

## **Japan's statement on inspection on 27th**

Our delegation would like to express its appreciation to the Secretariat for preparing the very useful discussion paper.

As we have made an intervention in this Council earlier, it is not clear in DR as to who will decide whether inspection should be conducted. It should be noted that Article 165 (2) (m) of the Convention provides that the Council will make the decision based on recommendations by the Commission. In this regard, Japan proposes the Commission and the Council should be able to make their decisions by e-mail or other means of electronic transmission, due to the urgency of the matter.

Secondly, we should be careful not to give authority that exceeds the power provided for an inspector by the Convention. For example, an inspector's duty, according to Article 162(2)(z) of the Convention, is to "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." To issue a written instruction requiring a suspension of mining activities as provided in DR97 may be something beyond the authority given to inspectors by the Convention. In this respect, it should be noted that Emergency Order can include an order for suspension of the operation, however, issuance of emergency order is in the Council's authority. As I mentioned yesterday, suspension or termination of Contractor's rights needs careful consideration whether all the conditions provided in Article 18(1)(a), Annex III to the Convention are met.

Rather than to have a permanent team of inspectors, Japan considers it more appropriate to set up a team of inspectors only when inspection is deemed necessary by choosing experts from a roster to which candidates with various expertise such as marine geology, deep-sea mining, minerals, marine environment, marine biology, accounting and international legal affairs are registered. Regarding the experts to be registered to the roster, it should be noted that the Commission's (LTC) members are envisaged to carry out their function as inspector. This is provided in Article 165(3) of the Convention.

The same provision provides that a representative of State or other Party concerned can accompany the members of the Commission upon request by any State Party or other party concerned when carrying out their function of supervision and inspection. Damage caused by the failure of a State Party to carry out its responsibilities under the Convention shall entail liability, according to article 139 (2) of the Convention. Considering this responsibility, State Parties, especially Sponsoring States should be permitted to participate in the inspection.

