

**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.jm.

1. Name of Working Group:

President's text

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 36

Green 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 36
Insurance**

1. A Contractor shall obtain and thereafter at all times maintain, and cause its subcontractors to obtain and maintain, in full force and effect, insurance with financially sound insurers satisfactory to the Authority, of such types, on such terms and in such amounts in accordance with [the relevant Standards and Guidelines] applicable international maritime practice, consistent with Good Industry Practice and as specified in the relevant Guidelines.

1.bis. The insurance required under paragraph 1 shall:

(a) be proposed at the time of applying for approval of a Plan of Work of exploitation to allow the Commission and Council to assess the satisfactoriness of the proposed insurance policy against this Regulation and the relevant Standard and Guidelines;

(b) be in effect from the start date of the Contract, until such time as the Environmental Performance Guarantee has been released back to the Contractor in full by the Authority; and

(c) cover all potential harms to people, property, natural resources, and environment that may occur, wherever located, or howsoever caused, as a result of the Contractor's activities in the Area.

[2. Contractors shall include the Authority as an additional assured. A Contractor shall use its best endeavours to ensure that all insurances required under this regulation shall be endorsed to provide that the underwriters waive

any rights of recourse, including subrogation rights against the Authority in relation to Exploitation.]

[2. Contractors shall include the Authority as an additional assured. A Contractor shall use its best endeavours to ensure that all insurances required under this regulation shall be endorsed to provide that the underwriters waive any rights of recourse, including subrogation rights against the Authority in relation to Exploitation.]

3. The obligation under an exploitation contract to maintain insurance as specified in these Regulations and the ~~relevant Standards and~~ Guidelines is a fundamental term of the contract. Should a Contractor fail to maintain the insurance required under these regulations, the Secretary-General [Compliance Committee] shall issue a compliance ~~order~~ notice under regulation 103. The Contractor must suspend mining operations as soon as it no longer fulfils the obligation to maintain insurance. The Secretary-General shall notify the Council immediately at its next available meeting of such failure, and the corrective measures taken by the Contractor.

4. A Contractor shall not make any material change to or terminate any insurance policy [related to its Exploitation activities in the Area] without the prior consent of the Council Secretary-General.

5. A Contractor shall notify the Secretary-General immediately if the insurer terminates the policy or modifies the terms of insurance.

6. A Contractor shall notify the Secretary-General immediately upon receipt of claims made under its insurance.

7. A Contractor shall provide the Secretary-General at least annually with evidence of the existence of such insurance in accordance with regulation 38 (2) (i).

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

- Para 1.bis: Germany suggests adding para 1.bis to define the duration and scope of the insurance and to clarify that the Authority will need to approve the insurance policy, in accordance with para 1, which is best done at the time of applying for an exploitation contract. Further work is needed to set out a process for the Authority approving a change in insurance policy if a Contractor wishes to change insurance policies during the duration of a contract.
- Para 2: Germany supports the inclusion of para 2. Para 3: Our suggestions aim to align paragraph 3 with DR 103, which requires reporting to the Council immediately upon the issuing of a compliance notice by whichever body will end up issuing compliance notices. Moreover, given that a Contractor should not be allowed to operate without insurance, mining operations should be suspended while the Contractor does not hold insurance.
- Para 4: approving material changes is the role of the Council, in accordance with DR 57.