

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

***Informal Working Group - Inspection, Compliance and Enforcement***

*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:**

Republic of Nauru

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

Regulation 96

As a general comment, further specifics in this regulation relating to “appropriate mechanisms for directing and supervising a staff of inspectors to the appropriate mechanisms”, and how this will develop and be implemented prior to the issue of the first contract for exploitation would be beneficial. For example, the regulations could specify that the Council establishes a **Seabed Mining Inspectorate or Directorate** as a separate, **independently functioning** organ of the Council (pursuant to article 162(2)(d) of the Convention) with a **full-time Chief Inspector** (appointed by the Council and allocated appropriate powers and functions) with inspectors chosen from a Council-approved roster as required for inspection programmes.

The Inspectorate can evolve as exploitation activities evolve and be supported administratively by the Secretariat. Based on the evolutionary approach, and budgetary requirements, the Secretary-General can assume and perform the functions of the inspectorate until such time that it can operate independently with adequate resourcing commensurate with the level of exploitation activities, inspection, compliance and enforcement requirements. Staffing considerations would need to be addressed as regards the monitoring of data received through remote monitoring technologies or otherwise.

If this is to be considered / incorporated, the regulatory text across Part XI would need to be revisited e.g., references to the Secretary-General would need to refer to the Secretary-General or Chief Inspector, and so on.

As mentioned by several delegations, the principles and modalities of the inspection mechanism under the Convention on the Conservation of Antarctic Marine Living Resources can be considered by the Council, not least in ensuring the independence and integrity of inspectors.

The framework for a monitoring, inspection, compliance and enforcement mechanism can be set out in a policy document approved by the Council, incorporating a risk-based based approach to regulatory activity, that regulatory

decision-making be data and evidence driven and the interface with sponsoring States to both avoid regulatory duplication, and ensure an efficient and effective regulatory regime.

**3. 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.**

2.....To that end, Members of the Authority, in particular the sponsoring State or States or State Party that is the flag State, shall assist the Council, the Secretary-General and Inspectors in discharging their functions under the Rules of the Authority.

~~5(f) Accept the deployment of remote real-time monitoring and surveillance equipment, where required by the Secretary-General] [Council], and facilitate the activities of Inspectors in deploying such equipment and having access thereto~~

5(a)bis Keep the Secretary-General and sponsoring State or States notified of proposed vessel schedules including support and supply vessels, and inform the Secretary-General at least 30 Days before any vessel commences its voyage to a Contractor’s Contract Area to facilitate the conveyance of Inspectors or representatives of the sponsoring State or States;

5(b) Cooperate with and assist in the inspection of any vessel or Installation conducted pursuant to this regulation and comply with the reasonable requests of an Inspector;

5(b)bis Provide Inspectors with the appropriate accommodation and subsistence while on board a vessel or Installation;

(c) Provide access to all relevant areas, items and personnel in offices or on vessels and Installations at all reasonable times, including access to and use of communication equipment for the purpose of the transmission and receipt of messages

(h) Ensure that the Master of the vessel or Installation puts in place procedures to ensure the personal safety, security and general welfare of Inspectors.

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

1. 96(2): concerns have been expressed by some delegations over the jurisdictional limits of inspectors and potential conflict with flag State jurisdiction as regards the boarding of vessels by inspectors. This could be addressed by an appropriate clause in the exploitation contract, placing the appropriate obligations on a contractor (as proposed by the US delegation). Indeed, inspection and related duties placed on a contractor under the exploration regulations are reflected in the standard clauses for exploration contract. Alternatively, reliance can be placed on a cooperation / assist mechanism as the wording provides for above

5(f) given the importance of remote monitoring where practicable, we consider that Section 2 to this Part XI should be strengthened for this purpose, and that this subparagraph is deleted.

5(a)bis Inspectors will need to be conveyed to the operating area. This will be a practical challenge unless facilitated by the contractor.

5(b) cooperation and assistance is a minimum. There should also be an obligation to comply with reasonable requests.

5(b)bis makes it clear who is responsible for providing berths and subsistence.

5(c) providing access to communication links is key.

5(h) given these are very remote operations, the personal safety of Inspectors should be ensured by the master of the vessel.