

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28<sup>TH</sup> SESSION:  
COUNCIL - PART III**

*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 of Working Group:** Institutional Matters
  
- 2. Name(s) of Delegation(s) making the proposal:** Australia
  
- 3. Please indicate the relevant provision to which the textual proposal refers.**

DR107 – proposed amendments in green; black text and tracked changes text is from the Co-Facilitator's revised text circulated prior to the November 2023 Council meeting.

- 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.**

**Review of these regulations**

1. Five years following the approval of these regulations by the Assembly, or at any time thereafter, the Council shall undertake a full review of the manner in which the regulations have operated in practice.
  
2. If, in the light of improved knowledge, technology, implementation experience, or identification of regulatory gaps, it becomes apparent that these regulations are not adequate, any State party, the Commission, any Contractor through its sponsoring State, [or Stakeholder [through its relevant State Party]] may at any time request the Council to consider, at its next ordinary session, revisions to these regulations and the matter shall be included in the provisional agenda of the Council for that session.
  
3. The Council shall establish a process that gives [relevant] Stakeholders adequate time and opportunity to comment on proposed revisions to these regulations, save for the making of an amendment to these regulations that has no more than a minor effect or that corrects errors or makes minor technical changes.
  
4. In the light of that review, the Council may adopt and apply provisionally, pending approval by the Assembly, amendments to the provisions of these regulations, taking into account the recommendations of the Commission or other subordinate organs.

~~[5. Any amendments to these regulations adopted by the Council and the Assembly, shall not be applied retroactively to the detriment of the Contractors that have already signed an exploitation contract with the Authority.]~~

5 alt. The Council may incorporate an appropriate transition period for implementation by existing Contractors of any amendments to the regulations subject to any limitations in the Convention and the Agreement.

## **2 Please indicate the rationale for the proposal. [150-word limit]**

Australia supports continuing negotiations on the basis of paragraph 5alt rather than paragraph 5, particularly given the difficulties in defining the phrase 'detriment of the Contractors'. On that basis, an appropriate transition period is a more suitable term of reference for further discussion.

However, we do note that Section 8, para 1 (e) of the Annex to the Implementation Agreement provides that any change in the system of payments under the financial terms of a contract 'may apply to existing contracts only at the election of the contractor.' We think that this paragraph should therefore be amended to ensure consistency with the Convention and Agreement, and to carve out certain elements of the financial terms of contract from this transition period.