

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

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: Institutional Matters

Name(s) of Delegation(s) making the proposal: India

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

DR 7

3. 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 7 Form of applications and information to accompany a 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;

(c) Provide the Authority with a written ~~[substantiated]~~ assurance that its obligations under its contract will be fulfilled in good faith; and

3 (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];~~

[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.]

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

Para 2.(a) Applicant can only undertake compliance. Enforceability is a different matter. Para (c) Delete substantiate. Assurance by a sponsoring State is a sovereign act. Para 3: Relevance of REP is not clear. The Environmental Management and Monitoring Plan will be subject to the scrutiny of LTC and what if the recommendations of LTC and REP are at variance with each other? So, this part may be deleted. Para 5: Rejection of application is not appropriate.

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DR 8

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Regulation 8: Area covered by an application

~~5. In the application, the applicant shall provide a statement confirming whether the area under application or any part of it has received attention under any other international organisation or treaty regime.]~~

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

Para 5. First of all, the international organization mentioned should be specified here. Moreover, it is very difficult from Contractor’s side to find such overlap with other treaty or regime. So, this para may be deleted

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DR 12

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Regulation 12 : [General]

[3bis. The Commission in considering a proposed Plan of Work may seek advice and reports from competent independent experts on any matters considered to be relevant.]

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

Para c and c alt. Uniform procedure to be followed for all applications and number of experts for review to be fixed in the regulation, which may be two.

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DR 9

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Regulation 9 : Receipt, acknowledgement and safe custody of applications

1. (c) i. Notify the members of the Authority of the receipt of such application and circulate to them ~~[information of a general nature which is not confidential regarding the application the contents of the application save for~~ excluding any Confidential Information contained in the application]; and

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

1. (c) i. Excluding may replace save for in the sentence

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DR 12 bis and DR 13

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[Regulation 12 bis. : General obligations of contractors

- (a) comply with the ~~applicable obligations created by the~~ provisions of Part XI of the Convention, the rules, regulations and procedures of the Authority, the decisions of the organs of the Authority and the terms of its contract with the Authority; and

Regulation 13 Assessment of Applicants [and applications]

- (f) 1 (f) Has demonstrated the ~~[economic]~~ ~~[commercial]~~ economic financial viability of the mining project.
- (g) [(iv) where other marine users are identified in relation to the area under application, consult with those users to agree measures the Contractor will take to give reasonable regard to their activities (such as an easement, or a mining exclusion zone within a reasonable radius);]
2. In considering the financial capability of an applicant, the **Commission** shall determine in accordance with the Guidelines whether:

2. In considering the technical capability of an applicant, the Commission shall determine in accordance with the Guidelines whether the applicant ~~[has provided sufficient information to demonstrate it] has [or will have]:~~

[(a) Certification to operate under internationally recognised quality control and management standards;]

4. The Commission shall determine if the proposed Plan of Work **foreseeably contributes to realizing the benefits for [hu]mankind as a whole** ~~[complies with the fundamental policies and principles contained in regulation 2, and];~~

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

Para (a) Mentioned "applicable obligations" becomes subjective, may be deleted. Para (f) How can an applicant demonstrate commercial viability of the project? The term financial viability appears more appropriate. Para (g) iv Who would identify such marine users? Para 2: In accordance with the provisions of the Agreement, the Economic Planning Commission has to be set up upon the approval of the first plan of work for exploitation. It is therefore important to clarify which Commission will determine the financial capability of the

applicant (and related matters). EPC or LTC. Also upon establishment of EPC, the membership of LTC will become 15 as provided in the Convention. 15 for EPC too. Para 2 (a) Providing such certificate may be omitted as it is not clear the certifying authority, the same may be included in sponsor's certificate. Para 4: The Commission cannot speculate or make any other subjective observations. What is foreseeable future?

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DR 89

3. 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 89: Confidentiality of information

1. (a) Data and information that have been designated as Confidential Information by a Contractor ~~in consultation with the Secretary General~~ under the Exploration Regulations and which remains Confidential Information in accordance with the Exploration Regulations;
5. In connection with paragraph 2 (d) above, a Contractor shall, upon transferring data and information to the Authority, designate by notice in writing to the SecretaryGeneral the Information or any part of it as Confidential Information. ~~If the SecretaryGeneral objects to such designation [within a period of 30 Days], the parties-Contractors shall consult upon the nature of the data and information and whether it constitutes Confidential Information under this regulation. During the consultations, the Secretary General shall take~~ taking into account any relevant policy guidance from the Council. Any dispute arising as to the nature of the data and information shall be dealt with ~~[through the administrative procedure described in [insert here cross-reference to relevant provisions or Annex of the Regulations setting out administrative decision review procedures]. in accordance with Part XII of these regulations.]~~ [through the administrative procedure described in [insert here cross-reference to relevant provisions or Annex of the Regulations setting out administrative decision review procedures].]
6. Nothing in these regulations shall affect the rights of a holder of intellectual property.

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

Para 1 (a) and 5: No such power is conferred on the SG either in the Convention or in the Agreement relating to Part XI. Confidentiality may be decided based on the consultation with the Contractor and possible review by the Council. Para 6: . Need a clear provision regarding protection of patents and other IPR and confidentiality of such information.

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DR 90 and DR 91

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Regulation 90 : Procedures to ensure confidentiality:

Regulation 91 : Information to be submitted upon expiration of an exploitation contract:

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

DR 90: Confidentiality Committee may also be envisaged like other cases. DR 91: Information to be submitted upon expiration of an exploitation contract: There is a need to insert an appropriate provision for maintaining the confidentiality of information by the Authority even after the expiration of the Contract.

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DR 6**

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Regulation 6 Certificate of sponsorship

3. (c) A statement ~~[and supporting evidence]~~ that the applicant is:
 - a. A national of the sponsoring State; or
 - b. Subject to the effective control of the sponsoring State or its nationals;
 - (f) ~~A declaration that the sponsoring State assumes responsibility in accordance with articles 139 and 153 (4) of the Convention and article 4 (4) of annex III to the Convention.~~
4. States or other qualified applicants in a joint arrangement with the Enterprise shall also comply with this regulation.

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

Para 3 (c) As sponsoring state is certifying further supportive evidence is redundant. Para f: Such a declaration as part of the Contract is unnecessary and may be deleted. . Para 4: Who is a qualified applicant? Will it not be for the Enterprise to determine this?