

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 27<sup>TH</sup> 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 104, 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 104**

**Power to take remedial action**

1. Where a Contractor fails to take action required under regulation 103, the Authority may carry out any remedial works or take such measures as it considers reasonably necessary to prevent or mitigate the effects or potential effects of a Contractor’s failure to comply with the terms and conditions of an exploitation contract.

2. If the Authority takes remedial action or measures under paragraph 1 above, the actual and reasonable costs and expenses incurred by the Authority in taking that action are a debt due to the Authority from the Contractor, and may be recovered from the Environmental Performance Guarantee lodged by the Contractor, ~~[and thus extinguishing the Contractor’s debt and putting an end to the dispute].~~

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

- If a contractor has failed to take action required under DR103, that's a serious non-compliance concern. Although the ISA can use the Environmental Performance Guarantee to cover costs it may incur taking its own remedial action, we believe the ISA should retain the option to consider further sanctions (that are aimed to penalise, not just recover costs) e.g. monetary penalties, suspension, termination, if appropriate.