

**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.

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.

Draft Regulation 10

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.

Regulation 10

Preliminary review of application by the Secretary-General

1. The [Secretary-General] shall review an application for approval of a Plan of Work and determine whether an application [~~is complete~~ **contains all the information required by Regulation 5 to 8 7**] for further processing.

~~[1 bis. In case there is a potential applicant who has preference and priority in the same area and same Resource category under Exploration contract, the Secretary General shall confirm the intention of such a potential applicant to apply]~~

1 ter. Should there be more than one application for the same area and same Resource category, the Commission {Secretary-General} shall make a recommendation to the Council and the Council shall determine whether the applicant has preference and priority in accordance with article 10 of annex III to the Convention and section 1, para. 13 of the Annex to the Agreement. [~~and in case of~~

~~any dispute, it shall be submitted to the Commission to make recommendations, upon which the Council shall make the decision.]~~

~~1-ter-alt. Should there be more than one application for the same area and same Resource category, the Secretary General shall determine [Commission shall make recommendations to the Council on] whether the applicant has preference and priority in accordance with Article 10 of Annex III to the Convention.~~

~~[1 quat. The Secretary-General shall notify the members of the Authority of the determination made, if any, as to whether the applicant has preference and priority.]~~

~~[1 quin. Where the application concerns a Reserved Area, the Enterprise shall be given an opportunity to decide whether it intends to carry out activities in the area in accordance with article 9 of annex III to the Convention].~~

2. Where an application ~~[is not complete does not contain all the information required by Regulation 5 to 8 7]~~ the Secretary-General shall, within 45 Days of receipt of the application, notify the applicant, specifying the information which the applicant must submit in order to complete the application, ~~[together with a justification in writing as to why the information is necessary]~~ and a date by which the application must be completed. Further processing of an application will not begin until the Secretary- General determines that the application is complete, which includes payment of the administrative fee specified in appendix II. ~~[An application will not be processed further if there is another potential applicant who has a preference and priority and an intention to apply in accordance with regulation 10 (1)].~~

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

GER supports in general draft Regulation 10.

With regard to para 1, the Secretary-General should verify whether all relevant information has been submitted. Relevant information requirements are set in Regulations 5 to 8. Thus, para 1 and 2 are amended accordingly.

Para. 1 bis is not consistent with Article 10 of Annex III to the Convention and Section 1 para. 13 of the Annex to the Agreement. According to Article 10 of Annex III to the Convention, an “operator who has an approved plan of work for exploration only, as provided in article 3, paragraph 4 (c), of this Annex shall have a preference and a priority among applicants for a plan of work covering exploitation of the same area and resources. However, such a preference or priority may be withdrawn if the operator’s performance has not been satisfactory.” And according to Section 1 para. 13 of the Annex to the Agreement the “reference in Annex III, article 10, of the Convention to performance which has not been satisfactory shall be interpreted to mean that the contractor has failed to comply with the requirements of an approved plan of work in spite of a written warning or warnings from the Authority to the contractor to comply therewith.”

Para 1ter alt is not required. Para 1ter should remain. The determination of preference and priority is to be made by the Council based on a recommendation by the Commission.

Para 1quat and 1quit should be kept.

In para 2 the last sentences in brackets should be kept.