

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 103, 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 103

Compliance notice, [suspension] and termination of exploitation contract

1. At any time, if it appears to the ~~[Secretary-General]~~ ~~[Inspectorate]~~ [Compliance Committee] based on reasonable grounds, including a report from an Inspector, that a Contractor is in breach of, or is at risk of breaching, the terms and conditions of its exploitation contract, Part XI ~~and-or~~ the rules, regulations and procedures of the Authority the ~~[Compliance Committee]~~ shall issue a compliance notice to the Contractor requiring ~~the Contractor to take~~ such action as may be specified in the compliance notice, with a copy to the sponsoring State, ~~[and shall report immediately to the Council].~~

2. A compliance notice shall:

(a) Describe the alleged breach and the factual basis for it; and

(b) Require the Contractor to take remedial action or other such steps as the ~~[Secretary-General]~~ ~~[Inspectorate]~~ [Compliance Committee] considers appropriate to ensure compliance within a specified time period.

[2.bis Actions specified in the compliance notice should be commensurate with the gravity, frequency or other circumstances of the alleged breach.]

3. For the purposes of article 18 of annex III to the Convention, a compliance notice issued under this regulation constitutes a warning by the Authority.

4. The _____ Contractor shall be given a reasonable opportunity [not exceeding 30 days] to make representations concerning any aspect of the [compliance notice] in writing to the ~~[Secretary-General]~~ ~~[Inspectorate]~~ who shall transmit them to the ~~[Compliance Committee]~~ _____ [Compliance Committee]

Having considered the representations, the ~~[Secretary-General]~~ ~~[Inspectorate]~~ [Compliance Committee] may confirm, modify or withdraw the compliance notice.

4 bis. All measures imposed by the Compliance Committee shall be reviewed and ratified by the Council. In order to ensure a timely response from the Council, a designated member of the Bureau shall always be on-call in order to convey a virtual meeting of the Council.

5. If a Contractor, in spite of [one or more] warnings by the [Authority] ~~[-Inspectorate]~~, fails to implement the measures set out in a compliance notice and continues its activities in such a way as to result in serious, persistent or wilful violations of the fundamental terms of the contract Part XI of the Convention and the rules, regulations and procedures of the Authority, the Council [shall] suspend or terminate the exploitation contract by providing written notice of suspension or termination to the Contractor in accordance with the terms of the exploitation contract.

5. bis The Secretary-General shall make public any compliance notice and any response received from the Contractor, and shall present an annual report to the Council on any compliance notices the Authority has issued.

6. In the case of any violation of an exploitation contract [not covered by paragraph 5 above], or in lieu of suspension or termination under paragraph 5 above, the Council may impose upon a Contractor monetary penalties proportionate to the seriousness of the violation [which must be in line with indicative penalties set out in the relevant Standards, and which will include any administrative costs incurred by the Authority as a result of the violation.]

7. Except for emergency orders under article 162 (2) (w) of the Convention, the Council may not execute a decision involving monetary penalties, suspension or termination until the Contractor has been accorded a reasonable opportunity to exhaust the judicial remedies available to it pursuant to section 5 of Part XI to the Convention.

7. bis. The Council will bring to the attention of the Assembly instances of non compliance, as established in article 162 (2)(a) of the Convention.

8. The Secretary-General shall notify the Council as soon as reasonably practicable of any matter requiring the Council to issue an emergency order under article 162(2)(w) of the Convention, in accordance with regulation 4(4).

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

- Costa Rica support the proposed wording of 2bis. Regulatory measures should be proportionate. Furthermore, the amendments to ‘paragraph 5, including the use of ‘shall’. Suspension or termination of a contract should be mandatory (not optional) where after being warned, there are continued serious, persistent or willful violations by the Contractor.