

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

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.im.

- 1. Name of Working Group:**
Institutional Matters

- 2. Name(s) of Delegation(s) making the proposal:**
Federal Republic of Germany

- 3. Please indicate the relevant provision to which the textual proposal refers.**
DR 7

Red text is in original draft; **blue text** indicates Germany's textual proposals

- 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.**

Draft Regulation

Form of applications and information to accompany a Plan of Work

1. Each application for approval of a Plan of Work shall **be**
 - (a) **be** in the form prescribed in annex I to these regulations,
 - (b) ~~shall be~~ addressed to the Secretary-General ~~and~~
 - (c) ~~shall conform to the requirements of~~ prepared in accordance with these regulations, the applicable Standards and take account of the applicable Guidelines; and
 - (d) contain sufficient information to demonstrate that the applicant has access to the necessary financial and technical capability and resources to carry out the proposed Plan of Work.

2. Each applicant, including the Enterprise, shall, as part of its application, provide a written undertaking to the Authority that it will:
 - (a) Accept as enforceable **[during all stages of the process chain]** and comply with the applicable obligations created by the provisions of Part XI of the Convention, **[the Agreement]** the rules, regulations and procedures, **[including the Standards]** of the Authority, the decisions of the organs of the Authority and the terms of its contract with the Authority;
 - (b) Accept control by the Authority of activities in the Area **[during all stages of the process chain]** as authorized by the Convention;
 - (c) Provide the Authority with a written **[substantiated]** assurance that its obligations under its contract will be fulfilled in good faith; and

(c bis) Provide the Authority with written undertakings from parent or holding companies of the applicant, if any, to assume joint and several liability for damages to the Authority in the event of liability having been established against the applicant in carrying out of the plan of work.

~~[(d) Comply with the national laws, regulations and administrative measures of the sponsoring State or States made pursuant to articles 139 and 153 (4) of the Convention and article 4 (4) of annex III to the Convention]~~ -

~~[Alt. proposal to delete (2) and all its sub-paragraphs, because an applicant should already be subject to the relevant instruments and requirements, and a written statement does not give them new legal force.]~~

3. An application shall be prepared in accordance with these regulations [and applicable Standards] [as well as the respective Regional Environmental Management Plan] and accompanied by the following:

(a) The data and information to be provided pursuant to section 11.2 of the standard clauses for exploration contracts, as annexed to the relevant Exploration Regulations;

~~[(a)bis. A test mining study prepared in accordance with Regulation [48bis] Paragraph 2 or 3, as applicable, and Annex [IVter]]~~

(b) A Mining Work Plan prepared in accordance with annex II to these regulations;

(c) A Financing Plan prepared in accordance with annex III to these regulations;

(d) An Environmental Impact Statement prepared in accordance with regulation 47 and in the format prescribed in annex IV to these regulations;

(e) An Emergency Response and Contingency Plan prepared in accordance with annex V to these regulations;

(f) A Health and Safety Plan and a Maritime Security Plan prepared in accordance with [Regulation 30 and] annex VI to these regulations;

(g) A Training Plan in fulfilment of article 15 of annex III to the Convention, prepared in accordance with the Guidelines;

(h) An Environmental Management and Monitoring Plan prepared in accordance with regulation 48 and annex VII to these regulations [which documents that management and monitoring are in compliance with the applicable Regional Environment Management Plan];

~~[(h)bis. Information regarding the environmental management system that the Contractor will implement;]~~

(i) A Closure Plan prepared in accordance with regulation 59 ~~[of]~~ and annex VIII to these regulations; and

(j) An application processing fee in the amount specified in appendix II.

4. Where the proposed Plan of Work proposes two or more non-contiguous Mining Areas, the Commission may require separate documents under paragraphs 3 [(b)], (d), (h) and (i) above for each Mining Area, unless the applicant demonstrates [to the satisfaction of the Commission] that a single set of documents is appropriate, taking account of the relevant Guidelines.
- [5. Where a single set of documents is submitted by the applicant and the Commission considers it is not appropriate, the Commission may reject the application and request separate documents under paragraphs 3 [(b)], (d), (h) and (i) above for each Mining Area.]

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

- Germany welcomes the proposals to paragraph 1, noting however that similar wording to paragraph (d) also features earlier in DR5.
- We do not support the proposal to delete paragraph 2 as this paragraph contains important matters.
- We propose the addition of a paragraph 2(c)(bis) to require written undertakings from the parent or holding companies of the applicant to accept and assume liability if the applicant (subsequent contractor) is found liable while carrying out the plan of work and is required to pay damages to the Authority.
- We support the reference to “as well as the respective regional environmental management plans” in paragraph 3.
- We support the inclusion of paragraph 3(a)(bis) as well as the additions in paragraphs 3(a)(h) and (h)(bis).
- We support the additions to paragraph 4 that the application must demonstrate this “to the satisfaction of the Commission” as it avoids any ambiguity.
- We are open to the addition in paragraph 5.