

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH SESSION:
COUNCIL - PART III**

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:** Inspection, Compliance and Enforcement

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

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

DR96ter – proposed amendments in green; black text and tracked changes text is from the Facilitator’s fourth revised draft circulated prior to the November 2023 Council meeting.

- 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.**

Access to inspections

1. The Chief Inspector shall give reasonable notice to a Contractor of the projected time and duration of inspections, the names of the Inspector(s) and any activities that the Inspector(s) are to perform that are likely to require the availability of special equipment or special assistance from the personnel of the Contractor. The activities of the Inspector (s) should in any case not unnecessarily impede activities in the Area.
2. Where the Compliance Committee or the Chief Inspector have reasonable grounds to consider the matter to be so urgent that reasonable notice cannot be given, the Compliance Committee or the Chief Inspector shall instruct an Inspector to conduct an inspection ~~without prior notification~~ and shall cooperate with a Contractor to conduct the inspection as soon as practically possible.
3. Inspectors may inspect any relevant documents necessary to monitor a Contractor’s compliance under its exploitation contract and the Rules of the Authority which include inter alia, all recorded data and samples and any ships or Installation used by the Contractor to carry out Exploitation activities and activities related to such exploitation activities in the Area, including its log, equipment, records and facilities, as well as interview relevant personnel.
4. The Contractor, ~~its subcontractors, agents and employees~~ shall cooperate with Inspectors and give full assistance to Inspectors in the performance of their duties, and shall:

(a) Accept and facilitate the prompt and safe boarding and disembarkation of ships and Installations used to carry out Exploitation activities and activities related to such activities in the Area by Inspectors;

(a) bis. Keep the Chief Inspector and sponsoring State or States notified of proposed ship schedules including support and supply vessels, and when feasible, inform the Chief Inspector before any ship commences its voyage to a Contractor's Contract Area to facilitate the conveyance of Inspectors and representatives of Sponsoring States parties, where appropriate and to keep the Chief Inspector informed if there is a change to proposed ship schedules due to operational, logistical or unforeseen circumstances;

(a) ter. Within seven business days of the Chief Inspector informing the Contractor that the Inspector(s) would like to conduct an inspection of a Contractor's ship or Installation, the Contractor shall inform the Chief Inspector of the next date a ship will commence its voyage to the Contractor's Contract Area.

(b) Cooperate with and assist in the inspection of any ship or Installation or equipment used to carry out Exploitation activities and activities related to such activities in the Area conducted pursuant to this regulation and comply with the requests of an Inspector;

(b) bis. Provide reasonable facilities, financed by the Contractor, including, where appropriate, food and where feasible accommodation, to Inspectors;

(c) Provide access to all relevant areas, items and personnel or on ships and Installations used to carry out Exploitation activities related to such exploitation activities in the Area at all reasonable times.

(d) Provide access to relevant monitoring and surveillance systems and equipment, books, documents, papers and records to determine compliance with terms and conditions of a contract and these Regulations;

(e) Answer fully and truthfully any questions put to them;

(f) Accept the deployment of remote real-time monitoring and surveillance equipment in a uniform manner and as required by the Council or the Compliance Committee;

(f)bis Facilitate the activities of Inspectors to observe the Contractor's monitoring operations.

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

On para 2, While Australia agrees with other delegations who see the benefits in 'surprise' inspections or inspections with little notice, we consider that, practically speaking, at least a small notification period will be necessary in certain situations to ensure the safety of the inspector and employees on the mining vessel, as well as necessary logistical arrangements (such as organizing the transport of the inspectors to the mining vessel).

On that basis, we have suggested deleting 'without prior notification' and accordingly requiring the inspector to cooperate with the contractor to organize the inspection as soon as possible.

On para 4, we note that 'Contractor' is a defined term – currently in the President's Text – and includes subcontractors, agents and employees, so we suggest that the term 'Contractor' can just be used here for simplicity.