

**General comments on “Inspection, compliance and enforcement” of
the Draft Regulations**

The regulations on “inspection, compliance and enforcement” should adhere to the institutional framework established by the Convention, and the implementation of the inspection powers should be strictly confined to the scope authorized by the Convention.

First, the Council is the organ with power of the Authority to exercise the function of inspection and shall establish appropriate mechanisms for directing and supervising a staff of inspectors in accordance with Article 162(2)(z) of the Convention. The LTC, as a subsidiary organ of the Council, shall make recommendations to the Council regarding the direction and supervision of a staff of inspectors and may carry out the function of inspection in accordance with Articles 165(2)(m) and 165(3) of the Convention. The Convention does not specify the competence of the Secretary-General in respect of inspections, and the Secretary-General, as the chief administrative officer of the Authority, may be entrusted by the Council with certain administrative functions in respect of inspections in accordance with Article 166(3) of the Convention.

Second, the Convention clearly defines the geographical scope of inspections and the authority of inspectors. Article 153(5) of the Convention provides that the Authority shall have the right to inspect all installations in the Area used in connection with activities in the Area. Accordingly, the Exploitation Regulations should limit the geographical scope and object of inspections to vessels and installations, etc., used in the Area by the Contractor to carry out exploitation activities under an exploitation contract.

Third, Articles 162(2)(z) and 165(2)(m) of the Convention provide that inspectors shall 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. Accordingly, the inspectors’ power should be limited to inspecting, recording, reporting activities in the Area, and the Exploitation Regulations should not grant inspectors enforcement powers.

Fourth, the regulations on “inspection, compliance and enforcement” should address and coordinate the respective regulatory responsibilities of the Authority, sponsoring States and the flag States. In accordance with

Articles 153(4), 165(2)(c) and 165(3) of the Convention, sponsoring States have the obligation to assist the Authority in carrying out inspections and also have the right to participate in inspections by the Authority. At the same time, sponsoring States have the right to inspect the Contractor's activities in accordance with their domestic legislation. Flag States have jurisdiction over their vessels in relation to activities in the Area. The inspection mechanisms should clearly define the rights, obligations and responsibilities of all parties involved in the inspection activities, establish cohesive procedures in the Exploitation Regulations, give full play to the role of all parties involved in the inspection issues and avoid increasing the burden on the Contractor.

Fifth, regarding the establishment of the Compliance Committee and the Inspectorate, China believes that the “inspection, compliance and enforcement” mechanism should be established and implemented in accordance with the existing legal framework of the Convention, giving full play to the respective roles of the Council, the LTC and inspectors, rather than establishing new bodies outside the provisions of the Convention. The vast majority of the functions of the Compliance Committee and the Inspectorate as currently proposed overlap with those of the Council or the LTC in “inspection, compliance and enforcement”. In accordance with paragraphs 2 and 3 of Section 1 of the Annex to the Agreement, in order to minimize costs to States Parties, all organs and subsidiary bodies established under the Convention and the Agreement shall be cost-effective, and the organs and subsidiary bodies of the Authority shall be established and operated in a progressive manner to enable them to fulfill their respective responsibilities effectively at all stages of the development of activities in the Area. At this stage, the framework of the “inspection, compliance and enforcement” mechanism established by the Convention should be implemented in the Exploitation Regulations as a basis for revising and improving the draft, rather than considering the establishment of new bodies.