

Commentary Document

Prepared by the President of the Council

Explanatory note

1. The purpose of this document is to guide the negotiations on the Revised Consolidated Text, specifically from draft regulations 54 to 107, during the second part of the thirtieth session of the Council of the International Seabed Authority in July 2025.
2. The document presents a regulation-by-regulation analysis of the most contentious issues, where necessary, to provide clarification on revisions, and includes proposals for the way forward, with the aim of fostering consensus and contributing to the development of a more robust and coherent legal instrument.
3. The commentary reflects the proposals submitted by delegations and is based on both the Revised Consolidated Text and the Revised Compilation document.
4. It is important to recall the approach and working modalities applied in preparing the Revised Consolidated Text, which constitutes an updated version of the Consolidated Text. The following considerations have been observed:
 - a. Only those proposals for which no express objection was raised are included in the Revised Consolidated Text. This is without prejudice to their future consideration or to the right of delegations to reintroduce proposals not currently reflected in the text.
 - b. Text included from the Consolidated Text has been retained where no objection was expressed. In instances where consensus was unclear, the President has placed the relevant text in square brackets.
 - c. Proposals that reflected a general direction of the discussions have been integrated. While precise formulations by delegations may not be reflected verbatim, the text represents a compromise reflecting the spirit of those ideas.
 - d. Where general comments were made without specific drafting proposals—or where several similar drafting suggestions were submitted—I have proposed wording for the consideration of delegations.
 - e. Alternatives are presented throughout the text to reflect differing conceptual approaches. The order in which they appear does not indicate preference or prioritization.
5. Finally, it is recalled that the work and outcome of the negotiations on the Revised Consolidated Text must remain fully consistent with the Convention and the 1994 Agreement. This process and its results must not undermine existing legal instruments or frameworks, including those of relevant global, regional, or sectoral bodies.

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Section 4

Environmental Compensation Fund

Regulation 54

Establishment of an Environmental Compensation Fund

- This draft regulation will be considered within a Friends of the President group, facilitated by Mexico.

Regulation 55

Purpose of the Environmental Compensation Fund

- This draft regulation will be considered within a Friends of the President group, facilitated by Mexico.

Regulation 56

Funding of the Environmental Compensation Fund

- This draft regulation will be considered within a Friends of the President group, facilitated by Mexico.

Part V

Review and modification of a Plan of Work

Regulation 57

Modification of a Plan of Work by a Contractor

- This draft regulation is being considered within a Friends of the President group, facilitated by the United Kingdom.

Regulation 58

Review of a Plan of Work

- This regulation ensures that the Plan of Work remains relevant and effective in addressing environmental and operational challenges associated with exploitation activities.
- The regulation identifies several events or changes that may trigger a review of the Plan of Work. The chapeau has been the basis of several alternative formulations. There has been support for the alternative version, which has now been even further refined in this revised version.
- Delegations are invited to share their views on this updated version of para 1, and reach an agreement on this new formulation.
- Also, in para 3 concerning the reporting and implementation of changes following a review of the plan of work, we have seen several alternative wordings.
- A new revised compromise is presented. Delegations are invited to express their support.
- Essentially the different suggestions reflect variations in the procedural approach to reporting and implementing changes, with a focus on expanding stakeholder involvement and clarifying the roles of different entities in the review process.
- There is some disagreement as to the reference to REMPs in para (a)ter and whether the understanding of the role of the REMPs corresponds with a reference to REMPs as having objectives as environmental threshold references. The disagreement is highlighted here, but it is suggested for this discussion to be further pursued in the working group that handles this important cross-cutting issue.

Part VI

Closure plans

Regulation 59

Closure Plan

- This draft regulation is being considered within a Friends of the President group, facilitated by Fiji.
- Regulation 59 focuses on the development and implementation of a Closure Plan for a Mining Area by a Contractor. Overall, Regulation 59 is designed to ensure that the closure of mining operations is conducted in a manner that is safe, environmentally responsible, and transparent, with active engagement from relevant stakeholders.
- The regulation is presented here in a clean format since so many proposals were received for its refinement during the twenty-ninth session.
- Paragraph 1 contains a reference to REMPs, which has been previously discussed in this context. Given that this matter is being addressed as a cross-cutting issue, I would suggest that we refrain from further discussion on it at this stage.
- Instead, in para 1(f) it is suggested that the contractor in consultation with the Commission determines if it is technically feasible to return the Mining Area to the same condition as before commencing mining.

Regulation 60

Final Closure Plan: Cessation of production

- This draft regulation is being considered within a Friends of the President group, facilitated by Fiji.
- Regulation 60 outlines the procedures and requirements for a contractor to submit an updated closure plan prior to the end of commercial production. This to ensure that the final closure of mining operations are conducted in a structured and consultative manner, with thorough review and approval processes involving multiple stakeholders.
- It has been proposed that the issue of temporary suspension should be addressed in a separate regulation, as this regulation primarily focuses on cessation. It is important to discuss and resolve how temporary suspension is handled within the context of closure, so that this draft regulation can be updated accordingly.
- For now, temporary suspension has been removed from paragraph 1, as it is already covered under draft regulation 59.
- Additionally, the term "Temporary Suspension" has been added to the Schedule to ensure clarity regarding its understanding and the conditions under which it is triggered.

Regulation 61

~~Post-closure-M~~monitoring pursuant to Closure Plans / [Closure Monitoring]

- This draft regulation is being considered within a Friends of the President group, facilitated by Fiji.
- Regulation 61 is centered around post-closure monitoring, which is crucial for ensuring the successful implementation of Closure Plans.
- This regulation outlines the responsibilities of Contractors in monitoring and reporting on environmental impacts following the cessation of mining activities.
- Regulation 61 is essential for ensuring that post-closure activities are conducted responsibly, with thorough monitoring and reporting to safeguard the marine environment and fulfil regulatory obligations.
- Delegations will be invited to express their preferences in respect of the heading.

- Also, during our last meeting, there was a broad preference for the alternative paragraph 1 over the original, and that has been reflected in the revised text. It is suggested that we continue our negotiations based on the alternative version and omit the original in the next iteration of the text.
- Finally, there has been suggested that paragraph 1 bis might be better placed in draft regulation 59. Moreover, we have also been presented with a proposal to delete sub-paragraph 1 bis (b) as it pertains to restoration and rehabilitation rather than post-closure monitoring.

Part VII

Financial terms of an Exploitation Contract

- This is a part of the draft exploitation regulations that have been subject to several readings, as the Open-ended Working Group on the Financial Terms of a Contract already started with the group's establishment in July 2018 (ISBA/24/C/8/Add.1, para 12).
- The group has held 10 meetings since then, and with valuable input from MIT and IGF and tremendous efforts from intersessional working groups on e.g. an equalization measure.
- For that reason, I would propose that interventions on the text are limited to the strictly necessary, and I really encourage delegations to be flexible.
- Also, as an introductory comment to Part VII and especially concerning the royalty payment, there have been posted several questions in respect to the role of the Secretary-General.
- The Secretary-General seems to be the organ solely responsible for dealing with royalties, this includes e.g. receiving a royalty return, determining whether more information is needed, determining if there should be a refund.
- Neither the Assembly or Council nor the subsidiary organs seem to be entirely incorporated into these procedures in this part. It has thus been asked if other ISA organs should be more involved in the management of royalties (such as the Finance Committee, or the Compliance Committee). I do not ask for a general discussion on this, but I would like you to bear it in mind when we review the regulations through this part VII.

Section 1

General

Regulation 62

Equality of treatment

- This regulation is a key component of the section on the financial terms of an Exploitation Contract. It is designed to ensure fairness and transparency in the application of financial obligations among Contractors.
- Here, the regulation has been updated with a cross reference to article 13 of annex III of the Convention. Also, it has been proposed to delete the last part of the sentence, as it was suggested to be redundant.

Regulation 63

Incentives

- During the previous reading of this regulation, there was broad support for the alternative wording of para 1. It is therefore suggested that we continue our negotiations based on that wording.
- Another element that needs attention is the discussion of whether the regulation should contain any other focus than financial incentives.
- Given that this part concerns the financial terms of a contract and the incentives in this respect, it is suggested to keep the focus on financial incentives here. Related to this, delegations will be asked to consider whether the newly proposed para 4 is necessary, since it seems to merely be a cross reference to other parts of the exploitation regulations that apply irrespective of this reference.

- Delegations should also notice the newly proposed para 5 that concerns the establishment of a Financial Incentives Registry.

Section 2

Liability for and determination of royalty

Regulation 64

~~[Contractor shall pay royalty]~~ [Royalty payment]

- It has been proposed to update the title to simply say “Royalty payment” instead of “Contractor shall pay royalty”.
- Also, there has been added a reference to Article 10(3) of Annex III to the Convention. This is due to some discussions that have been carried out in relation to the position of the Enterprise in respect of royalty payments – this in the margin of intersessional work.
- There have been discussions as to whether a separate provision addressing this issue is warranted. Given that Article 10(3) of Annex III to the Convention addresses this matter, delegations are invited to consider whether a separate reference to that provision here is required for the avoidance of doubt.
- Delegations are invited to consider whether implementing Standards may be suitable to include such technical rules.

Regulation 64bis

Equalization measure

- This draft regulation will be discussed within the informal working group facilitated by Australia.

Regulation 65

Secretary General may issue Guidelines

[Omitted]

Section 3

Royalty returns and payment of royalty

Regulation 66

Form of royalty returns

- No new proposals have been received to:
 - Regulation 66 on the form of royalty returns
 - Regulation 67 on royalty return period
 - Regulation 68 on lodging of royalty returns or
 - Regulation 69 on error or mistake in royalty return
- These regulations have been discussed more extensively, and to save time for further discussions on e.g. the annexes, delegations will be asked to take shared comments on these regulations now – If any.

Regulation 67

Royalty return period

Regulation 68

Lodging of royalty returns

Regulation 69

Error or mistake in royalty return

Regulation 70

Payment of royalty shown by royalty return

- We have only received a few proposals, and these are of a more editorial character. If those changes are accepted, delegations will be invited to confirm that the text may be considered final.

Regulation 71

Information to be submitted

- We have also only received a few new proposals and in particular some specificity has been inserted in relation to mineral bearing ore.
- Also, in para 1(b) it has been suggested to insert a reference to the quantity by mineral in wet metric tons and dry metric tons.
- Finally, in para 1(e) a new proposal has been inserted to request documentation on the details of all revenues and operation costs associated with the activities.

Regulation 72

Authority may request additional information

- We have only received editorial comments. If those changes are accepted, delegations will be invited to confirm that the text may be considered final.

Regulation 73

Overpayment of royalty

- We have only received editorial comments. If those changes are accepted, delegations will be invited to confirm that the text may be considered final.

Regulation 73bis

Underpayment of royalty

- Although the regulation appears in full mark-up, which may give the impression that it is a new proposal, this is not the case; rather, the regulation has simply been reinserted into the text.
- There seems to be some disagreement in respect of the necessity of this regulation. Some delegations have questioned its necessity as the punishment for late or no payment already is regulated in regulation 79, and that underpayment more naturally could be handled there.
- On the other hand, some delegations have proposed to have separate regulations for this to ensure clarity.
- Maybe it could be possible to find some compromise, as at least parts of paras 2 and 3 could seem redundant.

Section 4

Records and audit

Regulation 74

Proper books and records to be kept

- Proposals have been inserted to clarify that they concern the Mining Area and the Contract Area.
- Paragraph 2(e) that reads “Details of any sales, shipments, transfers, exchanges and other disposals of any Minerals, to the degree available” has been omitted. I have been informed that this omission will be implemented in the next revision. It will be reinstated.

Regulation 75

Audit by the Authority

- In general, the references to auditors have been streamlined, and is now throughout called “Independent Auditor”.
- In paragraph 3 (a), it has been suggested to delete the reference to “all corporate offices and plants”. This is due to concerns on the scope of the audit and that the regulations cannot exceed the competence allotted to the Authority.
- Paragraph 3 bis has been suggested deleted, both because the inspection mechanism and its structure has not been decided upon yet, and also due to disagreement on whether this requirement is necessary.
- We have also received proposals to simply omit this regulation as it should be governed by Part XI on inspection, compliance and enforcement. In order to streamline the regulations and ensure transparency, there could be merits in pursuing this path, and simply state that audits of the Contractors can be requested.

Regulation 76

Assessment by the Authority

- We have only received a few clarifying comments.
- It has been suggested that paragraph 4ter unnecessarily refers to an unspecified Council decision, the second part of the paragraph is therefore proposed to be removed.
- A corresponding edit has been proposed for paragraph 5.
- I would like your views on whether this is satisfactory or whether it is necessary to include regulation on the council’s possibility to affirm or revoke the determination of the Secretary-General. It has also been suggested that the Finance Committee should be involved in such an assessment.

Section 5

Anti-avoidance measures

Regulation 77

- Paragraphs 2 and 2.alt. with the amendments to paragraph 2 are identical. I would therefore suggest that we continue the negotiations based on para 2, and that we omit the insertion of para 2.alt. in the next revision of the consolidated text.
- In relation to paragraph 4, there is some disagreement as to the reference to “gross and persistent breach” vs. references to e.g. “willful violation”.
- The language of ‘gross and persistent breach’ might be derived from Article 185 of UNCLOS and relates to a State Party and their rights and privileges as a member of the Assembly. It has instead been suggested to include the reference to ‘serious, persistent and willful violation’, which is derived from Article 18 of Annex III to the 1994 Agreement, which relates to Contractor compliance with their contract and the rules of the ISA.

- In respect of the last sentence of paragraph 4, and the reference to the Contractor's company principals, it has been questioned if this part should be omitted. Especially as UNCLOS Part XI does not sanction individuals. Also, there might be a risk of complicating the sanction regime. If this path is followed – to omit individuals' liability – it should be considered if it may give rise to sponsoring State's responsibility for failing to discharge its due diligence obligation to prevent such violations by its associated contractor, and if that is the case, it might be necessary to include a para to that effect,
- Delegations will be invited to express their views on para 4 and whether we could agree on the trigger of this provision.

General anti-avoidance rule

Regulation 78

Arm's-length adjustments

- We have not received any proposals for this regulation. Therefore, delegations will be invited to confirm that the text may be considered final.

Section 6

Interest and penalties

Regulation 79

Interest on unpaid royalty

- Delegations will be invited to consider the appropriate rate under paragraph (c), as this appears to be the only textual issue on this draft regulation. Please indicate if 15 or 20 per cent should be added to the special drawing rights interest rate.

Regulation 80

Monetary penalties

- It has been suggested that all contractual breaches should be tackled under draft regulation 103. Delegations are invited to consider whether that is sufficient. It is recalled that draft regulation 103 also provides for monetary penalties.

Section 7

Review of payment mechanism

Regulation 81

Review of system of payments

- This draft regulation is being discussed, along with draft regulation 82 within the Friends of the President group facilitated by Canada.

Regulation 82

Review of rates of payments

- This draft regulation is being discussed, along with draft regulation 81 within the Friends of the President group facilitated by Canada.

Section 8

Payments to the Authority

Regulation 83

Recording in Seabed Mining Register

- It is already a short and clear regulation. However, it has been proposed to make the regulation even clearer by simply saying “All payments received by the Authority from Contractors shall be recorded in the Seabed Mining Register and shall be publicly available”.
- If this approach is accepted, delegations will be invited to confirm that the text may be considered final.

Regulation 83 bis

Beneficial Ownership Registry

- According to this regulation, the Contractor must submit information to the registry. In that regard some delegations have proposed that the information should be provided both during the application phase and updated annually.
- It has been stressed by some delegations that the reporting obligation of this information should apply already when submitting an application for approval of a plan of work, as it is crucial to have the baseline information at an initial stage.
- Wording to that effect could be inserted here directly, or it could – maybe more naturally – be implemented in draft regulation 7 and in Annex I.
- Additionally, paragraph 1.Alt. appears to be a refinement of the original paragraph 1. Delegations will be invited to express their views on which version they consider preferable.

Part VIII

Annual, administrative and other applicable fees

Section 1

Annual fees

Regulation 84

Annual reporting fee

- For paragraph 2, it should be considered whether this regulation needs some updating to make it clear that the annual reporting fee due from the Contractor has a firm date for payment. The annual reporting fee payment is due on the same date as the Contractors due date for submitting the annual report. The Contractor does not get an extension in the date for paying the annual fee simply because it fails to submit the annual report by the deadline. And the question is whether this needs to be made clearer, including with reference to regulation 38.
- Also, during our last negotiations, some delegations suggested removing paragraph 3 and paragraph 4(a) from the regulations as it seemed redundant and already covered by other regulations.

Regulation 85

Annual fixed fee

- In paragraph 1 we have two different alternatives in relation to the timing.
- One suggestion is that payment must be made from the date of commencement of commercial production. The alternative is that payment must be made from the date of the signature of an exploitation contract.

- Delegations will be invited to show flexibility and try to reach an agreement on what the timing should be.
- On paragraph 3.bis(a), that concerns an annual fixed fee that remains unpaid, there have been divergent views and different proposals and questions as to the reference to Regulation 103, and the regulation still seems to need some work.
- Instead of simply saying that a late payment constitutes a breach according to regulation 103, a proposal could be to make a reference to regulation 103, and that the process of this regulation should be followed to determine if the late payment in fact is a breach.
- For paragraph 4 – it has been proposed deleted by several delegations, as the para would result in royalties paid would not increase the ISA's overall revenue collection, which is assumed to be the purpose of the royalty collection.

Section 2

Fees other than annual fees

Regulation 86

Application fee for approval of a Plan of Work

- Significant proposals were provided during the second part of the twenty-ninth session, and those proposed changes have been implemented. Also, it has been attempted to simplify the regulation.
- There have been suggestions to the effect that it is not necessary to retain paragraphs 2 and 2 bis, and paragraph 3 could accommodate all the necessary provisions.
- In paragraph 3 it has been proposed that the Secretary-General carry out the administrative tasks related to the administrative costs of the Authority. In the event of a dispute, the orderly dispute settlement mechanism remains available for the Contractor.
- A new paragraph 4 is proposed – and in the text it appears as an addition paragraph 3 in the revised consolidated text, but of course it should be paragraph 4. This new paragraph is based on text that previously appeared in draft regulation 88. As a number of delegations have pointed out, the relevant rule pertains specifically to the issue of application fees and is therefore better addressed here.

Regulation 87

Other applicable fees

- It has been suggested to insert “based on the recommendations of the Finance Committee”. Delegations will be invited to say whether they agree or not with this addition. If this addition is accepted or not, delegations will be invited to confirm that the text may be considered final

Section 3

Miscellaneous

Regulation 88

Review and payment

- In paragraph 2, it has been suggested to delete the first and the last sentence as it seems redundant and repetitive.
- If this change is accepted, delegations will be invited to confirm that the text may be considered final.

Part IX

Information-gathering and handling

Regulation 89

Confidentiality of information

- The regulation is extensive and includes revisions that are based on discussions during the second part of the twenty-ninth session. The different proposals have been inserted.
- Several delegations urged for a more simplified wording of paragraph 5, but no textual proposals were put forward to that effect.
- Delegations will be invited to focus on paragraph 5 and try to settle for a more simplified version of this regulation.
- A new alternative paragraph 3(f) has been submitted. Delegations will be invited to choose the most convenient version.

Regulation 90

Procedures to ensure confidentiality

- The primary changes appear in paragraph 1 and are based on our latest discussions. It has been pointed out that the reference to ‘lawful cause’ or ‘good cause’ or ‘legal direction’ was too imprecise. Alternative wording was therefore proposed.
- It has been suggested that ‘legal direction’ should be confined to court or tribunal order for disclosure.
- It should be mentioned though that orderly courts or tribunals would not have jurisdiction to compel the Authority to disclosure. This reference should be therefore construed as reference to courts or tribunals acting in accordance with jurisdiction conferred upon them under international law, including over the Authority. It has been proposed to use the phrase “where legally obliged” to do so, to capture all relevant scenarios, which is now proposed for the consideration.
- Delegations will be invited to focus on the updates to paragraph 1.

Regulation 91

Information to be submitted upon expiration or termination of an Exploitation Contract

- Several refinement proposals have been inserted. Also, a newly proposed paragraph 1(ter) on the requirement of providing a summary has been inserted.
- As the comment box states, it bears noting that detailed technical rules on the data transfer and on the continued storage of samples may be tackled in the Standard to which the draft regulation refers.
- Delegations will be invited to consider that paragraph (1)ter may be vague from a legal standpoint, and that its intended purpose remains unclear.

Regulation 92

Seabed Mining Register

- Valuable input to refining the regulation was provided during the second part of the twenty ninth session and has been updated according.
- Focus has been on ensuring that the regulation comprehensively reflects the requirements set out throughout the regulations regarding particular information that is anticipated to be included in the Seabed Mining Register.

Regulation 92 bis

Publication of environmental data and information

- It has been proposed to insert a requirement of also providing environmental data and information obtained outside the Contract Area, but in connection with the activities in the Contract Area. Delegations will be invited to express their views.
- Previously, delegations have raised questions in relation to the technical implementation of this draft regulation. And in that respect, delegations should be recalled that the relevant Standard may further specify such details.

Part X

General procedures, Standards and Guidelines

Regulation 93

Notice and general procedures

- It has been proposed to include a general reference in paragraph 1 to the fact that the regulation applies to all communications by and with the Authority. “Communications” is defined in the Schedule, and we will come back to that.
- Of other bigger changes, it has been suggested to delete paragraph 2 as it seems redundant.
- If changes are accepted, delegations will be invited to confirm that the text may be considered final.

Regulation 93 bis

State and Stakeholder Consultations

- It has been suggested to amend the title to read “State and Stakeholder Consultation”. Other than that, the regulation contains a significant number of changes, including in paragraph 4 in respect of the deadlines.
- There has been some disagreement as to whether it should be 45, 60 or 90 days and in relation to what type of consultation. It has instead been suggested to set the deadline at 90 days and have it as a general requirement instead of distinguishing between the types of consultations.
- Delegations will be invited to express their view on deleting 1 bis, as it might seem redundant.

Regulation 93 ter

Consultations with [potentially most affected][coastal] States

- This regulation has been subject to important intersessional work, and has in particular been lead by Portugal in the margin of the intersessional working group on coastal state.
- As Portugal now also is being joined by Singapore, the group will conduct discussions on 16 July 2025 in the afternoon.
- Some of the groups work directly includes work on this regulation 93 ter, but also the newly included 93 quarter and 93 quinquies.
- Therefore, Portugal and Singapore will be invited to give a brief introduction to its work that relates directly to these three regulations.

Regulation 93 quarter

Consultations with coastal States pursuant to Article 142(1) and (2) of the Convention

- Portugal and Singapore will be invited to give a brief introduction to its work that relates directly to regulations 93 bis, 93 quarter and 93 quinquies.

[Regulation 93 quinquies

Sovereignty, sovereign rights or jurisdiction

- Portugal and Singapore will be invited to give a brief introduction to its work that relates directly to regulations 93 bis, 93 quarter and 93 quinquies.

Regulation 94

Adoption of Standards

- One delegation has suggested incorporating the content of DR 45, which pertains to environmental standards, into paragraph 1(c) to prevent overlaps and streamline the regulations.
- Additionally, there have been proposals to refine the terminology in paragraph 2 to clarify the scope of adoption, ensuring that standards become fully effective only after the Assembly's approval.

Regulation 95

Issu~~ance~~ee of Guidelines

- Apart from minor adjustments regarding which body should develop the guidelines and make further amendments, the significant changes relate to paragraph 4. Here, the emphasis on the non-binding nature of the Guidelines is highlighted, and the provision allowing the observance of a Guideline to serve as supporting evidence of compliance has been removed.

Part XI

Inspection, compliance, and enforcement

Section 1

Inspections

Regulation 96

- The key modifications proposed in this regulation focus on the powers that various organs within the Authority should possess to effectively carry out their inspection duties. It has been proposed that the Compliance Committee should be granted broader powers, including overseeing the Authority's ICE function and approving the relevant Compliance Strategy.
- Additionally, there have been questions raised regarding the role of the Chief Inspector and whether this position should be subordinated to the Secretariat, as per paragraph 2.
- The delegations still need to find a common ground on the principles that will sustain and base the Inspectors Code of Conduct under paragraph 3.

The inspection mechanism

Regulation 96 ~~ter~~ bis

~~Access to i~~ Inspections

- Due to the Compliance Committee structure outlined in DR 102, Regulation 96 bis currently addresses Access to Inspections. In this regard, it has been suggested to simplify the title of the Regulation to "Inspections."
- Significant modifications have been proposed concerning how inspections are conducted and executed under paragraphs 1 and 1bis, such as whether they should be announced or unannounced. This includes, among others, the details required in the notice prior to an inspection, whether such notice should be mandatory, and the access that must be provided to the Inspector by the Contractor.
- The overall scope of the inspection and the powers of the Inspector and Chief Inspector are yet to be agreed upon by the delegations. However, this decision appears to be closely tied to the ICE structure

envisaged under the draft regulations. While this comment applies to the entirety of Part XI, it is particularly pertinent to this regulation 96bis.

- Lastly, it has been suggested to add a clear reference to the establishment of internal procedures within the Contractor's organization so that its personnel are aware and ready to comply with the inspection requirements.

Regulation 96 ~~quat~~ ter

Request for inspection in the event of [harmful effects] ~~Harm~~ to the Marine Environment

- The primary amendment proposed for this regulation involves the terminology used to describe harm to the Marine Environment.
- Several suggestions have been made, including the use of "serious harm", but considering the terminology used in Article 145 of the Convention, "harmful effects" appears to be the most suitable choice.
- Additional considerations regarding this regulation include the need for a precise definition of "coastal community," a term that is currently undefined and appears to lack consistency with the terminology used in the Convention.
- Delegations also will be invited to consider whether the Contractor should be notified alongside the Chief Inspector in the event of a potential harmful effect caused by activities in the Area.
- The delegations still need to agree on the consequences of such a request, in particular the relevant stakeholders carrying out the immediately next procedures under paragraph 2.

Regulation 97

Inspectors: Appointment and supervision

- Similar comments to those made regarding Regulation 96 bis are applicable here, with several proposals primarily connected to the ICE structure that needs to be agreed upon, such as which organ should adopt or oversee the inspection programme.
- Specifically, the delegations must reach a consensus on whether nominations should be exclusively state-nominated or if self-nomination should also be permitted.

Regulation 97 bis

Inspectors' Functions and Responsibilities

- This regulation is directly linked to the Inspectors' Code of Conduct, which is yet to be adopted. Consequently, some delegations have proposed transferring the contents of this regulation into the Code of Conduct.
- For now, the text will remain in its current location, but delegations will be invited to express their views on this matter.

Regulation 98

Inspectors' powers

- The same comments regarding the scope of powers and whether inspections can be conducted without prior notice are pertinent to this regulation.
- Additionally, some delegations have suggested clarifying the Inspector's power to question any person who is deemed relevant to the inspection by removing the word "relevant" from paragraph 1(a).
- Refinements have also been proposed concerning the timeframe for providing the Inspector with copies of plans, books, records, or other documents.

- Finally, it has been suggested that the seizure of documents, articles, or substances for further examination should be subject to any legal requirements, obligations, or duties that would prevent such disclosure.

Regulation 99

Inspectors' power to issue instructions

- Among the suggestions, some are related to other draft regulations, such as incorporating the term "harmful effects" in alignment with Article 145 of the Convention and DR 96 ter.
- It has also been proposed to clarify the effects of the instructions. Consequently, amendments have been reintroduced under paragraph 2ter to emphasize that the instructions should have immediate effect.
- Regarding the Compliance Committee's oversight powers, it has been suggested that in specific cases, such as those involving a material flaw in substance or procedure, the Committee may revise the instructions. As this pertains to the power dynamics between both bodies, I would like to hear your thoughts on this matter.

Regulation 100

Inspection Reports

- The primary proposals focus on the deadline for issuing these reports and distinguishing between routine and urgent inspections.
- However, I would also like to draw your attention to the fact that the distinction between urgent and routine inspections is not entirely clear within the regulations. Delegations will be invited to keep this in mind during the reading of this regulation, and in general when we discuss Inspection, Compliance and Enforcement.
- Besides that, in line with Article 99(2bis), it has been suggested to include adjacent coastal States or flag States in the recipient list for the Inspector's report.
- Furthermore, there have been numerous requests to add a paragraph detailing the actions the Compliance Committee should take with the information provided in the reports, including any immediate measures required in response to the Inspector's findings and recommendations.

Regulation 101

Complaints relating to Inspections

- Here, among the many proposals, it has been suggested to broaden the scope of this provision to include complaints from individuals aggrieved by the actions of the Inspector, Contractor, or any organ or official of the Authority, and not only the Inspector as initially envisioned, under paragraph 1bis.
- There is also ongoing discussion regarding the appropriate recipient of such complaints. Suggestions have included direct complaints to the Compliance Committee, Commission, Chief Inspector, and even an Ombudsperson. As this decision will inevitably impact on the ICE structure within the regulation's framework, delegations' insights into this matter would be greatly appreciated.
- Furthermore, other proposals have been made concerning the acknowledgment of complaints, the follow-up process, and the possibility of appeal, and therefore, paragraphs 4 and 5 have been added.

Regulation 101bis

Whistle-blowing procedures

- Many delegations have expressed support for the need for a general policy on whistle-blowing, suggesting that this policy should be a comprehensive policy of the Authority. Consequently, the wording of this regulation has been revised to reflect this approach.

Section 2

Compliance

Regulation 102

Compliance Committee

- This draft regulation is being considered within the informal working group facilitated by Norway.

Regulation 102 Alt.

Inspection, Compliance and Enforcement Chamber

Regulation 102 bis

Ship notification, electronic monitoring and data reporting

- There have been suggestions for refinement throughout the regulations to include the tracking system within the electronic framework and to require the electronic monitoring system to detect and record any unauthorized activities.
- In cases of unapproved exploitation activities, it has been proposed that the contractor should be required to provide a detailed explanation and present a corrective plan.
- It is important to note that some delegations have requested relocation of this regulation, as it appears to focus on the contractual and environmental obligations of the contractor. Specifically, it has been suggested to move this regulation to Part Three, which concerns the rights and obligations of contractors.

Section 3

Enforcement and penalties

Regulation 103

Non-compliance Notice, Suspension, and Termination of Exploitation Contract

- Among the different amendment proposals, one suggestion involves modifying the title to clearly indicate that the notice pertains to non-compliance.
- Moreover, it has been proposed to include a 24-hour deadline for providing a copy of the compliance notice to the Sponsoring States, under paragraph 1.
- Regarding the suspension and termination process, a reference to Regulation 29quater has been suggested to ensure consistency for all contractors and to outline the relevant mechanism to be followed.

Regulation 104

Power to take remedial action

- It has been suggested to include a provision in paragraph 1 for notifying the sponsoring state, enabling it to enforce compliance by the contractor through its national administrative and judicial processes, by adding paragraph 1(a).
- Another proposal involves the recovery of costs and expenses incurred by the Authority from the Environmental Performance Guarantee, under paragraph 2.

Regulation 105

Sponsoring States

- Only minor refinements have been suggested to ensure consistency within the regulation's framework. If those changes are accepted, delegations will be invited to confirm that the text may be considered final.

Regulation 105 ter

Other member States

- Regulation 105ter has been proposed as a new addition to clarify that all member States must exercise jurisdiction and control over their natural and jurisdictional persons to prevent interference with the rights of Contractors.

Section 4

Periodic review of inspection mechanism

Regulation 105 bis

Periodic ~~R~~review of ~~I~~inspection, Compliance and Enforcement ~~M~~mechanism

- In addition to modifying the title to encompass the overall ICE mechanism, some refinements in the wording of the regulation have been suggested, along with the removal of the reference to "confidential information" in paragraph 1bis, as this matter is already covered under DR 90.
- Considering the differing views, the following points should be further discussed among the delegations: (i) the review period for the Authority's inspection, and (ii) the relevant stakeholders who should make recommendations to the Council upon reviewing the ICE mechanism.

Part XII

Settlement of disputes

Regulation 106

Settlement of disputes

- In paragraph 1 and paragraph 1bis, some cross references were inserted to UNCLOS and these regulations. It was proposed by several delegations to remove these references, as being redundant.
- It was also suggested to provide some further specificity on the enforcement mechanisms under the applicable local laws, to clarify how the enforcement of the decisions would be ensured. To attempt to accommodate for that, language has been proposed to this effect based on analogous wording of other international conventions concerning enforcement of the decisions of international courts of tribunals.

Part XIII

Review of these Regulations

Regulation 107

Review of these Regulations

- Different alternatives are presented in paragraphs 1, 2, and 5. Delegations will be kindly invited to indicate their preferred option among these, in order to enable the continuation of negotiations on the basis of a single alternative.