

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 27TH SESSION:
COUNCIL - PART I**

Informal Working Group – Institutional Matters

Please fill out one form for each textual proposal which your delegation(s) wish(es) to amend, add or delete and send to council2022@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.

Regulation 13

3. Kindly provide the proposed amendments to the regulation 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. The Commission shall determine, taking into account the comments made by State Parties and Stakeholders, any responses by the applicant and any additional information or comments provided by the Secretary-General, if the applicant:
 - (a) Is a qualified applicant under regulation 5;
 - (b) Has prepared the application in conformity with these Regulations, the Standards and the applicable Guidelines;
 - (c) Has given the undertakings and assurances specified in regulation 7 (2);
 - (d) Has satisfactorily discharged its obligations to the Authority;
 - (e) Has ~~or can demonstrate it will have,~~ the financial and technical capability to carry out the Plan of Work and to meet all obligations under an exploitation contract, according to criteria defined by the Council; and
 - (f) Has demonstrated the economic viability of the mining project.
2. In considering the financial capability of an applicant, the Commission shall determine in accordance with the Guidelines whether:
3. In considering the technical capability of an applicant, the Commission shall determine in accordance with the Guidelines whether the applicant has or will have:

(a) Certification to operate under internationally recognized quality control and management standards;

- (a) The necessary technical and operational capability to carry out the proposed Plan of Work in accordance with Good Industry Practice using appropriately qualified and adequately supervised personnel;
- 4. The Commission shall determine if the proposed Plan of Work:
 - (a) Is technically achievable and economically viable;
 - (b) Reflects the economic life of the project;
 - (c) Provides for the effective protection of human health and safety of individuals engaged in Exploitation activities in accordance with the rules, regulations and procedures adopted by the Authority and by any other competent international organizations;
 - (d) Provides for Exploitation activities to be carried out with reasonable regard for other activities in the Marine Environment, including, but not limited to, navigation, the laying of submarine cables and pipelines, fishing and marine scientific research, as referred to in article 87 of the Convention; and
 - (e) Provides, under the Environmental Plans, for the effective protection for the Marine Environment in accordance with the rules, regulations and procedures adopted by the Authority, in particular the fundamental policies and procedures under regulation 2, taking into account in particular the cumulative effects of all relevant activities.
 - (f) complies with the standards provided for in Regulation 45.

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

A plan of work should only be approved, if the standards provided for in Regulation 45 (environmental thresholds) are complied with. The addition of lit. (f) together with regulation 15 ensure that this is the case.

In relation to Draft Regulation 13 para. 1(e), the wording (“Has, or can demonstrate it will have, [...]”) seems to provide too much flexibility to the Contractor. By allowing for such flexibility, the Authority entitles each Contractor to determine by itself, on the basis of board presentations and the-like, that, while not yet possessing the necessary financial and technical capabilities, it plans to obtain the necessary financial and technical capabilities to carry out its suggested Plan of Work in an appropriate manner at some point in the future. It is Germany’s view that there needs to be clarity in relation to the financial and technical capability that is actually available to the Contractor at the point in time when the application is assessed. Additionally, Germany suggests including an additional provision as new Draft Regulation 13 para. 3(a) which asks the Contractor to provide references and/or

certificates, as appropriate, to illustrate a certain level of proficiency in terms of quality control and management.

Lastly, Germany would like to point out that Draft Regulation 13 paras. 1–3 address the assessment of the applicant, while Draft Regulation 13 para. 4 establishes rules for the assessment of the application (i.e. the Plan of Work). It may therefore be prudent to either reflect this aspect in this regulation's title or to split this regulation into two separate provisions.