

TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 27<sup>TH</sup> SESSION:  
COUNCIL - PART I

*Informal Working Group – Inspection, Compliance and Enforcement*

**(for inclusion in the IWG-ICE consultations, due 22 April 2022)**

Please fill out one form for each textual proposal which your delegation(s) wish(es) to amend, add or delete and send to [council2022@isa.org.jm](mailto:council2022@isa.org.jm).

1. Name(s) of Delegation(s) making the proposal:

**Advisory Committee on Protection of the Sea**

2. Please indicate the relevant provision to which the textual proposal refers.

**3. Part XI - Draft Regulation 99 Inspectors' power to issue instructions - para 1**

4. Kindly provide the proposed amendments to the regulation 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.

**CHANGE current proposed text in ISBA/25/C/WP.1 (2019) DR 99 para 1 as follows:**

1. If, as a result of an inspection, an Inspector has evidence that any occurrence, practice or condition .... does not ensure effective protection of the marine environment from harmful effects which may arise from activities in the Area, or poses a threat of Serious Harm to the Marine Environment, or is otherwise in breach of the terms of ~~its~~ the exploitation ~~contract~~ under which the relevant activities are conducted,

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

The LOSC does not limit the inspectorate's marine environmental protection powers to threats of serious harm. Any harmful effect on the marine environment demonstrated under LOSC criteria must trigger action by inspectors to prevent, reduce and control such effect(s). Serious harm must be shown to trigger an emergency order or to "disapprove areas for exploitation" (Article 162 (2)(w), (x); both have additional mandatory evidentiary subtleties not reprised here). Crucial here is that limiting the inspectorate's powers to intervene only in cases of serious harm is inconsistent with the LOSC's own requirements and risks excluding activities that may cause harmful effects without causing serious harm. Such a limitation on the inspectorate's powers would be incompatible with the LOSC because the full scope of its environmental provisions would remain unimplemented as required and render the regulations vulnerable to legal challenge.