

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH 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 of Working Group:

Informal Working Group on Inspection, Compliance and Enforcement

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

China

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

Regulation 96 ter Inspections: General

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.

***Note: China’s amendments are in Blue**

1. The Standing Committee Chief Inspector shall give reasonable notice to a Contractor of the projected time and duration of inspections for a period as necessary, the names of the Inspector(s) and any activities that the Inspector(s) are to perform that are likely to require the availability of special equipment or special assistance from the personnel of the Contractor.

2. Where the Compliance Committee or the Standing Committee Chief Inspector have reasonable grounds to consider the matter to be so urgent that reasonable notice cannot be given, the Compliance Committee or the Standing Committee Chief Inspector shall instruct an Inspector to conduct an inspection without ~~prior notification~~ reasonable notice and to provide notice as soon as practicable.

3. Inspectors may inspect any relevant documents necessary to monitor a Contractor’s compliance under its exploitation contract and the Rules of the Authority inter alia, all recorded data and samples and any vessel or Installation used in the Area in connection with activities in the Area, including its log, equipment, records and facilities, as well as interview personnel.

4. The Contractor, 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:

(a) bis. Keep the Standing Committee Chief Inspector and sponsoring State or States notified of proposed vessel schedules including support and supply vessels, and inform the Standing Committee Chief Inspector at least 30 Days before any vessel commences

its voyage to a Contractor's Contract Area to facilitate the conveyance of Inspectors and representatives of the sponsoring State or States, where appropriate;

(a) ter. Within seven days of the ~~Standing Committee Chief Inspector~~ informing the Contractor that the Inspector(s) would like to conduct an inspection of a Contractor's vessel or Installation, the Contractor shall inform the ~~Standing Committee Chief Inspector~~ of the next date a vessel will commence its voyage to the Contractor's Contract Area.

6. Inspectors shall:

(b) ~~Avoid Refrain from any undue~~ interference with the safe and normal operations of the Contractor and of vessels and Installations, ~~unless the Inspector has reasonable grounds for believing that the Contractor is operating in breach of its obligations under an exploitation contract.~~

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

Regarding paragraph 1, 2, 4(a) bis, 4(a) ter, China believes that the body responsible for daily management of inspectors should be an entity rather than an individual. It is recommended to establish a standing committee within the Compliance Committee, consisting of the Chair of the Commission and/or Compliance Committee and several individual members, to undertake relevant functions.

Regarding paragraph 2, it is not feasible to conduct inspections without prior notice. If reasonable notice cannot be given in an emergency and inspection is required, the notice should also be given as soon as possible.

Regarding paragraph 3, the Convention clearly defines the geographical scope of inspections by the Authority. Article 153(5) of the Convention provides that the Authority shall have the right to inspect all installations in the Area used in connection with activities in the Area. Therefore, the Exploitation Regulations should only require Contractors to allow inspectors to inspect the vessel or Installation used by Contractors in the Area for the exploitation activities specified in the exploitation contract.

Regarding paragraph 6(b), Inspectors should not interfere with the safe and normal operation of Contractors and of vessels and Installations at any time. For example, Section 14.5 of Annex 4 of the Exploration Regulations for Polymetallic Nodules also stipulates that "Inspectors shall avoid interference with the safe and normal operations on board vessels and installations used by the Contractor to carry out activities in the area visited". 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" improperly expands the power of the inspector. Articles 162(2)(z) and 165(2)(m) of the

Convention provide that inspectors shall inspect activities in the Area to determine whether this Part, the rules, regulations and procedures of the Authority, and the terms and conditions of any contract with the Authority are being complied with. If the inspectors find the Contractor is operating in breach of its obligations under an exploitation contract, they can record it in the inspection report and report it to the relevant organs of the Authority, rather than interfering with the safe and normal operation of Contractors and of vessels and Installations without authorization.