

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 31<sup>ST</sup> SESSION: COUNCIL  
- PART I**

*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](mailto:council@isa.org.jm).*

**1. Name(s) of Delegation(s) making the proposal:**

Belgium, China and Germany

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

Regulations 7, 11, 12, 13, 25, 46, 48, 48 ter, 48 ter Alt. (new Alt.2).

Annex II, IV, VII.

Schedule Pilot Mining, Test Mining

All amendments as compared to the *Revised Consolidated Text* (as of January 2025) are highlighted in yellow.

**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, paragraph 3.bis (d)bis:**

A Test Mining Report with all information obtained from test mining activities conducted during Exploration; study prepared in accordance with Regulation 48 ter [In cases where an applicant utilizes [mature] [demonstrated] mining technology that has been internationally validated, there shall mbe no requirement to conduct Test Mining. Instead, the applicant shall provide supporting materials in relation to the [mature] [demonstrated] mining technology when submitting the application];

**Regulation 11:**

1. The Secretary-General shall, within 7 Days after determining that an application for the approval of a Plan of Work is ready to progress pursuant to Regulation 10, consult with all States and Stakeholders in accordance with regulation 93bis on the application. The Secretary-General shall

request the Commission to provide its comments on the Environmental Plans and the non-confidential parts of the Test Mining studyReport within the consultation period set under 93bis. Based on the assessment of the Commission, if necessary, the Secretary-General shall establish an independent review team, making use of the roster of competent independent experts, if any, to provide comments to the Commission on the Environmental Plans within the consultation period.

2. bis The Secretary-General shall provide the Environmental Plans, and the non-confidential parts of the Test Mining StudyReport, if applicable, and comments submitted pursuant to paragraph 1(a), together with any responses by the applicant provided pursuant to paragraph 2 bis, and any other relevant additional information to the Commission and request the Commission to provide its comments on the Environmental Plans and the non-confidential parts of the Test Mining StudyReport, if applicable, within 90 Days.

3. The Commission shall, as part of its examination of an application under Regulation 12 and assessment of applicants under Regulation 13, examine the Environmental Plans and the non-confidential parts of the Test Mining StudyReport, if applicable, the comments submitted under paragraph 1(a), taking into account the consultation submissions received under Regulation 93bis, the applicant or Contractor's written response prepared under Regulation 93bis (9), together with any revisions and responses provided by the applicant under paragraph 2 bis, and any additional information provided by the Secretary-General under paragraph 2, and shall provide its comments to the Secretary-General.

5. The Commission shall prepare a report on the Environmental Plans and non-confidential parts of Test Mining StudyReport, if applicable, which shall be published on the Authority's website, and shall be included as part of the reports and recommendations to the Council pursuant to Regulation 15.

**Regulation 12, paragraph 4 (c):**

Any previous operating record of the applicant, including in relation to Exploitation activities within other jurisdictions, as well as the applicant's performance during the Exploration stage, including the quality of annual reports and baseline data, and the results of test Exploitation activities Test Mining Report;

**Regulation 13, paragraph 9:**

In considering whether an application provides for effective Protection of the Marine Environment, the Commission shall determine:

(e) Whether the Test Mining Report[, if required pursuant to Regulation 7,] is in accordance with the applicable requirements and demonstrates that the test mining activities:

(i) Support the information provided in the present application for the approval of a Plan of Work for Exploitation;

(ii) Did not cause harmful effects on the Marine Environment; and

(iii) Were conducted under appropriate technical, spatial and temporal conditions, in accordance with any applicable Recommendation from the Commission;

**Regulation 25, paragraph 1:**

At least 12 months prior to the proposed commencement of Commercial Production [~~in a Mining Area~~] [Sustained Large-scale Recovery Operations], the Contractor shall provide to the Secretary-General a Feasibility Study prepared in accordance with [Annex-~~X~~] and Good Industry Practice, and the applicable Standard, taking into [~~consideration~~] [taking into account the applicable] Guidelines [as well as the results of the Test] [~~Pilot~~] Mining study Report and the updated Environment Plans, pursuant to Regulation [~~48 ter~~ Alt.2 bis], paragraph 2 or 3, as applicable, and in accordance with Annex [IV ~~ter~~]. ~~and the Secretary General shall submit this matter to the Commission.~~

**Regulation 46, paragraph 3:**

(a) Be based on relevant [and representative] environmental baseline data [based on sufficient scientific information] in accordance with [applicable] Standards [and Regional Environmental Management Plans] and taking

into consideration the Guidelines ~~[and the objectives and measures of the [relevant] Regional Environmental Management Plan];~~

~~[(f) Take into account the results from Test Mining activities conducted during Exploration; [if applicable,] in accordance with Regulation 48 ter;]~~

**Regulation 48, paragraph 3:**

(b) Demonstrate that the proposed Exploitation is in accordance with all relevant environmental Standards and the Authority's environmental objectives and ~~[taking into consideration] [in accordance with the requirements of]~~ the relevant Regional Environmental Management Plan, ~~[environmental baseline data]~~ as well as any ~~additional objectives as set by the Contractor~~ ~~[Test Mining activities conducted during Exploration]~~ ~~[or relevant data from any Test Mining activities]~~ ~~[additional objectives set by the Contractor]~~ and any results of the performed Test Mining Study, where applicable;

**Regulation 48 ter:** To be deleted.

**Regulation 48 ter. Alt.2.**

~~1. Unless otherwise provided, nothing in this Regulation shall exempt the Applicant or Contractor, as the case may be, from conducting Test Mining before the submission of a Plan of Work for Exploitation.]~~

~~2. Subject to this Regulation and the applicable Standard, a Contractor shall conduct "Pilot Mining" before starting any Commercial Production under an Exploitation Contract. Information gathered through Pilot Mining shall be compiled in a Pilot Mining Report in accordance with the applicable Standard and taking into consideration the Guidelines.~~

~~3. Pilot Mining is conducted by a Contractor in its preparation for commencement of Commercial Production, and to assist the Commission in its [evaluation] [validation] of the Feasibility Study.~~

~~4. The purpose of the Pilot Mining is to validate that the proposed mining equipment is commercially and technically appropriate and the effects of the activity, in particular with regard to the Protection of the environment,~~

operates as described in the Environmental Impact Statement/Plan of Work.

[45. Pilot Mining in the Area requires a prior approval by the Commission and Council and shall be carried out with reasonable regard for other activities in the Marine Environment, in accordance with Articles 87 and 147 of the Convention, and in accordance with the applicable Standard and taking into consideration the Guidelines, in particular to ensure effective protection for the marine environment from harmful effects in accordance with Article 145 of the Convention.]

6. A validation monitoring system shall be established by the Contractor, in line with the Environmental Management and Monitoring Plan, in order to monitor whether the requirements of the Plan of Work are complied with. In case of non-compliance, Regulation 52 will apply.

57. Any gains from Mineral resources which have been collected during Pilot Mining shall be paid to the Environmental Compensation Fund mechanism for the sharing of benefits to be established by the Authority, as established by Regulation 54.

68. If a Material Change has been determined in accordance with Regulation 25 and/or 57 (2), the Council shall determine whether and on which aspects any additional Pilot Mining may have to be undertaken based on the recommendations of the Commission in order to provide sufficient information to satisfy the requirements of paragraph 23 above. In this case, paragraphs 12 and 34 above apply.

79. After the Pilot Mining, the Contractor shall submit to the Commission a Pilot Mining Report. The Pilot Mining Report shall provide information on the findings from the Pilot Mining, in accordance with the Standards and taking into consideration the Guidelines. On this basis, the Contractor shall accordingly update its Environmental Plans. The Pilot Mining Report and the updated Environmental Plans shall mutatis mutandis be subject to Regulation 11 and provide the Commission with required information to review for its assessment. the findings in light of the Environmental Impact Statement/Plan of Work. The Commission shall, without undue delay, review the findings of the Pilot Mining studyReport and the updated Environmental Plans and make appropriate recommendations to the Council.

810. The Council shall, without undue delay, consider the findings of the Pilot Mining study Report and the updated Environmental Plans based on the recommendation of the Commission and in accordance with the procedure set out in Regulation 16 in light of the Environmental Impact Statement/Plan of Work based on the recommendation of the Commission. If the findings of the Pilot Mining and the updated Environmental Plans are in accordance with the criteria set out in Regulation 13 Environmental Impact Statement/Plan of Work, the Council shall make an affirmative decision and notify the Contractor through the Secretary-General. Thereafter, the Contractor may commence Commercial Production in accordance with the Exploitation Contract.]

11. The provisions under regulations 12 to 16 shall apply mutatis mutandis to paragraphs 8 to 10 in this Regulation.

[12. Pilot Mining shall not equate to Commercial Production as defined under Regulation 27 and in the Schedule.]

### Notes on Regulation 48 ter Alt.2

The intersessional working group has continued its discussions on general questions and issues related to Test and Pilot Mining. Due to diverging views on several of these issues, the Co-Facilitators have received further general comments, apart from specific text proposals. Issues that need further attention include:

- defining the distinction between Test Mining and Pilot Mining;
- the division of institutional responsibilities, in particular between the Council and the Commission;
- whether a specific standard should be developed for Test Mining;
- whether exemptions from the obligation to conduct Pilot Mining should be allowed, and, if so, under what conditions;
- whether Test Mining - under an exploration contract - could take a more gradual approach, while there was broader support for the two-phase approach for Test Mining and Pilot Mining. One delegation suggested a two-stage contract before commercial exploitation;
- the process that would be undertaken if the Council does not find the Pilot Mining Report and/or the updated Environmental Plans sufficient, and the duration of the period allowed to undertake Pilot Mining;
- the concept of “gains” from mineral resources collected during Pilot Mining and the ownership status and obligations for storage/use of any minerals extracted during Test Mining and Pilot Mining;
- whether monitoring should take place during and after Test Mining and Pilot Mining, including independent review and validation/verification of the outcomes and how the suggested validation monitoring relates to environmental monitoring;
- relation between the Pilot Mining phase and the draft definition for the Commencement of Commercial Production (cf. DR 27).

Further details of the issues brought forward as well as a number of additional comments and suggestions can be found in the Report by the Co-Facilitators of the IWG on Test Mining for the intersessional period that will be made available prior to first Session of the Council during Part I of the 31<sup>st</sup> Session.

### Annex II, paragraph (d):

Details of the equipment, methods and technology expected to be used in carrying out the proposed Plan of Work, including the results of Test Mining conducted, for relevant data from any demonstrated Test Mining activities as applicable and the details of any tests and Pilot Mining to be conducted in the future, as well as any other relevant information about the characteristics of such technology, including processing and environmental safeguard and monitoring systems, [and electricity or other energy supply] together with details of any certification from a conformity assessment body;

**Annex IV, paragraph 3.11.:**

**Methodology for Description of the Marine Environment and Assessment of Environmental Impacts and Environmental Effects**

Provide a description of Methodologies, for collecting and analyzing baseline and “Test Mining” data and assessing the potential Environmental Impact and Environmental Effects from the proposed operations and alternatives considered.

**Annex IV in general:**

To support inclusion with references to “Test Mining” (now in suspense document) into Standards and Guidelines.

**Annex VII, paragraph 2(k):**

Details of the proposed monitoring stations across the Contract Area, including the frequency of monitoring and data collection, the spatial and temporal arrangements for such monitoring and the justification for such arrangements, including how *in situ* validation of modelled results will be carried out. Where Test Mining was conducted, proposed monitoring stations should, at a minimum, include the monitoring stations used during [test] mining [tests carried out in the Exploration phase]. Proposed monitoring stations should, at a minimum, include the monitoring stations used during Test Mining [where if any demonstrated Test Mining data is used, the proposed monitoring [stations] [arrays] should correspond to those used at the time of that data collection];

**Schedule**

**“Pilot Mining”** means an in situ operating of the integrated system of all equipment and all related process steps, including collector, raiser and release techniques, for exploitation activities in a Contract Area under appropriate technical, spatial and temporal conditions which provides evidence concerning, inter alia, environmental

impact, commercial capacity, duration of operations to validate feasibility of future Commercial Production.†

**“Test Mining”** means an in situ testing that do not have harmful effects on the marine environment of the integrated system of all equipment and all related process steps (e.g. including collector, raiser and release techniques) for Exploitation activities in a Contract Area under appropriate technical, spatial and temporal conditions which allows the Test Mining for the provision of evidence to support the information provided by an applicant in its application for a Plan of Work for Exploitation, and to assist the Commission and the Council in its evaluation of the application against the criteria contained in Regulation 13 and 15.

**“Test Mining ALT”** means the *[in situ]* use and testing of a fully integrated and functional mining system, including collection systems and water discharge systems.