedings, which would need to take account of national rules about court procedure and evidence.