

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH SESSION:
COUNCIL - PART II**

Please fill out one form for each textual proposal which your delegation(s) wish(es) to amend, add or delete and send to council@isa.org.jm.

1. Name of Working Group:

Open Ended Working Group

2. Name(s) of Delegation(s) making the proposal:

Canada and Australia

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

DR 75: Audit and inspections by the Authority

4. 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 75

Audit and inspection by the Authority

1. ~~The Secretary-General may audit the Contractor's records.~~ The Secretary-General, or Council, may request an audit of the Contractor's and sub-Contractor records.
2. Any such audit shall be undertaken at the ~~Authority's~~ Contractor's sole cost and shall be performed by a Council approved Inspector in accordance with Part XI of these regulations.
3. An Inspector may, in connection with a liability for a royalty payment:
 - (a) Inspect all corporate offices, plants and ~~the~~ mining and on-board processing facilities with a view to verifying the accuracy of all information reported and the accuracy of the equipment measuring the quantity of Mineral ore sold or removed without sale from the Contract Area;
 - (b) ~~Inspect, audit and examine any documents, papers, records and data available at the Contractor's offices or on-board any mining vessel or installation~~ Inspect, audit and examine any relevant documents, papers, records and data;
 - (c) Require any duly authorized representative of the Contractor to answer any questions in connection with the ~~inspection~~ audit and provide any missing documents, papers, records and data; and
 - (d) Make and retain copies or extracts of any documents or records relevant to the subject matter of the ~~inspection~~ audit and provide a Contractor with a list of such copies or extracts.
4. The Contractor shall make available to an Inspector such financial records and information contemplated as reasonably required by the Secretary-General to determine compliance with this Part.
5. Members of the Authority, in particular a sponsoring State or States, shall ~~to the best of~~

~~their abilities~~, cooperate with and assist the Secretary-General and any Inspector in the carrying out of any audit under this regulation, and shall facilitate access to the records of a Contractor by an Inspector and assist in the exchange of information relevant to a Contractor's obligations under this Part.

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

On paragraph 1), Canada and Australia would like to ensure that the Secretary General, or Council, would be able to request an audit of the records of subcontractors. However, how sub-Contractors are implicated in these regulations may be a cross-cutting issue that requires clarification.

On paragraph 2), Canada and Australia suggest that the requested third party audit be at the contractor's expense. In Canada, under the Extractives sector Transparency Measures Act (ESTMA), the Minister can request a third party audit at the company's sole expense. This represents an incentive for companies to report data properly. If the audit is at the expense of the Authority, there is a disincentive for the Authority to initiate an audit as it would likely cost upwards of \$100,000.

Canada and Australia have several edits to Paragraph 3 that enhance the scope of what is able to be audited.

With regards to Paragraph 5, Canada and Australia would recommend the phrase "to the best of their abilities" be removed. Canada and Australia are of the view that the members of the Authority, including Sponsoring States must cooperate and assist the Secretary General.