

**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:

Republic of Nauru

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

Regulation 7

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. Each application for approval of a Plan of Work shall:

(a) be in the form prescribed in annex I to these regulations; ~~shall~~

(b) be addressed to the Secretary-General; ~~and shall~~

(c) be prepared in accordance with these regulations ~~conform to the requirements of these regulations,~~ the applicable Standards and take account of the applicable Guidelines ; ~~and~~

(d) contain sufficient information to demonstrate that the applicant has access to the necessary financial and technical capability and resources to carry out the proposed Plan of Work.

3. An application shall be ~~prepared in accordance with these regulations [and Standards]~~ ~~and~~ accompanied by the following:

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

This proposed text follows on from proposals by other delegations to include references to financial and technical capability under regulation 5 that we consider more appropriately referenced in this regulation 7.

We concur with the comments made by Italy in connection with the Guidelines on the Preparation of an application (annex to ISABA/25/C/3 refers). While Sections III and IV of Annex I to the regulations sets out the basic information required to support technical and financial capability, this should be supported by applicable Guidelines that expand on the necessary information requirements, including assessment criteria. The current *Draft guidelines on the preparation and assessment*

of an application for the approval of a Plan of Work for exploitation (ISBA/27/C/3) while helpful, require further consideration in this context. Not least to ensure a consistent approach to information and assessment requirements.

That said, we note the potential role of the sponsoring State in assessing the financial and technical capability of an applicant. The SDC Advisory Opinion at paragraph 234 highlights that “[t]he sponsoring State may find it necessary, depending upon its legal system, to include in its domestic law provisions that are necessary for implementing its obligations under the Convention. These provisions may concern, inter alia, financial viability and technical capacity of sponsored contractors, conditions for issuing a certificate of sponsorship and penalties for non-compliance by such contractors”.

This requirement for financial and technical resources and capability is reflected in Nauru’s International Seabed Minerals Act as one of the qualification criteria for the issue of a certificate of sponsorship. Such criteria must continue throughout the period of sponsorship as a part of maintaining effective control over the sponsored entity by the Nauru Seabed Minerals Authority.

Information flowing from the conduct of a due diligence exercise in connection with the financial and technical capability of an applicant could also be made available to the ISA to assist in its (Commission’s) consideration of financial and technical capability. Equally, a sponsoring State may assist the ISA by ensuring that such financial and technical capability remains in place during the period of sponsorship.