

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 27TH SESSION:
COUNCIL - PART III**

Informal Working Group on 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 council@isa.org.jm.

1. Name of Working Group:

Informal Working Group on Inspection, Compliance and Enforcement

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

China

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

Regulation 100 Reports

4. 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.

***Note: China’s amendments are in Blue**

1. ...the Inspector shall ~~prepare~~ ~~deliver~~ a report ~~promptly to the Inspectorate~~, [in accordance with the template to be prescribed in the standards], ... The ~~Inspector~~ ~~Inspectorate~~ shall send the report to the Secretary-General, ~~the Commission, and the Council as soon as it is completed~~ and...

1.bis The Contractor ~~and the sponsoring State or States~~ may within ~~7~~ ~~thirty~~ Days of the date of receipt of the Inspector’s report, provide ~~to the Secretary-General~~ comments to the Inspector on his or her findings and recommendations. ~~The Secretary-General Inspector shall will forward the comments to the Secretary-General Commission for its consideration and make recommendations to the Council.~~

2. The Commission ~~Secretary General~~ ~~Inspectorate~~ shall.....

~~2.bis Inspection reports drawn up by Inspectors shall constitute admissible evidence in administrative or judicial proceedings.~~

3. The Inspector ~~Secretary General~~ ~~Inspectorate~~ shallto comply with regulation 96 (5) ~~to the Secretary-General~~.

3.bis. ...~~and the national State of the representatives of sponsoring States, any other State Party, or other party concerned who accompany the inspector~~...

4. The Council ~~[Inspectorate]~~ ~~[Inspector]~~ may shall ~~[also report acts referred to in para. 3 immediately to the [Secretary-General] and shall]~~ take the appropriate measures under Regulation 103.

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

Regarding paragraph 1, the Convention neither stipulates nor presupposes the future establishment of the so-called “Inspectorate”. It is suggested to delete the term “Inspectorate” and retain the original wording.

Regarding paragraph 1.bis, in accordance with Article 153 (4) and Article 165 (2) (c) and (3) of the Convention, the sponsoring State has the obligation to assist the Authority in conducting inspections and has the right to participate when the Authority carrying out its function of inspection. Therefore, the sponsoring State should also have the opportunity to comment on the Inspector’s report. In order to ensure fairness and independence, relevant comments should be submitted to the Secretary-General, and the Secretary-General shall submit the Inspector’s report together with the comments to the Commission for its consideration, which shall make recommendations to the Council.

Regarding paragraph 2, the Convention neither stipulates nor presupposes the future establishment of the so-called “Inspectorate”, it is suggested to delete the term “Inspectorate”. The Commission as a subsidiary organ of the Council, shall make recommendations to the Council on inspection related matters in accordance with Article 165 (2) (m) of the Convention.

Regarding paragraph 2.bis, this paragraph will lead to very complicated legal issues and consequences, involving the handling of extraterritorial evidence materials by a State, which is obviously beyond the scope of the Convention, and the Exploitation Regulations have no right to regulate on it. In addition, because the Inspector’s report is subjective, there may be disputes or disagreements on the Inspector’s report, so it is not suitable to be directly used as evidence. Therefore, this paragraph should be deleted.

Regarding paragraph 3, the Convention neither stipulates nor presupposes the future establishment of the so-called “Inspectorate”, it is suggested the term “Inspectorate” be changed to “Inspector”. Regulation 96 provides general provisions on matters of inspections, of which paragraph 5 is the obligation of the Contractor. It should be clear here that the Contractor violated the obligation of Regulation 96 (5), rather than referring to Regulation 96 in general.

Regarding paragraph 3.bis., The bracketed content will complicate the subjects who may institute proceedings under national law. Whether these subjects have the right to institute proceedings under national law is questionable. It is necessary to clarify whether the added above subjects have the jurisdiction to institute proceedings, and if it is not possible to determine whether there is jurisdiction, it should be deleted.

Regarding paragraph 4, the Convention neither stipulates nor presupposes the future establishment of the so-called “Inspectorate”, and it is suggested to delete it. The powers regarding “Compliance notice, [suspension] and termination of exploitation contract” in Regulation 103 are within the scope of the Council's powers and should be directly exercised by the Council. In addition, if the sponsoring State or States, the flag State or the national State of the Inspector have taken corresponding measures, there are situations where there is no need to activate the powers or measures stipulated in Regulation 103 of the Draft Regulations, so it is suggested to change the term “shall” to “may”.