

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 30TH SESSION:
COUNCIL - PART I**

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(s) of Delegation(s) making the proposal:** United States of America
2. **Please indicate the relevant provision to which the textual proposal refers.**
Regulation 103, and throughout the draft regulations.
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 103 [IWG ICE]

~~Compliance notice~~ Notice of non-compliance, suspension, and termination of Exploitation Contract

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, the terms and conditions of its Exploitation Contract, provisions of the Convention related to activities in the Area, the Agreement or the ~~r~~Rules, ~~r~~Regulations and ~~p~~Procedures of the Authority, the Compliance Committee shall issue a ~~compliance notice~~ notice of non-compliance to the Contractor requiring such action [necessary to remedy the breach] as may be specified in the ~~compliance notice~~ notice of non-compliance 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~~ notice of non-compliance 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.]~~

2. A ~~compliance notice~~ notice of non-compliance shall:
 - (a) Describe the breach and the factual basis for it; and
 - (b) Require the Contractor to take remedial or corrective action or other such steps as the Compliance Committee considers appropriate to ensure compliance within a specified time period and may include:
 - (i) the implementation of an improvement plan setting out actions to be taken to return to compliance, how the actions’ effectiveness will be monitored and reported, the time permitted for action, and subsequent steps should the actions be unsuccessful, or should non-compliance continue; or

(ii) agreeing with the Contractor a modification to the Plan of Work in accordance with Regulation 57.

2. bis Actions specified in the ~~compliance notice~~ notice of non-compliance should be commensurate with the gravity, frequency or other circumstances of the breach.

3. For the purposes of Article 18 of Annex III to the Convention, a ~~compliance notice~~ notice of non-compliance issued under this Regulation constitutes a warning by the Authority.

4. The Contractor shall be given a reasonable opportunity not exceeding 30 ~~Delays~~ to make representations in writing to the Secretary General concerning any aspect of the ~~compliance notice~~ notice of non-compliance, 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~~ notice of non-compliance.

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~~ notice of non-compliance 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, ~~r~~Regulations and procedures of the Authority, the Council may shall 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. Alt **bis**. The Secretary-General shall, [subject to the confidentiality requirements of Regulations s 89 and 90] make public any ~~compliance notice~~ notice of non-compliance issued to a Contractor, any response received from the Contractor or Sponsoring State or States. The Compliance Committee shall include in their annual report to the Council a summary of any ~~compliance notices~~ notice of non-compliance issued.]

6. In the case of any violation of an Exploitation Contract not covered by paragraph 5 above, or in lieu of suspension or termination under paragraph 5 above, the Council may impose upon a Contractor monetary penalties proportionate to the seriousness of the violation which must be in line with indicative penalties set out in the applicable Standards, and which will include any administrative costs incurred by the Authority as a result of the violation.

7. Except for emergency orders under Article 162 (2) (w) of the Convention, the Council may not execute a decision involving monetary penalties, suspension or termination until the Contractor has been accorded a reasonable opportunity to exhaust the judicial remedies available to it pursuant to section 5 of Part XI to the Convention.

7. bis The Council shall invite the attention of the Assembly to cases of non-compliance in accordance with Article 162(2)(a) of the Convention.

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

In regulation 103, and throughout the draft regulations, the United States proposes replacing the reference to “compliance notice” with “notice of non-compliance.” This will make it clear that the intention is to advise Contractors when they have a violation(s) or

are in breach of the rules, regulations and procedures of the Authority, the Exploitation Contract, and/or provisions of the Convention related to activities in the Area. [64 words]

If paragraph 5. Alt **bis** is accepted, we recommend referring to both DR 89 and 90.