

**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 99 Inspectors' power to issue instructions

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. If, as a result of an inspection, an Inspector has reasonable grounds to determine [or anticipates] that any occurrence, practice or condition endangers or may endanger the health or safety of any person or poses a threat of Serious H[h]arm to the Marine Environment, ~~including Underwater Cultural Heritage or a Contractor is otherwise in breach of the terms of its contract with the Authority~~ the Inspector shall give any instruction of a temporary nature considered reasonably necessary to remedy the situation, in accordance with [the] any applicable Standards, including:

(a) An instruction requiring[ement] a Contractor to undertake specific tests or monitoring and to furnish the [Authority] Standing Committee ~~Chief Inspector~~ with the results or report of such tests or monitoring within a set period;

~~[(d) An [written] instruction requiring a suspension in some or all activities for a specific period upon written authorization from the Council, as its representative].~~

~~[(e) An [written] instruction prohibiting the Contractor from continuing or undertaking activities [for a specified period].]~~

2. bis. The Chief Inspector shall report immediately to the Compliance Committee, the Secretary-General and through the Secretary-General to the Contractor's sponsoring State or States and, if applicable to the relevant coastal State or States, that an instruction has been issued under paragraph 1.

2. ter. An instruction shall be for a specified period not exceeding seven days. The ~~Standing Committee Chief Inspector~~ may extend such period by an additional seven days and shall report any such extension to the Compliance Committee.

2. sexies. The Compliance Committee may:

(a) Request the ~~Chief~~ Inspector to provide further information as to the facts and circumstances giving rise to the issue of an instruction under paragraph 1 for its consideration; or

(c) invite the Council's attention, through the Commission, to any cases of non-compliance with the terms of a contract.

[3. Any instruction issued under paragraph 1 above shall be in force until the Contractor has ~~executed~~ complied with the instruction and fulfilled all requirements. Upon receiving information from the Contractor about steps taken to implement the instruction, ~~the inspectorate~~ [Compliance Committee] shall decide, as soon as possible and within no more than three Days, whether the instruction has been complied with by the Contractor. ~~The [inspector] [inspectorate] shall report immediately to the [Secretary-General and to the Contractor's sponsoring State or States and to coastal States adjacent to the contract area] [Compliance Committee] [the Commission] [the Council] that an instruction has been issued under paragraph 1, and W~~where the issue remains unresolved, the ~~[Inspectorate] [Council]~~ [Compliance Committee] may thereafter exercise its powers conferred upon it under regulation 103.]

~~[3.Alt. An instruction issued under paragraph 1 must either be confirmed, revised or set aside by the Inspector General as soon as practicable.]~~

~~[3.Alt.bis An instruction shall be for a specified period not exceeding seven days. The Inspector General may extend such period by an additional seven days.]~~

~~[3.Alt.ter An instruction shall specify the information to be provided to the Inspector by the Contractor to demonstrate the steps being taken to implement the instruction within the specified time.]~~

~~[3.[Alt.quater] septies An instruction is effective from the time fixed by the Inspector and remains in force [until] unless set aside by the [Inspector General] Compliance Committee or until the Inspector's instructions have been complied with within the specified period or the instruction lapses at the end of the specified period.]~~

~~[3.Alt.sexies The Inspector General shall report immediately to the Secretary General, the Commission, the Council and to the Contractor's sponsoring State or States and, if appropriate, the relevant coastal State or States and the flag State that an instruction has~~

~~been issued under paragraph 1. The Council may request further information as to the facts and circumstances giving rise to the issue of an instruction under paragraph 1 for its consideration.]~~

~~[3.[Alt.septies] octies. Within three days of the expiry of the specified period or any extension thereto under paragraph [3bis] 2 the [Inspector General] Chief Inspector shall [determine] assess whether the instruction has been complied with by the Contractor and shall report immediately to the Compliance Committee. Subject to paragraph 3 [octies] nonies, where a Contractor has failed to comply with a written instruction or the circumstances giving rise to the instruction remain unresolved, the [Inspector General] Compliance Committee [shall] may thereafter exercise the powers conferred upon [the Inspector General] it under regulation 103.]~~

~~[3.[Alt.octies] nonies In the case of a written instruction issued under paragraph 1(d), where the circumstances giving rise to a suspension in some or all [mining] activities are not resolved or are unlikely to be resolved, the [Inspector General] Compliance Committee shall notify the Council immediately together with any recommendation as to whether such suspension should continue. The Council shall decide if the suspension should continue, including the placing of conditions on any recommencement of activities, taking into account any recommendations of the Commission.]~~

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

Regarding paragraph 1, the content of instructions issued by inspectors and the circumstances under which they can be issued require further research. China believes that inspectors should only issue instructions in emergency situations. In other cases, if the contractor is found to have been “in breach of the terms of its contract with the Authority” after inspection, inspectors do not need to issue instructions. Instead, they should explain and make suggestions in their report in accordance with Regulation 100 of the draft Regulations. The underwater cultural heritage is not related to the inspection mechanism of the Authority and should be deleted. 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. Paragraphs (d) and (e) grant inspectors the power to suspend some or all activities and set conditions for continuing or undertaking activities which exceed the provisions of the Convention and should be deleted. These powers should be exercised by the Council.

Regarding paragraph 2bis, it is more reasonable and efficient for inspectors who issue instructions to report directly to relevant organs of the Authority, which can reduce unnecessary links.

Regarding paragraph 2ter, 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 2sexies (a), It is more reasonable and feasible for inspectors who issue instructions to directly provide further information as to the facts and circumstances, which can reduce unnecessary links. Regarding paragraph 2sexies (c), reporting and making recommendations on matters related to ICE to the Council shall be carried out by the Commission, and the Compliance Committee may report or make relevant recommendations to the Council through the Commission.

Regarding paragraph 3, whether the Contractor has followed the instructions should be determined by the Compliance Committee. Paragraph 2bis already provides for reporting to relevant parties after issuing instructions, and there is no need to repeat the content here. In principle, it is supported that where the issue remains unresolved, the Compliance Committee may exercise relevant powers in accordance with Regulation 103, but further clarification is needed on the powers that the Compliance Committee may exercise under that Regulation.

Regarding paragraphs 3Alt to 3Alt octies, given the significant overlap between the content of these paragraphs and paragraph 2, and the main content already specified in paragraph 3, it is recommended to delete paragraphs 3Alt to 3Alt octies.