

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 31TH 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.

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

Germany

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

Annex XI - Parent Company Liability Statement

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.

2. [Managing Company] has the financial capability to comply with the Joint and Several Liability Obligation, or can draw on a parent company or its shareholders in order to do so (hereinafter referred to as “Certainty of Funds”);

4. Please indicate the rationale for the proposal.

Germany is grateful to the Netherlands for the proposed Annex XI. We support the annex in principle. We note, however, that paragraph 2, seems to allow a parent company to rely on the financial capabilities of its own parent company to meet any liability obligations. This suggests that the Parent Company Liability Statement could be concluded not with the Ultimate Parent Company but instead with a parent shell company. This would defeat the purpose as it might allow the ultimate parent company to avoid liability. We seek clarification on this point.

In addition, we have a few questions, as follows:

- Is the Parent Company Liability Statement intended to cover obligations owed to the Authority itself only – or also liabilities arising from harm to other States or third parties? We think the statement as drafted reads as the latter, and would welcome clarification.
- Are we correct that the Parent Company Liability Statement is intended to establish a binding contractual agreement between the Managing Company and the Authority? If so, additional wording may be needed in Annex XI or elsewhere in the regulations to confirm the legal character of the commitment and the relationship it creates.
- We would also welcome clarity on how such a statement would be used or enforced in practice, in the event that a contractor fails to meet its obligations.

- Is the ISA empowered, or required, at any stage to see evidence of the Certainty of Funds of the parent company, as is declared in the Statement?