

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 96, 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.

1- Compensation should address the damages, not the measures, as it was stated previously.

1. The Council shall, establish before the start of any mining operation [an independent staff of inspectors Inspectorate-as the] which shall inspect activities in the Area to determine whether the Convention, the Agreement and the Rules of the Authorities and the terms and conditions of any contract with the Authority are being complied with appropriate mechanisms [mechanism] for inspection as provided for in articles 153 (5) and 162 (2) (z) of the Convention. [Inspections performed shall be undertaken by Inspectors who meet the requirements set out by the Council pursuant to Regulation 97(1)].

The Inspectors shall be guided by transparency, accountability, independence and the Precautionary Approach. In their election equitable geographical representation and gender balance shall be taken into account.

The Council through the Compliance Committee shall exercise oversight over the Inspectors

...

2.The Contractor shall permit the Authority to send its Inspectors, who [shall upon request by sponsoring States, [any other State Party] or other party concerned] be accompanied by a representative of the sponsoring State, [any other State Party] or other party concerned, [in accordance with article 165 (3) of the Convention], aboard all vessels and Installations whether offshore or onshore, used by the Contractor to

carry out Exploitation activities under an exploitation contract as well as to enter its offices wherever situated. To that end, [States Parties] ~~[Members of the Authority]~~, in particular any State or States shall assist the Council ~~[Council, the Secretary General]~~ ~~[Authority]~~ and Inspectors in discharging their functions under the Rules of the Authority.

[2.bis Nothing in these regulations shall be construed in any way inconsistently with the exclusive jurisdiction of the flag State over its vessels on the high seas as reflected in article 92 of the Convention; nor the enforcement rights of port States as reflected in article 218 of the Convention.]

3. The ~~[Inspectorate]~~ Compliance Committee shall give reasonable notice to the Contractor of the projected time and duration of inspections **for a period as necessary**, the names of the Inspector(s) and any activities that the Inspector(s) are to perform that are likely to require the availability of special equipment or special assistance from the personnel of the Contractor, save in situations where the ~~[Inspectorate]~~ Compliance Committee has reasonable grounds to consider the matter to be so urgent that notice cannot be given, in which case the [Inspectors] may, where practicable, exercise the right to conduct an inspection without prior notification, [pursuant to Regulation 4(5)].

4. Inspectors may inspect **during the whole lifecycle of the activities in the Area** any relevant documents, data or sample and any vessels or Installations used in the Area in connection with activities in the Area, including its log, personnel, equipment, records and facilities.

[4. **Alt 1** Inspectors may inspect any relevant documents or items which are necessary to monitor the Contractor's compliance under the exploitation contract and the Rules of the Authority *inter alia*, all **otherdelete** recorded data and samples and any vessel or Installation, including its log, **personneldelete**, equipment, records and facilities.]as well as interview the personnel.

5. The Contractor and its agents and employees ~~[shall facilitate the actions of]~~ [shall cooperate with the Inspectors and give full assistance to] the Inspectors in the performance of their duties, and shall:

(a) Accept and facilitate the prompt and safe boarding and disembarkation of vessels and Installations by Inspectors;

[(a).bis Keep the Secretary-General and sponsoring State or States notified of proposed vessel schedules including support and supply vessels, and inform the Secretary-General at least 30 Days before any vessel commences its voyage to a

Contractor's Contract Area to facilitate the conveyance of Inspectors and representatives of the sponsoring State or States, where appropriate];

(b) Cooperate with and assist in the inspection of any vessel or Installation or equipment conducted pursuant to this regulation [and comply with the reasonable requests of an Inspector];

(b bis) Provide reasonable facilities, including where appropriate, food and accommodation, to Inspectors;

(c) Provide access to all relevant areas, items and personnel [] or on vessels and Installations at all reasonable times, [including access to and use of communication equipment for the purpose of the transmission and receipt of messages];

(d) Provide access to [relevant] monitoring equipment, books, documents, papers and records [~~which are necessary and directly pertinent~~] to ~~to~~ [determine compliance with terms and conditions of a contract and these Regulations including with] the financial payments [terms and to verify the expenditures referred to in the Plan of Work];

(e) Answer fully and truthfully any questions put to them;

(f) Accept the deployment of remote real-time monitoring and surveillance equipment, ~~where required by the [Secretary-General]-~~ ~~[Inspectorate]~~, Inspectors and facilitate the activities of Inspectors in deploying such equipment and having access thereto; and

(g) Not obstruct, intimidate or interfere with Inspectors in the performance of their duties, [~~or representatives of sponsoring States, any other State Party, or other party concerned who accompany these Inspectors, as identified in paragraph 2 of this Regulation~~].

6. Inspectors shall:

(a) [~~Carry out inspections in accordance with internationally accepted principles of good seamanship to avoid risks to the safety of life at sea and where appropriate~~] Follow instructions and directions pertaining to the safety of life at sea given to them by the Contractor and the ~~captain~~ [master] of the vessel; and

(b) [~~Refrain from any undue interference~~] [~~Not unduly interfere~~] with

the [~~safe and~~] normal operations of the Contractor and of vessels and Installations, unless the Inspector has reasonable grounds for believing that the Contractor is operating in breach of its obligations under an exploitation contract.

(b).bis [~~An Inspector shall~~] aAdhere to the Authority's code of conduct for inspectors and inspections established pursuant to draft regulations 96 (1) bis.

(c) Indicate in their reports all vessels, installations, equipment, facilities, data and samples monitored or otherwise examined, all documents reviewed or copied, all questions posed to the Contractor or any personnel.

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

For "d)" We recommend that there be a requirement for real-time data reporting for environmental monitoring of all Contractors as standard practice, rather than something that requires specific authorization on a case-by-case basis.