

**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

The principle approach to this draft is co-sponsored by Germany, New Zealand and the Netherlands, with the joint understanding that more work needs to be done to refine this regulation.

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

Draft Regulation 15

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 15

Commission's recommendation for the approval **or disapproval of a Plan of Work**

1. [Taking into account regulations 12(4) and 13, if] the Commission determines that the applicant application [meets the criteria set out in regulation[s 12 (4) and] [-13(4) meets the relevant requirements], it [shall may] recommend approval of the Plan of Work to the Council.

[1bis The Commission shall accompany any recommendation made under paragraph (1) approval with:

(a) [a summary of [the deliberations of the Commission including what inputs have been taken into account and how these have been assessed, as well as] divergences of opinion in the Commission, if any];

(b) any conditions the Commission considers appropriate to deal with adverse effects of the proposed activities; and]

(c) a draft Contract.]

2. The Commission shall not recommend approval of a proposed Plan of Work if:

(a) The Commission is unable to determine that the Plan of Work [either alone or in combination

~~with other activities and impacts] ensures effective protection of the marine environment, based on the criteria set out in Regulation 13 (4) (e) and (f), on the basis of Best Available Scientific Evidence, and applying the precautionary approach.]~~

~~[(a) alt. Pursuant to regulation 13(4) (e) and (f), the Plan of Work fails to provide for the effective protection of the marine environment from harmful effects that may arise from the proposed activities, or if the information is sufficiently uncertain or inadequate to determine, pursuant to regulation 13(4) (e) and (f) that the Plan of Work provides for the effective protection of the marine environment from harmful effects that may arise from the proposed activities.]~~

(a)alt.2 the Plan of Work does not comply with all requirements stipulated in Regulation 13.

(b) part or all of the area covered by the proposed Plan of Work is included in:

~~[(i) A Plan of Work for Exploration approved by the Council for the same Resource category for a different qualified applicant] -~~

(ii) A Plan of Work approved by the Council for Exploration or Exploitation of other Resources if the proposed Plan of Work would be likely to cause undue interference with activities under such approved Plan of Work for other Resources;

(iii) An area disapproved for Exploitation by the Council pursuant to article 162 (2) (x) of the Convention; or

~~[(iv) an Area of Particular Environmental Interest or any other site disapproved for exploitation by the Council[, or that sets a spatial or temporal protective measure], as determined in the applicable Regional Environmental Management Plan;~~

~~[(v) any other area designated for preservation for reasons of special biological, scientific, archaeological, historic, cultural, aesthetic or wilderness significance;]~~

(vi) A Reserved Area or an area designated by the Council to be a Reserved Area, except in the case of eligible applications under these regulations made in respect of a Reserved Area.

~~[(vii)An area that has not been subject to prior exploration activities].~~

~~[(viii) An area not covered by a Regional Environmental Management Plan].~~

~~[(c) Such approval would undermine or contradict the regional goals, objectives or measures set out in the applicable Regional Environmental Management Plan.]~~

~~[(d) Such approval would pose a reasonable risk of damage to an in-service or planned submarine cable or pipeline, or cause undue interference with the freedom to lay submarine cables and pipelines when considered in conjunction with other approved Plans of Work[or is otherwise unable to give reasonable regard to other marine users in the area under application].]~~

~~[(e) There is inadequate or substandard environmental baseline information for the area covered by the proposed Plan of Work, or any part of that area.]~~

~~2bis: The Commission shall not recommend approval of a proposed Plan of Work if the applicant, its controlling shareholder or shareholders or its predecessor in law previously violated the general obligations of contractors in a non-negligible way.~~

3. The Commission shall not recommend the approval of a proposed Plan of Work if it determines that:

(a) Such approval would permit a State party or entities sponsored by it to monopolize the conduct of activities in the Area with regard to the Resource category in the proposed Plan of Work [~~taking into account relevant Guidelines~~]; or

(b) The total area allocated to a Contractor under any approved Plan of Work would exceed:

(i) 75,000 square kilometres in the case of polymetallic nodules;

(ii) 2,500 square kilometres in the case of polymetallic sulphides; or

(iii) 1,000 square kilometres in the case of cobalt-rich ferromanganese

crusts; or

~~[(c) Such approval would permit a State party or entities sponsored by it to monopolize or significantly control the production of any single mineral or metal produced globally; or]~~

4. If the Commission determines that the applicant does not meet the ~~[criteria requirements]~~ set out in regulation[s 12 (4) and 13] ~~[(4)]~~, the Commission shall so inform the applicant in writing by providing the reasons why any ~~[criterion has requirements have]~~ not been met by the applicant, and provide the applicant with a further opportunity

to make representations within 90 Days of the date of notification to the applicant. ~~During this period the Commission shall not make a recommendation to the Council on the application.~~

5. At its next available meeting, the Commission shall consider any such representations made by the applicant when preparing its reports and recommendations to the Council, provided that the representations have been circulated at least 30 Days in advance of that meeting. ~~[The Commission shall then consider the application afresh, in the light of the representations, in accordance with this Section 3.]~~

~~[6. The Commission may refuse an application and return it to the applicant. The Commission must provide reasons for refusing an application.]~~

Regulation 15 alt

Commission's recommendation for the approval or disapproval of a Plan of Work

1. The Commission may recommend approval of a proposed Plan of Work if the Plan of Work does comply with all requirements stipulated in Regulation 13.
2. The Commission shall not recommend approval of a proposed Plan of Work if
 - (a) the Plan of Work does not comply with all requirements stipulated in Regulation 13; or
 - (b) the Commission is unable to determine that the Plan of Work complies with the requirements stipulated in Regulation 13; or
 - (c) [insert conditions from DR 15(2) and (3) once agreed]
3. If the Commission does not recommend approval of a Plan of Work pursuant to paragraph 1, the Commission shall inform the applicant in writing, providing the reasons why the requirements set out in Regulation 13 have not been met or why the Commission has been unable to make the determinations and shall provide the applicant with a further opportunity to make representations within 90 Days of the date of notification to the applicant.
4. At its next available meeting, the Commission shall consider any such representations made by the applicant when preparing its reports and recommendations to the Council, provided that the representations have been circulated at least 30 Days in advance of that meeting.
5. The Commission shall accompany any recommendation to the Council with:
 - (a) a summary of the deliberations of the Commission, including what inputs have been taken into account and how these have been assessed, as well as any divergences of opinion in the Commission;
 - (b) a summary of any uncertainties inherent in the Plan of Work and how the applicant proposes to address these;
 - (c) any conditions the Commission considers appropriate to deal with adverse effects of the proposed activities; and
 - (d) a draft Contract.

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

- Germany agrees with DR 15 in principle but suggest that its structure could be improved, as suggested in DR 15alt. The substantial considerations as to when the Commission would recommend disapproval, currently captured in DR 15(2) and (3) would need to be inserted into DR15alt, once agreed.
- Para 2(a): Germany fully support the sentiment behind para 2 (a), namely that the Commission may not recommend the approval in case the Commission is unable to make the determinations required by regulation 13.
- Para 4 and 5: Germany also fully support these paragraphs. The Commission shall request the Contractor to provide additional information in case of non-compliance with the conditions stipulated in regulation 13.