



27TH SESSION OF THE COUNCIL OF THE INTERNATIONAL SEABED AUTHORITY

**WORKING GROUP ON INSPECTION, COMPLIANCE AND ENFORCEMENT**

DECLARATION BY THE DELEGATION OF THE KINGDOM OF SPAIN.

In this first statement, Spain wishes to congratulate the Nigerian High Commissioner, Maureen Tamuno, for her diligent work as facilitator of this Group.

We would like to thank you for the publication of the revised version of the inspection and enforcement regime, as well as the explanations it contains, which will allow us to move forward in the negotiations.

The Spanish delegation continues to insist that the exploitation regulations must incorporate a rigorous inspection and enforcement mechanism that effectively guarantees compliance with the exploitation regime.

According to the legal framework that serves as a guide and that we must respect, the Authority has the express mandate to exercise “**the necessary control**” over the activities in the Zone. It is a very broad mandate that the Convention does not specify, but only indicates its purpose: “so that the pertinent provisions are complied with”. The Convention entrusts this control function to the Council, the executive body, who will direct and supervise a corps of inspectors who will examine the activities in the Zone [article 153 (4) and (5)]. That is, the inspectors act under the direction and supervision of the Council, which will have the technical assistance of the Commission through its recommendations [Articles 163 (2) (z) and 165 (2) (m)]. The Secretary General, for his part, can only carry out administrative functions [article 166 (3)].

Madam President,

This Working Group must ensure that this *operational plan* is made clear in the draft regulation, which is why we welcome many of the amendments that have been introduced in this regard. Without prejudice to the more specific comments that we will make later, I would like to share with the rest of the delegations some doubts that still persist about the current wording.



In the first place, taking into account that the Council only meets annually or twice a year, we believe that it is difficult for it to be able to undertake the management and supervisory functions of the body of inspectors in an expeditious and efficient manner. Above all, in situations that may require immediate action. The Council might need some kind of assistance. According to the draft regulation [article 97. (2)] this function would be carried out by the Legal and Technical Commission. So this body would have to work permanently during intersessional periods. We would like to know the opinion of other delegations in this regard.

In the July Session, Spain supported the creation of a Compliance Committee that may assist the Council. In our opinion, the Compliance Committees that exist in the Regional Fisheries Management Organizations are functioning successfully. This is the case of the Standing Committee on Implementation and Compliance (SCIC) of the Commission for the Conservation of Antarctic Marine Living Resources, the Committee for Compliance for Conservation and Management Measures (COC) of the International Commission for the Conservation of Atlantic Tunas (ICCAT) or the Compliance Committees of the Indian Ocean Tuna Commission (IOTC) and the General Commission for the Mediterranean, the latter two dependent on the FAO.

Secondly, regarding the creation of "a body of inspectors" (Inspectorate) we have some doubts about the structure it will have to be able to carry out the functions that are being entrusted to it. In other words, it is not just a list of inspectors whom the Council can commission to carry out an inspection, but rather it will have specific functions to perform, a kind of "collegiate body": notify the contractor when the inspections will be carried out, manage the list of inspectors and the inspection programme, decide if the contractor has complied with an instruction, report to the Council, report acts of violence or intimidation to the SG, issue a notice of compliance to the contractor. If so, this body would perform those functions of assisting the Council that we spoke about earlier. But we do not know if the design of this corps of inspectors will be done in the Standards and Directives that are mentioned in article 97 (2).

Finally, we are missing some kind of public complaint procedure (communication for the public or public complaints). This mechanism exists, for example, in the Protocol on Water and Health to the Convention on the Protection and Use of Transboundary Watercourses and International Lakes of 1992. If there is any, this complaint or communication should be addressed to the corps of inspectors or to the Compliance Committee, and ultimately, to the Board.



My delegation will make other observations article by article in relation to those issues that are still under discussion.

Thank you very much.