

**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 99 Inspectors' power to issue instructions

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. If, as a result of an inspection, an Inspector has [reasonable grounds] ~~[to determine]~~ that any occurrence, practice or condition endangers or may endanger the health or safety of any person or poses a threat of Serious Harm to the Marine Environment, ~~or is otherwise in breach of the terms of its exploitation contract,~~ the Inspector [shall] give any instruction ~~of a temporary nature~~ he or she considers reasonably necessary to remedy the situation, in accordance with the Standards, including:

(a)~~[A written instruction requiring a suspension in mining activities for a specified period, or until such time and date as the Authority and Contractor agree;] [A requirement to undertake specific tests or monitoring and to furnish the Authority with the results or report of such tests or monitoring within a set period];~~

(b)A written instruction placing ~~conditions on the continuation of mining activities~~ ~~[including a requirement]~~ to undertake a specified activity in a specified way, and within a specified period or at specified times or in specified circumstances;

(d)~~[A requirement to undertake specific tests or monitoring and to furnish the Authority with the results or report of such tests or monitoring.] [A written instruction requiring a suspension in mining activities for a specified period.]~~

3. Any instruction issued under paragraph 1 above shall be in force ~~[until the Contractor has executed the instruction] [for a specified period, not exceeding seven Days, after which it lapses]. [Upon receiving information from the Contractor about steps taken to implement the instruction, the Inspector Inspectorate shall decide, as soon as possible and within no more than three Days, whether the instruction has been complied with by the Contractor].~~ The ~~{Inspector} {Inspectorate}~~ shall report immediately to the Secretary-General, ~~the Commission, [the Council]~~ and to the Contractor's sponsoring State or States that an instruction has been issued under paragraph 1, and ~~[where the issue remains unresolved], the Council {Secretary-General} {Inspectorate} may thereafter exercise the powers conferred upon the {Secretary-General} {Inspectorate} under regulation 103. The Secretary-General shall exercise these powers to prevent [probable] imminent danger to the health or safety of any person or [probable, imminent, and] serious harm to the environment [arising out of activities in the Area].~~

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

Regarding paragraph 1, this regulation should only provide for the measures that may be taken by the Inspector in case of emergency, and the Inspector may elaborate and make recommendations in their reports in accordance with Regulation 100 of the Draft Regulations in cases where they find “in breach of the terms of its exploitation contract”, which need not be provided for in this regulation. This paragraph gives Inspectors the power to suspend mining activities and to place conditions on the continuation of mining activities beyond the provisions of the Convention. These instructions are to be exercised by the Council in accordance with Article 162(2)(w) of the Convention. In addition, even instructions within the scope of their authority shall be of an interim nature, and if these interim instructions fail to resolve the emergency, further measures shall be taken by the Council on the recommendation of the LTC.

Regarding paragraph 3, the Convention neither provides for nor presupposes the establishment of a so-called inspection body in the future, and it is recommended to use “Inspectors” that exist in the Convention. In addition to reporting to the Secretary-General and the Council, the Inspectors should also report to the LTC so that the LTC can make relevant recommendations to the Council on issues of inspection, compliance and enforcement. The authority to “Compliance notice, suspension and termination of exploitation contract” under Regulation 103 is within the purview of the Council and shall be exercised by the Council. This regulation has already authorized the Inspectors to issue instructions to respond to emergency situations that may endanger the health or safety of any person or may cause serious harm to the marine environment, and the

Secretary-General should not be authorized to exercise the same authority and the situation of “multiple delegations of authority” should be avoided.