

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 98, 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 98
Inspectors’ powers

~~[1. bis Inspectors shall:~~

~~(a) follow all reasonable instructions and directions pertaining to the safety of life at sea given to them by the Contractor or the captain; and~~

~~(b) to the maximum extent possible, refrain from any undue interference with the safe and normal operations of the Contractor and of vessels and Installations, unless the Inspectors have reasonable grounds for believing that the Contractor is operating in breach of its obligations under an exploitation contract.]~~

1. An Inspector may, for the purposes of monitoring or enforcing compliance with the Rules of the Authority and the terms of the exploitation contract:

(a) Question any person engaged by the Contractor in the conduct of Exploitation activities on any matter to which the Rules of the Authority relate;

(b) Require any person who has control over, or custody of, any relevant document, whether in electronic form or in hard copy, including a plan, book or record, to produce that document to the Inspector immediately or at any other time and place that the Inspector requires;

(b).bis Inspect any relevant documents or items which are necessary to monitor the Contractor’s compliance, all other recorded data and samples and any vessel or Installation used in connection with activities in the Area including its log, ~~personnel~~, equipment, records and facilities and ~~question the relevant personnel~~.

(c) Require from any person referred to in subparagraph (b) above an explanation of any entry or non-entry in any document over which that person has custody or control;

(d) Examine any document produced under subparagraph (b) and make a copy of it or take an extract from it;

(e) Inspect or test any machinery or equipment under the supervision of the Contractor or its agents or employees that, in the Inspector's opinion, is being or is intended to be used for the purposes of the Exploitation activities,

~~[unless such inspection or testing will unreasonably interfere with the Contractor's operations in the Area]; -~~

[(f) Seize any document, article, substance or any part or sample of such for examination or analysis that the Inspector may reasonably require;]

[(g) Remove any representative samples or copies of assays of such samples from any vessel or equipment used for or in connection with the Exploitation activities;]

[(h) Require the Contractor to carry out such procedures in respect of any equipment used for or in connection with the Exploitation activities as may be deemed necessary by the Inspector; ~~[and, unless such procedures will unreasonably interfere with the Contractor's operations; and]]. -~~

~~(i)~~ **1 bis** Upon written authorization from the Council, **an Inspector may** perform any other prescribed function of the Authority **[as its representative]**.

2. An Inspector may instruct any Contractor, its employees or any other person who performs an activity in connection with an exploitation contract to appear before the Inspector to be questioned on any matter to which the Rules of the Authority relate.

3. Before an Inspector may seize any document under paragraph 1 (f) above, the Contractor may copy it.]

4. When an Inspector seizes or removes any item under this regulation, the Inspector shall issue a receipt for that item to the Contractor.]

5. An Inspector [shall] document any site visit or inspection activity and may use any reasonable means to do so, including video, audio, photograph or other form of recording.

6. An Inspector shall be bound by strict confidentiality provisions and must have no conflicts of interest in respect of **[all]** duties undertaken, and shall conduct his or her duties in accordance with the Authority's code of conduct for Inspectors and inspections approved by the Council.

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

- For sub paragraph "b bis": A power to 'inspect personnel' raises questions over its concept and what is permitted, for example, power to conduct bodily search. This should be clarified, or 'personnel' could be deleted. Moreover, nothing that questioning of persons engaged by the Contractor is covered by subparagraph
- We support the reinstatement of subparagraphs (g) and (h) (and paragraph (2) and (3) below). Original documents or samples may be required for evidentiary purposes in national proceedings. In addition, samples may need to be seized for additional testing, such as checking metal content that is claimed for royalty

purposes or to test environmental samples. It is important for the ISA to retain maximum (reasonable) powers.

- The intention behind subparagraph (h) is not clear for this delegation as it seems to be covered by subparagraph (e). In such case, deletion of the subparagraph seems sensible.
- For paragraph 4: As with sub-paragraphs (1)(g) and (h) above, we support reinstatement of paragraphs (2) and (3) here. Original documents or samples may be required for evidentiary purposes in national proceedings. In addition, samples may need to be seized for additional testing, such as checking metal content that is claimed for royalty purposes or to test environmental samples. It is important for the ISA to retain maximum (reasonable) powers.