

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 27TH SESSION:
COUNCIL - PART I**

Informal Working Group – Inspection, Compliance and Enforcement

Please fill out one form for each textual proposal which your delegation(s) wish(es) to amend, add or delete and send to council2022@isa.org.jm.

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

China

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

Regulation 96

3. Kindly provide the proposed amendments to the regulation 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. The Contractor shall permit the Authority to send its Inspectors, who may be accompanied by a representative of its State or other party concerned, in accordance with article 165 (3) of the Convention, aboard vessels and Installations, ~~whether offshore or onshore,~~ used by the Contractor to carry out Exploitation activities under an exploitation contract, ~~as well as to enter its offices wherever situated.~~

3. The Secretary-General shall give reasonable notice to the Contractor of the projected time and duration of inspections, the names of the Inspectors and any activities that the Inspectors are to perform that are likely to require the availability of special equipment or special assistance from the personnel of the Contractor, ~~save in situations where the Secretary-General has reasonable grounds to consider the matter to be so urgent that notice cannot be given, in which case the Secretary-General may, where practicable, exercise the right to conduct an inspection without prior notification.~~

4. Inspectors may inspect any relevant documents or items which are necessary to monitor the Contractor’s compliance, all other recorded data and samples and ~~any~~ vessels or Installations ~~used in the Area in connection with activities in the Area,~~ including its log, personnel, equipment, records and facilities.

5. The Contractor and its agents and employees shall facilitate the actions of the Inspectors in the performance of their duties, and shall:

(c) Provide access to all relevant areas, items and personnel ~~in offices~~ or on vessels and Installations at all reasonable times;

(f) Accept the deployment of remote real-time monitoring and surveillance equipment, where required by the ~~Secretary-General Council~~, and facilitate the activities of Inspectors in deploying such equipment and having access thereto; and

6. Inspectors shall:

(b) ~~To the maximum extent possible, Refrain~~ from any undue interference with the safe and normal operations of the Contractor and of vessels and Installations, ~~unless if~~ the Inspector has reasonable grounds for believing that the Contractor is operating in breach of its obligations under an exploitation contract, ~~the Inspector shall report to the Authority immediately.~~

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

Paragraph 2, which allows inspectors to be sent “aboard vessels and installations, whether offshore or onshore” and “offices wherever situated clearly goes beyond the provisions of the Convention. The scope of inspector 's inspection shall be confined to vessels or installations in the Area used in connection with activities in the Area.

On paragraph 3, according to the Convention, it is the Council, not the Secretary-General, that serves as the organ that exercises the power of inspection. The provision of this paragraph not only expands the authority of the Secretary-General, but also deprive sponsoring States of the opportunity to participate in inspection. It is suggested to further clarify “the matter to be so urgent that notice cannot be given”. Otherwise, the above-mentioned content should be deleted.

Paragraph 4 provides that inspectors may inspect “any vessel or installation”, which exceeds the authorization under the Convention. The scope of inspector 's inspection shall be confined to vessels or installations in the Area used in connection with activities in the Area.

In Paragraph 5 (c), the content “access in offices” goes beyond the provisions of the Convention and is proposed to be deleted. On Paragraph 5 (f), in accordance with the Convention, relevant requirement shall be made by the Council rather than the Secretary-General, and it should be amended accordingly.

In Paragraph 6 (b), the exception clause “unless the Inspector has reasonable grounds for believing that the Contractor is operating in breach of its obligations under an exploitation contract” unduly expands the powers of the inspectors, who might thereby improperly interfere with the legal operations of the Contractor. If the inspectors do “have reasonable grounds for believing that the Contractor's work

violates his obligations under the mining contract”, they should report to the Authority immediately rather than take actions without authorization.