

WORKING GROUP ON INSPECTION, COMPLIANCE AND COMPLIANCE ENFORCEMENT

DECLARATION OF THE DELEGATION OF SPAIN.

Madam Facilitator, in this first intervention, Spain wishes to congratulate you for your diligent work in this working group and for the publication of a **revised version of the inspection and enforcement mechanism**, as well as for the explanations it contains, which will guide us in the negotiations.

I extend this congratulations and thanks to the Secretariat for its invaluable work. And to the delegations that have worked on the base document that the informal group has sent us.

In our opinion, the new draft has considerably improved in its wording, although **central aspects of the inspection and enforcement mechanism** still remain to be resolved, which will surely dissipate as the exchanges of views with other delegations continue. For this reason, I would like to indicate that, although we will state our preferences, we do not rule out that they may be varied in the future.

As we have indicated in several interventions, **seabed mining** is a high-risk activity that can affect the marine and coastal environment, biodiversity, other uses of the oceans such as navigation, fishing or the laying of underwater cables, and underwater cultural heritage. In addition, although provided for in the Convention as a legitimate use of the oceans, **seabed mining** generates a certain social alarm, which is why the Spanish delegation insists that we need a **rigorous inspection and enforcement mechanism that effectively guarantees compliance with the exploitation regime**.

In our opinion, and for the moment, there are three issues that require our attention:

First of all, and by way of introduction, I would like to state that my delegation believes that in order for the Council to fulfill the mandate of managing and supervising a body of inspectors, a **Compliance Committee must be established to act within the Legal and Technical Commission**. The Commission, made up of independent experts who have the highest legal and technical qualifications, has **supervision and inspection functions** that are expressly referred to in **article 155 paragraph 3**. Specifically, it is entrusted with the function of supervising the activities in the Area and to make recommendations to the Council regarding the establishment of a surveillance programme, the issuance of emergency orders, and the management and supervision of a body of inspectors that examine activities in the Area.

This Compliance Committee could be made up of one or two representatives from each of the five regional groups represented on the Commission, with the qualifications

required to fulfill this oversight role. Due to its limitations, as a non-permanent body, and although it can perform its functions intersessionally (as it has been doing), it should have the support of a **compliance administrative unit** within the Secretariat.

We are aware that it is a demanding task and that the members of the Commission are experts who have other responsibilities, but, in principle, this would be our preference, without ruling out that, in the future, if the workload proves excessive, and following an evolutionary criterion, it may be necessary to establish said Committee as a subsidiary body of the Council and independent of the Commission, in application of **article 158 paragraph 3** of the Convention.

Secondly, still pending is the clarification of the **distribution of powers among the various bodies of the Authority** that ought to intervene in the inspection and execution mechanism. In order to clarify this issue, our approach would be to identify the nature of each of the actions that are being regulated, so that, for example, it is borne in mind that:

- **executive functions** correspond to the Council;
- **administrative functions** may be performed by the Secretary General;
- **supervisory functions** may be carried out by the Commission through its Compliance Committee;
- And, **inspection functions** must be carried out by a body of inspectors, which, as a collegiate body, would be under the supervision of a General Inspector.

Following this institutional scheme, we will indicate our preferences in relation to the issues that are still in brackets.

Thirdly, and finally, we are concerned about the **threshold of risk or damage to the marine environment** that determines the adoption of the various compliance measures. We will address this issue when we examine the corresponding draft articles.

We would like to hear the preferences of other delegations over these two days in order to find the right approach. We will send our intervention in writing.

Thank you very much Madam Facilitator.