

## **Establishment of a Compliance Committee as a subsidiary organ of the Council**

### **Note by the Informal Working Group on ICE**

#### **I. Introduction**

1. This note is submitted to inform the Council of the outcome of the intersessional work of the Informal Working Group on Inspection, Compliance and Enforcement (ICE) following the first part of the thirty-first session of the Council in March 2026.
2. The Informal Working Group held an intersessional online meeting on 19 May 2026 and received written input from delegations thereafter. On the basis of that process, the facilitator has updated the group's product and submitted it to the Secretariat.
3. The present note accompanies a revised draft decision on the establishment of a Compliance Committee (**Annex I**), and a revised version of draft regulation 95bis (**Annex II**).
4. The Secretariat is kindly asked to include the current wording of draft regulation 95 bis in Rev.3 of the Further Revised Consolidated Text. It is also suggested that the draft decision is shared with the Council as a conference room paper (in a clean format) for its consideration.
5. The facilitator wishes to express sincere gratitude to all delegations for their constructive engagement and substantive contributions throughout this process.

#### **III. Summary of intersessional discussions and the revised texts**

6. The revised texts submitted to the Council reflect the outcome of the intersessional work of the Informal Working Group. The revised draft decision (Annex I) and the updated version of draft regulation 95bis (Annex II) build on the negotiations carried out in March 2026, subsequent proposals, texts circulated ahead of the intersessional online meeting of 19 May 2026, incorporating the oral interventions made during that meeting and written input received from delegations thereafter. Marked-up text presented ahead of the 19 May meeting has been accepted to the extent that no participants opposed its inclusion. The previous drafts, rationale and briefing notes can be accessed at the ISA website.
7. The following is a summary of the principal outstanding issues and points raised during the intersessional process in relation to the draft decision, which the Council may wish to address at the July 2026 session:
  - a) Timing of adoption: Views were expressed both in favour of and against adoption at the July 2026 session. Some delegations considered it premature in the absence of clarity on the timeline for the exploitation regulations, while others supported adoption before or at the same time as the regulations.
  - b) OP3(a) – Compliance Strategy: Delegations commented on the nature, definition and legal status of the Compliance Strategy. Proposals included that it should have the status of a standard, that a description of its content be included, and that it should not affect legal rights and obligations under the Convention. One delegation maintained its reservation regarding the involvement of the Legal and Technical Commission in its development.

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- c) OP3(d) – Enforcement measures: Significant discussion took place on the delineation between measures the Committee may take independently and recommendations to the Council. Several delegations expressed support for the alternative formulation (d) Alt. One delegation stressed that the Council must retain coercive authority. Another considered that more debate is needed in light of article 165(2)(k) of the Convention. One delegation maintained a reservation regarding the inclusion of emergency orders in the Committee's mandate and reiterated its position, as set out in a letter previously communicated, that the Committee should not be empowered to make recommendations to the Council for the issue of emergency orders.
- d) Other operative paragraphs: Delegations noted overlap between OP2 and OP5 and suggested reconciliation. On OP6, clarification was again sought on "other competent authorities" and views were expressed on the involvement of the Legal and Technical Commission in the development of Standards and Guidelines. One delegation proposed adding a reference to recommendations for the guidance of contractors.
- e) On OP10, OP12 and OP15, suggestions were made regarding placement, terminology and the modalities of periodic review. One delegation indicated it is considering proposals on budget and periodic review of the Committee's mandate.
- f) On draft regulation 95bis, delegations raised the following principal points: several delegations did not support the inclusion of "Enforcement" in the title; one delegation proposed replacing "established" with "adopted" in paragraph 1; concerns were expressed regarding overlap between subparagraphs (b), (c) and (d) of paragraph 2 and the need for greater clarity on which actions the Committee may take independently; one delegation proposed replacing "advised" with "communicated" in paragraph 4; one delegation expressed concern about potential conflict with article 165(2)(m) of the Convention in relation to paragraph 6, and maintained that the Chief Inspector should not report to the Committee, given that the Chief Inspector's role is linked to inspectors whose supervision is entrusted to the Commission, which makes recommendations to the Council pursuant to article 165(2)(m) of the Convention; and one delegation proposed that the public complaints procedure in paragraph 7 should be approved by the Council.

## ANNEX I

### Draft decision of the Council of the International Seabed Authority relating to the establishment of a Compliance Committee

*The Council of the International Seabed Authority,*

*PP1. Recalling* its competence to exercise control over activities in the Area for the purpose of securing compliance in accordance with article 153(4), of the United Nations Convention on the Law of the Sea (the “Convention”),<sup>1</sup> and the rules, regulations and procedures of the Authority,

*PP2. Recalling also* that pursuant to articles 158(3) and 162 (2) (d) of the Convention the Council has the power to establish, as appropriate, and with due regard to economy and efficiency, such subsidiary organs as it finds necessary for the exercise of its functions in accordance with Part XI of the Convention,

~~*PP3. [Further recalling the evolutionary approach introduced by the 1994 Agreement and taking into account the functional needs of the relevant organs and subsidiary bodies, so that they may discharge effectively their respective responsibilities at the various stages of the development of activities in the Area.]*~~

#### Comments to the Preambular Paragraphs

- The group did not receive any comments to the edits provided to PP1 -PP4 and have thus been implemented.
- Several delegations have suggested to omit PP3. To keep the decision focused and clear, it is suggested to delete PP3. If it is to be retained it is suggested that it should be redrafted to better align with Section 1(3) of the 1994 Agreement.

*OP1. Decides* that a Compliance Committee is hereby established (the “Committee”) as a subsidiary organ of the Council to assist the Council in carrying out its responsibility to exercise control over activities in the Area for the purpose of securing compliance, as provided for under Part XI of the Convention and implemented through the 1994 Agreement and the rules, regulations and procedures of the Authority.

~~*OP2. Decides that, except where expressly mandated by the Council to take decisions, the Committee shall have an advisory and recommendatory role.*~~

~~*OP2. [Directs that the Committee shall exercise its functions in accordance with the guidance and directives adopted by the Council]*~~

#### Comment to OP2

- Newly proposed OP2 has been consolidated with text of OP5 as the content to a large extent was overlapping.
- The OP2 that now appears here is moved from OP4 to OP1 for better sequencing.

<sup>1</sup> United Nations, *Treaty Series*, vol. 1833, No. 31363.

OP3. *[Decides that the Committee shall assist the Council to ensure compliance with and enforcement of the rules, regulations and procedures of the Authority as well as the terms and conditions of Contracts, through:*

(a) development- ~~in cooperation with the Legal and Technical Commission~~, of the Authority's ~~Inspection, Compliance and Enforcement Strategy, which shall set out the framework for the work to be undertaken by the Committee in the discharge of its functions, including modalities for interaction with other organs of the Authority. The Inspection, Compliance and Enforcement Strategy shall have the status of a Standard and shall be developed by applying *mutatis mutandis* the applicable procedure for the adoption of Standards set out in the Exploitation Regulations, and shall include consultation with the Legal and Technical Commission, for the consideration and provisional adoption~~approval of the Council until approved by the Assembly. The ~~Inspection, Compliance and Enforcement Strategy shall not affect the legal rights and obligations of States Parties under the Convention and the 1994 Agreement;~~

(b) implementation and periodic review- ~~in cooperation with the Legal and Technical Commission~~, of the Authority's ~~Inspection, Compliance and Enforcement Strategy;~~

(c) monitoring compliance of individual contractors; and

~~(d) making recommendations to the Council for enforcement actions, [or directly taking enforcement measures where mandated to do so by the rules, regulations and procedures of the Authority or by direction of the Council]; and~~

(d) ~~Alt. making recommendations to the Council for enforcement actions, and~~ where expressly mandated to do so by the rules, regulations and procedures of the Authority or by direction of the Council, taking ~~compliance and~~ enforcement measures directly; ~~and making recommendations to the Council for the issue of emergency orders~~, without prejudice to the competence of the Commission under article 165(2)(k) of the Convention ~~and appropriate penalties; and-~~

{(e) {advise the Council on matters relating to the exercise of their functions.}}

**Comments to Operative Paragraph 3:**

- The reformulation of subparagraph (a) accommodates the positions expressed by several delegations as follows: (i) one delegation proposed that the Compliance Strategy should have the status of a Standard and be developed according to the procedure for Standards; (ii) one delegation maintained a reservation regarding the involvement of the LTC in the development of the Compliance Strategy, taking into account the competences attributed to the LTC under article 165 of the Convention; (iii) one delegation proposed that a definition of the Compliance Strategy be included and that it should not affect legal rights and obligations under the Convention and the 1994 Agreement; and (iv) one delegation's position that the LTC should be involved where standards relate to inspection matters is also addressed through the procedural requirement for LTC consultation.
- The strategy has been renamed from "Compliance Strategy" to "Inspection, Compliance and Enforcement Strategy" to better reflect the full scope of the Committee's mandate, which encompasses not only compliance monitoring but also inspection activities and enforcement measures.
- Comments to Operative Paragraph 3(d) and 3(d)Alt:
  - There seems to be broad support for continuing the negotiations based on subpara 2(d)Alt. It is noted that article 165(2)(k) only refers to the power of the Commission to recommend emergency orders. However, compliance and enforcement concerns more. These powers are carefully spelled out in draft regulations 103-103quat. The reference has therefore been made to "compliance" in order to clarify that the power of the CC is broader than solely enforcement.

~~OP4. Decides that, except where expressly mandated by the Council to take decisions, the Committee shall have an advisory and recommendatory role.~~

OP5. ~~[Instructs that the Committee shall exercise its functions in accordance with the guidance adopted by the Council, -is accountable to the Council, [and shall follow any directive of the Council,] and shall report at least annually to the Council.]~~

**Comment to Operative Paragraph 5:**

Former OP2 and OP5 have been consolidated into a single operative para. Both provisions addressed the Committee's subordination to Council directives. The consolidated formulation retains the substance of both provisions.

OP6. *Further* decides that the Committee is empowered to:

- (a) request information from contractors, the Secretariat and other subsidiary organs to the Council;
- (b) collaborate or share information as appropriate ~~[with Sponsoring States, coastal States, port States, flag States and [competent organs of] relevant international organizations -[in accordance with article 163,~~

paragraph 13 of the Convention as necessary ~~[with other competent authorities]~~, acting through the Secretary-General;

(c) have member(s) of the Committee observe inspection activities as necessary and where resources and practicalities allow;

(d) [convene hearings with Contractors;]

[(e) request expert input or training;]

(f) ~~[make]~~ ~~[recommend]~~ ~~[recommendation on]~~ Standards ~~and Guidelines~~ relating to ~~[inspections]~~, compliance or enforcement matters, [in consultation with the Legal and Technical Commission and after conducting public consultation, for the consideration and provisional adoption by of the Council until approved by the Assembly] ~~[without prejudice to the competence of the Council and the staff of inspectors under article 162, paragraph 2(z) of the Convention];~~

(fbis develop Guidelines relating to inspection, compliance and enforcement matters, in consultation with the Legal and Technical Commission, where such Guidelines relate to matters within the competence of the Commission under article 165 of the Convention; and

(g) issue recommendations of a technical or administrative nature for the guidance of contractors to assist them in the implementation of the rules, regulations and procedures of the Authority

**Comments to Operative Paragraph 6:**

- Several delegations have reiterated that the reference to “with other competent authorities” requires clarification. Other delegations have requested that such a qualifier be retained to ensure the Committee's ability to cooperate with relevant external bodies. A compromise formulation has been proposed.
- The reformulation of subparagraph (f) and the inclusion of new subparagraph (f)bis reflects the distinction and handling of Standards and Guidelines.
- The reference to article 162, paragraph 2(z) of the Convention has been added at the proposal of a delegation, to reflect that the primary competence on inspection matters lies with the Council and the staff of inspectors, and that the LTC's competence regarding inspections is limited to supervising activities at the Council's request (article 165(2)(c)) and making recommendations to the Council regarding direction and supervision of inspectors (article 165(2)(m)).
- On subparagraph (e) clarification has been requested in relation to the training.

OP7. *Directs* that in performing any of its functions, the Committee shall apply the principles of independence, transparency, accountability, expertise, proportionality and probity, and act consistently with the Convention, the 1994 Agreement and the rules, regulations and procedures of the Authority.

~~OP8. *Requires* that the Committee shall conduct public consultations on core instruments it develops or revises, such as the Authority's Compliance Strategy.~~

**Comments to Operative Paragraph 8:**

- Since para 2 of DR94 also refers to public consultation, it is proposed merging this para into OP6 subpara (f) for simplification, while deleting the reference to ICE Strategy to avoid overlap with OP3(a).

OP9. *Establishes* that the procedure for nomination of candidates for the election to the Committee shall be as follows:

- (a) at least six months before the opening of the session of the Authority at which the election is to be held, the Secretary-General shall address a written invitation to all Member States to submit their nominations of candidates for election to the Committee;
- (b) nominations for election to the Committee shall be accompanied by a statement of qualification or curriculum vitae setting out the candidate's qualifications and expertise in fields relevant to the work of the Committee and shall be received not less than three months prior to the opening of the relevant session of the Authority; and
- (c) the Secretary-General shall prepare a list in alphabetical order of the persons nominated for election to the Committee in accordance with paragraph (a) above, indicating the nominating member of the Authority, and containing an annex with the statements of qualification or curricula vitae submitted in accordance with paragraph (b) above; the list shall be circulated to all members of the Authority not less than two months prior to the opening of the session at which the election is to be held.

~~OP10. *Decides* that the Committee shall formulate its own Rules of Procedure and submit these to the Council for approval. The Rules of Procedure should enable agile working by the Committee that can accommodate urgent matters.~~

**Comments to Operative Paragraph 10**

Relocated to OP14

OP11. *Decides* that the Council shall elect ~~{no more than}~~<sup>{15}</sup> members for a term of five-years, eligible for re-election for one further term, [once renewable term] from among the candidates nominated by ~~{Member States}~~. ~~{At the initial election, the Council shall ensure that the terms of members are staggered, by limiting the term for no more than half of the members to be two-years and hold subsequent elections every two years, so as to provide for continuity on the membership of the Committee. {If necessary, the Council may decide to increase the size of the Committee, having due regard to economy and efficiency.}~~ Members of the Committee shall be elected on the basis of:

- (a) the highest standards of competence and integrity;
- (b) qualification in relevant fields, including compliance, inspection and enforcement;
- (c) specialized expertise relevant to activities in the Area;
- (d) gender balance; and

- (e) a balance across the membership of different necessary competences for the [effective exercise of the functions of the Committee, and
- (f) equitable geographical distribution and the representation of [special interest].

OP12. ~~Stresses~~ Decides that no Member State may nominate more than one candidate for the same ~~[each] [different]~~ subsidiary organs ~~[of the Council]. No person shall be elected to serve on more than one subsidiary organ of the Council. and~~ The members of the Committee shall serve in an independent and personal capacity and shall not serve in [any other organs of the Authority or as a member of any delegation]. ~~[Members of the Committee shall have no financial interest in any activity relating to exploration and exploitation in the Area.] Members of the Committee shall have no financial~~ or other interest, whether direct or indirect, that may affect, ~~or be [perceived] to affect,~~ their independence in relation to activities in the Area. In particular, members shall not work for entities that hold exploration or exploitation contracts with the Authority, nor have worked for them in the [two] years prior to election to the Committee. ~~[[Former members of the Committee shall not, for a period of [two] years following the end of their term, accept employment or consultancy with any entity that holds an exploration or exploitation contract with the Authority]~~

Commented [-1]: Italy: not the right word. It is a decision. We decide.

OP13. Underlines that the Members of the Committee shall be subject to the Authority's code of conduct.

OP14. Decides that the Committee shall formulate its own Rules of Procedure and submit these to the Council for consideration and approval. The Rules of Procedure should enable agile working by the Committee that can accommodate urgent matters.

#### Comments to Operative Paragraph 14

Moved from its original position between OP9 and OP11 to follow OP13, as suggested by one delegation. The original placement interrupted the logical sequence of provisions on nomination, election, composition and independence of Committee members (OP9, OP11, OP12 and OP13). Relocating the Rules of Procedure provision after the membership-related provisions creates a more coherent structure.

OP15. [Decides that the Committee shall review the mandate, procedures and effectiveness of the Committee prepare and submit a Compliance Strategy to the Council for consideration and approval, which shall be

#### Comments to Operative Paragraph 15

- The reformulated OP15 addresses the distinct issue of periodic review of the Committee's mandate, procedures and effectiveness, as proposed by one delegation, which noted that such review should go beyond the Compliance Strategy itself and encompass the institutional design of the Committee.
- One delegation supported the concept of a first review after five years but proposed that the starting point for counting the five-year period should be specified. The facilitator proposes that the timing is linked to the adoption of the decision as the decision applies to both exploration and exploitation.
- Some delegations questioned whether mandatory review every five years thereafter is necessary, suggesting instead that subsequent reviews could take place "as necessary."

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~~reviewed every 5 five years from the adoption of this decision, and periodically thereafter as necessary, and may amend any element of this decision by a subsequent decision of the Council.;~~

OP16. *Stresses* that the functioning of the Committee shall not prejudice the [competence]/[exercise of the functions] of the Legal and Technical Commission under the Convention and the 1994 Agreement. For that purpose, the Committee and the Legal and Technical Commission shall consult, and cooperate, without any delay, with each other to avoid potentially overlapping in the exercise of their respective functions. In the event of issues arising from such overlapping the two bodies shall jointly or separately report such issues to the Council which shall determine a solution.

OP17. *Requests* the Secretary-General to provide administrative support to the Committee.

OP18. *Requests* the Secretary-General to include provision for the Committee in the draft budget of the Authority, and requests the Finance Committee to take this into account in its consideration of the Authority's budget.

## ANNEX II

### Regulation 95 bis

#### Compliance ~~and Enforcement~~ Committee

1. The Compliance Committee shall assist the Council in carrying out its ~~functions and~~ responsibility to exercise control over activities in the Area for the purpose of securing compliance, as provided for under Part XI of the Convention and the Agreement and the rules, regulations and procedures of the Authority. [The Compliance Committee shall exercise its functions in accordance with the guidance and directives ~~adopted established~~ by the Council.]

2. [Without limiting the powers and functions conferred upon another organ of the Authority, the Compliance Committee shall assist the Council to ensure compliance with and enforcement of the rules, regulations and procedures of the Authority as well as the terms and conditions of Exploitation Contracts, through, inter alia:

(a) investigate allegations of possible instances of Contractor non-compliance;

~~(b) take action to secure compliance by Contractors with their Exploitation Contracts;~~

(c) examine complaints under regulation 101 and making any recommendations to the Council;

~~[(d) taken action to secure compliance by Contractors with their Exploitation Contracts and, where expressly mandated to do so by the rules, regulations and procedures of the Authority or by direction of the Council, take compliance and enforcement measures directly; and make recommendations to the Council for the issue of emergency orders and appropriate penalties in accordance with Section 3 of this Part, without prejudice to the competence of the Commission under article 165, paragraph 2 (k), of the Convention, and appropriate penalties in accordance with Section 3 of this part;] and~~

~~[(e) undertake in collaboration with the Secretary-General compliance promotion activities to promote understanding of and compliance with the rules, regulations and procedures of the Authority and Exploitation Contracts, including dissemination of best practice arising from inspection activities.]~~

3. Within 3 months of the end of the Calendar Year the 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.

4. The report shall include details of any regulatory action taken by a Sponsoring State or States as ~~advised communicated~~ in writing to the Chief Inspector or Secretary-General [Council/Committee], 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, paragraph 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.]

5. 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.

6. The ~~[Chief Inspector of the Authority]~~ shall report to the Committee and be accountable to the ~~Committee Council, [-]~~ without prejudice to the supervisory role of the Legal and Technical Commission under article 165 of the Convention~~].~~

[7. The ~~[Council]~~[Committee] shall develop ~~and implement~~ a public complaints procedure to facilitate reporting to the Authority by any person or entity of any concerns about activities in the Area, and shall submit such procedure to the Council for approval.]

**Comments to Draft Regulation 95 bis**

- Title: It was proposed by several delegations to omit the reference to "Enforcement" in the title.
- In general, it has been attempted to better align draft regulation 95 bis with the current wording of the draft decision.
- On subparagraph (d), the text has been reformulated to align with OP3(d) of the draft Council decision and to compile it with subparagraph (b) as they were somehow overlapping. One delegation also suggested to simply omit subparagraph (d) since it already is regulated in the decision.
- Paragraph 4: "Advised" has been replaced with "communicated" as proposed by a regional group.
- Paragraph 6: The text has been revised so that the Chief Inspector reports to the Committee and is accountable to the Council, addressing concerns raised by one delegation regarding potential conflict with article 165(2)(m) of the Convention.
- Paragraph 7: The text now provides that the Committee shall develop the public complaints procedure and submit it to the Council for approval, as proposed by one delegation.