

NOTE BY THE KINGDOM OF THE NETHERLANDS ON PREPARATIONS FOR FRIENDS OF THE PRESIDENT DISCUSSIONS ON 21 JULY 2026

On 21 July 2026, the Council will negotiate *inter alia* about the outcomes of the Friends of the President regarding Compliance and Enforcement Measures (DR 103-105).¹ This document is drafted to inform delegations' preparations for the discussions on these topics. As will be set out further below, the discussions will be structured in two separate parts.

Compliance and Enforcement Measures. Draft regulations 103-105 – 1.5 hour on 21 July 2026.

During the Council session in March 2026, there was support in Council to broaden the scope of this working group to include all the Draft Regulations in Section 3. Therefore, the group also discussed DR104 and DR105 in the intersessional period.

First part of the discussions: The facilitators would like to focus on the discussions surrounding the issuance of emergency orders. The Further Revised Consolidated Text now introduces two competences to the Compliance Committee: 1) referring an urgent situation to the LTC, and 2) the issuance of emergency measures of a temporary nature. Additionally, the competences of the Compliance Committee to recommend to the Council the issuance of emergency orders is deleted. This outcome is further explained on pages 2-3 of this document.

Delegations are invited to comment on the amendments reflected in DR 103(2)(g)-(h) and DR 103(3)(b). The facilitators do not intend to discuss other aspects of DR 103, 103bis, 103ter or 103quat. Delegations are strongly encouraged to share line by line comments bilaterally.

Second part of the discussions: The facilitators note that a conceptual discussion of DR 104 is yet to take place. On the power to compel remedial actions, the facilitators refer to the note reflected at page 4 of this document. The facilitators intend to specifically ask delegations the following questions for the discussions on 21 July 2026:

- what are delegations' views on the Authority compelling a Contractor to take actions that have remedial effects?
- what are delegations' views on Contractors who suffer from damage caused by non-compliance of another Contractor being able to take remedial actions, which are paid for by the non-compliant Contractor? If so, how could contractors recover such costs from non-compliant Contractors?

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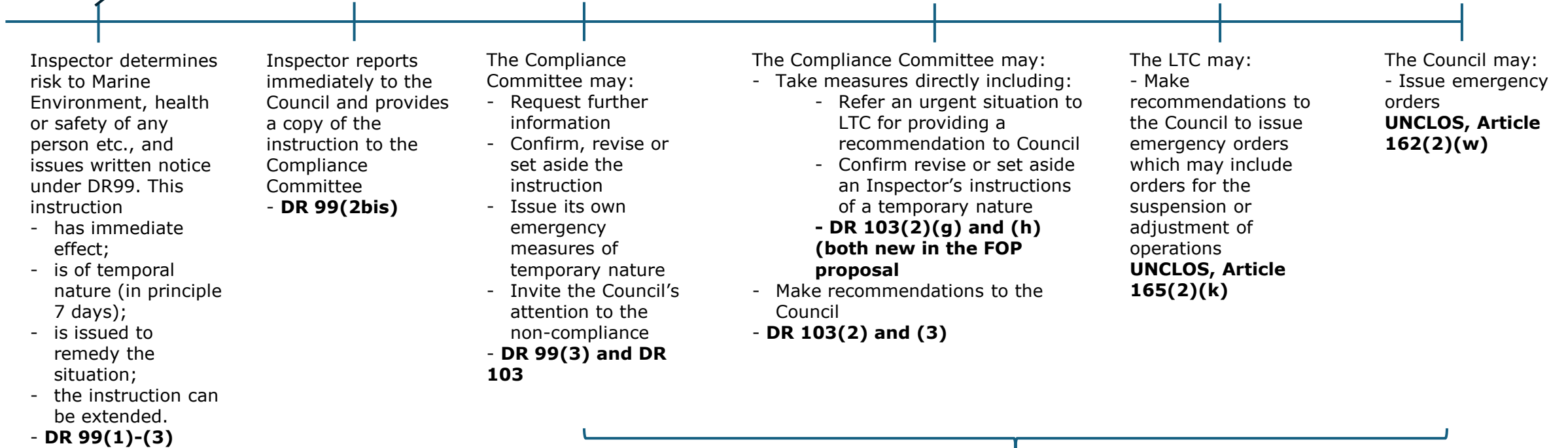
¹ [Noncompliance-notice-DR103-105-Textual-proposal.pdf](#).

FOP Proposal on division of competences in relation to emergency situations

Organ	Comment
Compliance Committee	<ul style="list-style-type: none"> • Already proposed in DR 99: can confirm, revise or set aside instructions of inspectors that are of a temporary nature, which could, in urgent situations, remain in place until a Council decision on emergency orders. • Newly proposed in DR 103(2)(h): CC also on its own accord competent to issue "emergency measures of a temporary nature". • These measures could remain in place until (a) situation no longer urgent, or (b) the Council has decided to issue, or not to issue, emergency orders • In view of this, not necessary for the CC to have competence to recommend to Council to issue emergency orders
LTC	<ul style="list-style-type: none"> • competent to recommend emergency orders (Article 165(2)(k) UNCLOS). • LTC will thus assess and determine whether the Council should issue a (definitive) emergency order.
Council	issues emergency orders (Article 162(2)(w))

FOP PROPOSAL

Threshold:
"Reasonable grounds to determine that any occurrence, practice or condition endangers or may endanger the health or safety of any person or poses a [threat]/[risk] of harmful effects to the Marine Environment [...]" - **DR 99(1)**



New sub (h): During this timeframe, the Compliance Committee can set aside the temporary written instruction imposed by the Inspector if the situation no longer warrants such measures remaining in place

FOP on Draft Regulation 103 through 105

During the meeting of the Friends of the President on Draft Regulation 103 through 105 of 11 May 2026, it was noted by multiple delegations that it would be useful for the facilitators to provide several practical examples of remedial actions which the Authority might undertake on the basis of DR 104. It was also noted that the type of remedial action might depend on the type of non-compliance.

Accordingly, participants will find below several examples of reasons for the Authority to execute remedial actions and the concerned types of (potential) remedial actions. Broadly speaking, a Contractor's non-compliance might negatively affect the mining area of another Contractor in a way that hinders the other Contractor in executing its mining activities; or a Contractor's non-compliance could be inflicting damage to the marine environment.

Consequences of non-compliance	Types of remedial action
lost objects or equipment drifting into the mining area of another Contractor (for example, moorings or malfunctioning automatic underwater vehicles)	retrieving objects or removal of objects from mining paths
contaminating sediment, toxic waste or oil spills, either in: i) another Contractor's area, ii) an APEI; iii) or otherwise.	clean-up of relevant sediment, waste or spill. The manner of clean up might be determined by the location hereof

However, the facilitators conclude that there are many more examples of consequences of Contractor non-compliance to give, which can less clearly be remedied through actions of other actors, such as the Authority. The facilitators will elaborate on this point during the FOP's meeting on 27 May 2026 with more examples.

The current draft of Regulation 104 envisages that the Authority takes remedial measures. In view of the above list of examples of remedial action, the facilitators invite the group to also consider the following possibilities:

- (1) the Authority being able to compel the relevant Contractors themselves to take further actions that have remedial effects, but also financial consequences; and
- (2) Contractors affected by the non-compliance of another Contractor being able to take remedial actions, potentially paid for by the non-compliant Contractor.

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