

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

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:

Informal Working Group – ICE.

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

Republic of Nauru

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

Regulation 103

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.

1. At any time, if it appears to the Compliance Committee based on reasonable grounds, including a report from an Inspector, or failure to comply with a written instruction under regulation 99, that a Contractor is in breach of, ~~or is at risk of breaching~~, the terms and conditions of its exploitation contract, provisions of the Convention related to activities in the Area, the Agreement or the rules, regulations and procedures of the Authority, the Compliance Committee shall issue a compliance notice to the Contractor requiring such action necessary to remedy the breach as may be specified in the compliance notice and shall report immediately to the Council on the issue of such notice. The Compliance Committee shall, through the Secretary-General provide a copy of the compliance notice to the sponsoring State or States.

~~[1.bis.Alt. The Authority should discuss the issue in detail with the Contractor to inform decisions of the Council.]~~

4. The Contractor shall be given a reasonable opportunity not exceeding 30 days to make representations in writing to the Secretary General concerning any aspect of the compliance notice, who shall transmit same to the Compliance Committee. Having considered ~~the any such~~ representations and taking account of any enforcement action taken or to be taken by the sponsoring State or States, the Compliance Committee may make recommendations to the Council to confirm, modify or withdraw the compliance notice.

5. If a Contractor, in spite of one or more warnings by the Authority, fails to implement the measures set out in a compliance notice and has conducted ~~continues~~ its activities in such a way as to result in serious, persistent and wilful violations of the fundamental terms of the exploitation contract, provisions of Part XI of the Convention ~~related activity in the Area~~, the Agreement or the rules, regulations and procedures of the Authority, the Council ~~shall~~ may 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. Please indicate the rationale for the proposal. [150-word limit]

1. To specify that the action is intended principally to remedy the breach.

The sponsoring State or States must be provided with a copy of the notice in order to assess the need for any assistance it can provide to the Authority in securing compliance with the notice or to comment on any enforcement action taken or to be taken.

1. Bis. Alt: Paragraph 4 to this regulation allows for representations to be made by a contractor prior to the committee making recommendations to the Council. Consequently, this para 1. Bis Alt can be deleted.

4. The Committee should consider any enforcement action to be taken by the sponsoring State or States to avoid any duplication in the regulatory process.

5. The suggested revisions to this paragraph are to more accurately reflect the language set out in article 18, annex III of the Convention, including that the Council *may* rather than *shall* suspend or terminate the exploitation contract. The use of the word *shall* would also conflict with the Council's ability to impose a monetary penalty in lieu of any suspension or termination. Equally, there should be a proper and fair process to determine objectively that any violations warrant suspension or termination in accordance with the Convention. This would be greatly assisted by the preparation of compliance assurance policy, outlining the Council's approach to regulation.