

TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 30TH 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(s) of Delegation(s) making the proposal:

Canada

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

DR 6(2bis)

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.

~~[2 bis. For the purposes of issuance of a certificate of sponsorship, the State of nationality means the State under whose law the corporation was incorporated. However, when the corporation is controlled by nationals of another State or States and has no substantial business activities in the State of incorporation, and the seat of management and the financial control of the corporation are both located in another State, that State shall be regarded as the State of nationality.]~~

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

2 bis should be deleted because it is more appropriately addressed in Annex I, section I paragraph 13 and the definition of “Change of Nationality.”

In addition, while Canada has no concerns with the content of the first sentence of 2bis., which defines State of nationality as the State under whose law the corporation was incorporated, the second sentence incorrectly conflates elements of Effective Control with nationality.

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DR 6(3)

7. 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.

3) Each certificate of sponsorship shall be duly signed on behalf of the State **Party** by which it is submitted, and shall contain:

(c) A statement ~~accompanied by supporting evidence such as a passport, citizenship certificate, certificate of incorporation or other evidence of registration or nationality~~ that the applicant is:

(i) If submitted by the State of nationality, A national of the ~~ate~~ Sponsoring State, and if applicable subject to its Effective Control; or, if applicable

(ii) If submitted by another State Party, Ssubject to ~~the-its~~ Effective Control ~~of the Sponsoring State~~ or that of its nationals.

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

What constitutes supporting evidence should be included in a Standard.

As currently drafted, sub-paragraphs 3(c)i and 3(c)ii do not distinguish between kinds of Sponsoring States (either a State Party of nationality or another State Party per Annex III article 4(3)). The DR also inaccurately implies that a State of nationality cannot have Effective Control.

Canada notes that the working group on Effective Control is deliberating the definition of Effective Control. Canada proposed a definition of Effective Control to this working group. The proposed alterations to DR 6(3)(c) are in line with the Canadian proposed definition.