

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28<sup>TH</sup> 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](mailto:council@isa.org.jm).*

1. **Name of Working Group:** Inspection, Compliance and Enforcement
2. **Name(s) of Delegation(s) making the proposal:** Australia
3. **Please indicate the relevant provision to which the textual proposal refers.**

DR 96(1) - proposed amendments are in **green** text

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. The Council shall ~~[on the basis of]~~ **[taking into account]** the recommendations of the Commission, establish [an independent Inspectorate] [a Compliance Committee], [as an] appropriate mechanism for inspection, compliance, and enforcement for directing and supervising a staff of Inspectors, as provided for in articles 153 (5), 162 (2) (z) and 165 (2)(m) of the Convention [before the approval of the first application of a plan of work for exploitation] [before exploitation activities commence]. Inspections performed shall be undertaken by Inspectors who meet the qualification set out by the Council pursuant to Regulation 97(1). [1alt. The Council shall before the start of any mining operation, establish an independent staff of inspectors which shall inspect activities in the Area to determine whether the Convention, the Agreement and the Rules of the Authorities as well as the terms and conditions of any contract with the Authority are being complied with as provided for in articles 153 (5) and 162 (2) (z) of the Convention. Inspections shall be undertaken by Inspectors who meet the qualification requirements set out by the Council pursuant to Regulation 97(1). The Inspectors shall be guided by transparency, accountability, independence, and the precautionary approach. In their ~~election~~ **[appointment]**, equitable geographical representation and gender balance shall be taken into account. The Council, through the Compliance Committee, shall exercise oversight over the Inspectors.]

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

Australia considers the word ‘election’ in the second last sentence should be amended to ‘appointment’, as this would be more appropriate in the circumstances.

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DR 96(1)(bis) - proposed amendments are in **green** text

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1 bis. The Council shall on the basis of the recommendations of the Commission approve and maintain a code of conduct for Inspectors and inspections, prior to the approval of a plan of work, that takes into account the principles ~~[in paragraph (1)]~~ [of independence, transparency, accountability, fairness, proportionality and the precautionary approach precaution] and includes provisions on identifying and managing conflicts of interest, and on information management and confidentiality. ~~[The Council shall ensure inclusivity, gender equality, equitable geographical representation and health and safety, in recruiting and managing its Inspectors]. [The Council, through the Compliance Committee, shall exercise oversight over the Inspectors].~~

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

Australia suggests amending ‘precaution’ to the ‘precautionary approach’ to ensure consistency with DR 96(1).

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DR 96(3)(bis) - proposed amendments are in green text

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[3 bis. Where the ~~Secretary-General or the~~ Inspector ~~have~~ has reasonable grounds to consider the matter to be so urgent that reasonable notice cannot be given, the ~~Inspector~~ ~~Secretary-General~~ shall ~~instruct the Inspector to~~ conduct an inspection without ~~[prior notification.]~~ reasonable notice and ~~to~~ will provide notice as soon as reasonably practicable].

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

Australia considers that the reference to the Secretary-General should be removed as this is not within the Secretary-General's mandate and means this regulation does not provide discretion on the part of the Inspector (or other body, depending on which is adopted) to act when it has reasonable grounds to consider a matter to be urgent.

Australia further suggests that the term ‘reasonable’ be inserted before ‘notice’, so that instances where reasonable notice cannot be given are captured.

Australia also suggests that the word ‘reasonably’ be inserted before the last word ‘practicable’, so that where reasonable notice cannot be given, notice is to be provided ‘as soon as reasonably practicable’.

This is equally applicable to Regulation 96 ter (2), if that option is ultimately the preferred one.

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DR 96(4) and 96(4)alt

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~~4.— Inspectors may inspect until completion of the final Closure Plan any relevant documents, data or sample and any vessels or Installations used in the Area in connection with activities in the Area, including its log, personnel, equipment, records and facilities.~~

[4 alt. Inspectors may inspect any relevant documents ~~[or items which are]~~ necessary to monitor the Contractor’s compliance under the exploitation contract and the Rules of the Authority inter alia, all recorded data and samples and any vessel or Installation, including its log, equipment, records and facilities, as well as interview personnel.]

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

Australia supports 96(4) alt over 96(4), as it removes a temporal limitation which means inspections can continue after the final closure plan, and can therefore capture instances where information comes to light after closure.

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DR 96(5)- proposed amendments are in **green** text

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5. The Contractor, ~~its subcontractors~~ and ~~its agents and employees~~ shall cooperate with ~~the~~ Inspectors and give full assistance to ~~the~~ Inspectors in the performance of their duties, and shall:

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

Australia notes that ‘Contractor’ is a defined term – currently in the President’s Text – and includes subcontractors, agents and employees. Australia suggest that using only the term ‘Contractor’ is suitable in this paragraph.