

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

**1. Name of Working Group:**

Inspection, compliance and enforcement

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

Federal Republic of Germany

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

DR 96 bis

**Red text** is in original draft; **blue text** indicates Germany's textual proposals

**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.**

~~Regulation 96 bis~~ **Regulation 102bis**

**Compliance Committee**

1. A Compliance Committee is hereby established to assist the Council in carrying out its responsibility to exercise control over activities in the Area as provided for under Part XI of the Convention. All instances of non-compliance shall be brought to the attention of the Compliance Committee, which shall report to the Council.

1 bis. The Compliance Committee shall comprise fifteen members. Each regional group shall designate two members from among Council members, who shall serve for a period of two years, with the possibility of extension. The remaining five members shall be designated by the Commission taking into account geographic representation and from among those with appropriate expertise within the Commission to carry out the functions of the Compliance Committee in accordance with this regulation.

2. Without limiting the powers and functions conferred upon another organ of the Authority the Compliance Committee shall:

(a) Administer and manage the roster of Inspectors and matters relating to inspection, compliance and enforcement in accordance with relevant policies or directions issued by the Council;

(b) Provide recommendations to the Council on matters relating to inspection, compliance, and enforcement including clarifying what constitutes non-compliance;

(c) Appoint Inspectors as required from the approved roster of inspectors, according to the approved inspection programme and schedule or as may be required;

(d) Establish procedures and routines for investigation of possible instances of non-compliance;

(e) Review the annual reports of Contractors, as examined by the Commission, and consider any instances of non-compliance;

(f) Examine reports and recommendations from the Chief Inspector and Inspectors, and other relevant data and information and consider any instances of non-compliance;

(g) Report to the Council the results of inspections and resulting recommendations for enforcement action, in a timely and comprehensive manner and coordinate compliance matters with other organs of the Authority that play a role in inspection, compliance and enforcement;

(h) Investigate allegations from members of the Authority, members of the Commission, relevant coastal States or the Secretary-General, as well as from observers of the Authority and other Stakeholders on

possible instances of Contractor non-compliance, including through any whistleblowing procedures under regulation 101 bis.;

- (i) Convene, with the support of the Secretary-General, a process to liaise with Contractors in cases of non-compliance or complaints, including conducting oral hearings and conduct an inquiry into any Incident;
- (j) Consult and cooperate, through the Secretary-General with sponsoring States, flag States, port States and competent international organizations as regards compliance and enforcement measures;
- (k) Issue compliance notices under regulation 103, and in urgent cases, take any appropriate interim measures where necessary;
- (l) Examining complaints under regulation 101 and making any recommendations to the Council;
- (m) Make recommendations to the Council for the issue of emergency orders and appropriate penalties; and
- (n) Undertake in collaboration with the Secretary-General compliance promotion activities to promote understanding of and compliance with the Rules of the Authority, including dissemination of best practice arising from inspection activities;
- (o) Appoint, where time is of the essence, a competent independent person to perform any or all of the functions of an Inspector where the nature or subject matter of an inspection requires specialist knowledge or experience that is not available on the approved roster of Inspectors; and
- (p) Perform any other duties that the Council directs in writing.

2 bis. Any recommendations from the Commission to the Council pursuant to Article 165(i), (j) and (k) of the Convention, as well as any instances of non-compliance identified by the Commission or the Secretariat in the course of carrying out their functions or otherwise, shall be promptly forwarded to the Compliance Committee in the form of a report for consideration and further action as appropriate. Complaints received pursuant to Regulation 101 and 101bis shall also be immediately forwarded to the Compliance Committee for consideration and further action as appropriate. Nothing in this provision shall limit the right of the Compliance Committee to commence its own investigation of non-compliance.

3. The Compliance Committee shall develop its own rules of procedure, including for the convening of hearings, which shall be approved by the Council.

4. Decisions of the Compliance Committee shall be taken by consensus. If all efforts to achieve consensus has been exhausted, decisions shall be taken by a majority of members present and voting. In the case of a tie, the Chair of the Compliance Committee shall have the decisive vote.

5. The Compliance Committee shall meet at regular intervals using virtual means, and in urgent cases involving possible instances of non-compliance, shall convene ~~virtually and~~ on short notice. Members of the Compliance Committee shall rotate among themselves on a monthly basis in order to ensure that one member is always available "on call" in cases of non-compliance that require urgent action. In addition, the Compliance Committee shall appoint its own chair and vice chair. Unless otherwise determined by the Compliance Committee, the Chair of the Commission, the Chief Inspector and a member of the Secretariat designated by the Secretary-General shall be invited to attend the meetings of the Compliance Committee but without the right to vote. The Secretary-General shall facilitate the meetings of the Compliance Committee.

6. Within 3 months of the end of a Calendar Year the Compliance Committee shall complete an annual inspection, compliance and enforcement report, together with a non-technical summary, and submit the report and summary to the Council for its consideration.

7. The report shall include details of any regulatory action taken by a sponsoring State or States as advised in writing to the Chief Inspector or Secretary-General, any corrective action undertaken by a Contractor and any recommendations as to any enforcement action to be taken by the Council to which regulation 100(2) refers. The report shall also include any findings and recommendations arising from inspections that may contribute to the development of Good Industry Practice, Best Environmental Practices and Best Available Techniques.

8. The Secretary-General shall make publicly available a copy of the Committee's report and summary on the Authority's website, with any Confidential Information redacted.

9. The Council shall review and ratify any interim measures imposed by the Compliance Committee, and consider any of its recommendations as soon as practicable or at its next meeting. A member of the Bureau of the Council shall be on-call and shall convene a virtual meeting of the Council in the case of matters for urgent consideration, including the issue of emergency orders by the Council on the recommendation of the Committee.

10. The Secretary-General shall provide such administrative support to the Compliance Committee and the Chief Inspector as is required, including the processing of all formal communications and notifications to or from the Compliance Committee. All notifications to the Committee shall be addressed to the Secretary-General who shall promptly transmit them to Chair of the Compliance Committee.

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

- Germany participated in the intersessional group on the formulation of an appropriate inspection mechanism. We are in general supportive of the outcomes of this group as long as the inspection mechanism to be adopted guarantees that compliance is effectively ensured by independent inspectors and all legal obligations of the contractor are effectively implemented and enforced.
- Under the same conditions, Germany sees also merits in the creation of a new body in the form of a compliance committee as proposed in the facilitators' draft.
- We suggest renumbering this provision to DR102bis and to have a new Section 2 here with the heading "Compliance". This would avoid confusion that the proposed compliance committee is only relevant to inspection. This change acknowledges the division between inspection (section 1), compliance (new section 2) and enforcement (section 3). The sole provision in the current section 2 (DR102 on remote monitoring) may be moved elsewhere as some delegations suggested at the last meeting. Several other provisions, namely the newly inserted DR 100bis, 101bis, and 104bis, which Germany supports, may be brought under the new section 2.
- We propose the composition to be a hybrid body between members of the Council and members of the Commission. A total of 15 members (10 designated by the regional groups with two from each and another 5 from among the members of the Commission) seem adequate but we are open to discussion. We have reflected this in paragraph 1 and 1 bis, where we have also included the rationale of the Compliance Committee.
- Since annual reports will be reviewed by the Commission at the first instance, we suggest text insertion for paragraph 2(e).
- We propose a new paragraph 2 bis to ensure that the responsibilities of the Commission under the Convention are respected but to clarify that the Compliance Committee shall function as an intermediary between the Commission and the Council for the purposes of inspection, compliance and enforcement. This arrangement would bring several benefits, including the possibility to conduct hearings in cases of non-compliance, as well as to ensure that compliance measures are driven by the Council and its member states.
- In paragraph 5, we suggest that the Compliance Committee should meet virtually by default. We also suggest involving the Chair of the Commission, the Chief Inspector as well as a designate from the Secretariat (e.g. Compliance Officer/CARMU) to attend meetings of the Compliance Committee, without the right to vote, unless otherwise decided by the Compliance Committee.