

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 29TH 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:

xx

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 40

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.

1. A Contractor shall not **offer or promise or** make any gift or reward or **personal favour** to any officials, agents or employees or ~~Contractors~~**contractors** or subcontractors of the Authority or other individuals operating under the auspices of the Authority to induce or reward such persons for any acts undertaken in accordance with their duties under ~~these Regulations~~ **the Rules of the Authority.**

New paragraph 1 bis:

A Contractor shall not encourage, instruct or allow any other person or government to offer, promise or make any such gift or reward or personal favour referred to in paragraph 1.

New paragraph 3:

If there is any indication or reason to believe that this regulation has been contravened, the Compliance Committee shall take the matter up for urgent consideration, including to determine if any measures against the Contractor under Regulation 103 would be appropriate, as well as whether to recommend to the Council that an investigation be carried out against all person or persons involved, including those involved in making, and those in receipt of such offer, promise or actual gift or reward or personal favour. The Secretary-General shall gather and forward all available and potential information and evidence in support of such allegation to the Compliance Committee. The Secretary-General shall also notify the

relevant sponsoring State, who shall cooperate with the Authority as well as consider further action pursuant to its national legislation.

New paragraph 4:

This provision shall equally apply to Applicants and prospective Contractors. If the Authority determines that this provision has been contravened, the application for the approval of a plan of work shall be dismissed, or the approval shall be reversed in instances where approval has already been granted, as the case may be.

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

In para 1, the text should be expanded to include offers or promises that are made, as opposed to where such gifts or rewards are actually made. It should also be extended to include personal favours, as is commonplace in domestic legislation. Also, reference should be to the Rules of the Authority, not just exploitation regulations.

Germany proposes a new para 1 bis to cover situations where others purportedly act on behalf of contractors.

A new paragraph 3 is also proposed to describe what would happen if this provision is contravened, since the provision is currently silent.

Finally, a new paragraph 4 is proposed, since it is not sufficient for this provision to only cover existing contractors (in this case, exploitation contractors), but such anti-corruption rules should also extend to applicants and prospective contractors. While there is no contractual relationship, since the contract is non-existent at this stage, we propose that if the Authority determines this provision has been contravened, any pending application should be rejected, or approval should be reversed.