

**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.**

DR6 – 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.**

**Certificate of sponsorship**

1. Each application by an entity referred to in regulation 5(1)(b) shall be accompanied by a certificate of sponsorship issued by the State of which it is a national or by whose nationals it is effectively controlled. If the applicant has more than one nationality, as in the case of a partnership or consortium of entities from more than one State, each State involved shall issue a certificate of sponsorship.

2. Where an applicant has the nationality of one State but is effectively controlled by another State or its nationals, each State shall issue a certificate of sponsorship.

3. Each certificate of sponsorship shall be duly signed on behalf of the State by which it is submitted, and shall contain:

- (a) The name, address and contact details of the applicant;
- (b) The name of the sponsoring State or States;
- (c) A statement ~~and supporting evidence~~ [and supporting evidence] [such as a passport, citizenship certificate, certificate of incorporation or other evidence of registration or nationality] that the applicant is: *[Facilitators' note: the red text, a new proposal from Nauru Ocean Resources Inc., Tonga Offshore Mining Ltd. and Blue Minerals Jamaica Ltd, may need to be removed or relocated, given other delegates' proposals to delete the preceding wording (with the rationale that the certificate of sponsorship is not the correct place to require such evidence). The point to give examples of relevant evidence may be better located in regulation 7 (form and content of applications). What constitutes such examples may also need to be reconsidered, depending on the definition of Effective Control to be agreed by the Council].*
  - (i) A national of the sponsoring State; or

(ii) Subject to the effective control of the sponsoring State or its nationals;

(d) A statement by the sponsoring State that it sponsors the applicant;

(d) *bis*. A copy or description of the necessary and appropriate measures taken by the State to secure effective compliance pursuant to article 139(2) of the Convention, and to ensure legal recourse for compensation in accordance with article 235 (2) of the Convention. *[Facilitators' note: it has been suggested that this regulation 6(3)(d)bis requirement would be better located in regulation 7, relating to the form and content of applications for a Plan of Work].*

**[**(e) The date of deposit by the sponsoring State of its instrument of ratification of, or accession or succession to, the Convention, and the date on which it consented to be bound by the Agreement; and**]**

**[**(f) A declaration that the sponsoring State assumes responsibility in accordance with articles 139 and 153 (4) of the Convention and article 4 (4) of annex III to the Convention**]**

*[Facilitators' note: there are conflicting suggestions to delete sub-paragraphs (e) and (f) on the basis they are unnecessary, and to keep them on the basis of consistency with the Exploration Regulations].*

4. States or other qualified applicants in a joint arrangement with the Enterprise shall also comply with this regulation.

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

On para 3, the proposed additions to subpara c) regarding the submission of supporting evidence (such as passports, certificates of incorporation, etc) appear to presuppose a certain definition of effective control, as one which is based on regulatory control. While Australia notes the list is indicative only and not exhaustive, we note that the discussion on effective control has not yet occurred in the Council. Accordingly, the list of relevant documentation will need to be reviewed and updated following decision by the Council on the meaning of effective control, and that different types of documentation may have to be added in to the draft Regulations, or removed to align with the agreed definition.

For the time being, Australia suggests that this text could be placed in square brackets and/or retain the reference to the more general 'supporting information'.