

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH 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.

- 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.**

DR7 – 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.**

Form of applications and information to accompany a Plan of Work

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3. bis. An application shall contain sufficient information to demonstrate that the applicant has ~~or will have~~ access to the necessary financial and technical capability and resources to carry out the proposed Plan of Work, and shall be accompanied by the following:

- (a) The data and information to be provided pursuant to section 11.2 of the standard clauses for exploration contracts, as annexed to the relevant Exploration Regulations;
- (b) A Mining Work Plan prepared in accordance with annex II to these regulations;
- (c) A Financing Plan prepared in accordance with annex III to these regulations;
- (d) An Environmental Impact Statement prepared in accordance with regulation 47 and in the format prescribed in annex IV to these regulations;
- [(d bis) A test mining study prepared in accordance with regulation 48bis;]
- (e) An Emergency Response and Contingency Plan prepared in accordance with annex V to these regulations;
- (f) A Health and Safety Plan and a Maritime Security Plan prepared in accordance with Regulation 30 and annex VI to these regulations;

[alt. to (f):

(f) A Health and Safety Plan prepared in accordance with Regulation 30 and Annex VI to these regulations;

(f bis) A Maritime Security Plan prepared in accordance with Regulation 30 and Annex VI to these regulations;]

[Facilitators' note: delegations have proposed that these two subjects should be covered by two separate standalone plans. If that proposal is taken forward, this is likely also to require amendment also to the Regulation 30 and Annex VI, and updating of the cross-reference here].

(g) A Training Plan in fulfilment of article 15 of annex III to the Convention, prepared in accordance with the Guidelines; *[Facilitators' note: one proposal also suggests addition of an Annex setting out format and minimum requirements for the Training Plan, as with other plans].*

(h) An Environmental Management and Monitoring Plan prepared in accordance with regulation 48 and annex VII to these regulations ~~[which documents that management and monitoring [are in compliance with [take into account] the applicable Regional Environment Management Plan and based on the result of the Environmental Impact Assessment];~~ *[including information regarding the environmental management system that the Contractor will implement in accordance with regulation 46 and the relevant Standards, taking account of Guidelines] [Facilitators' note: delegates may wish to consider the need to avoid introducing text here, that is also, and more fully, covered in the relevant regulations and Annex that provide the requirements for the EMMP].*

(i) A Closure Plan prepared in accordance with regulation 59 and annex VIII to these regulations;

(j) An application processing fee in the amount specified in appendix II.

(k) A copy of the Contractor's code of Conduct or other rules applicable to all staff involved in the execution of a proposed Plan of Work, including policies pertaining to personnel safety, environmental compliance, inclusivity, gender equality and diversity, and sustainability, which shall conform in material respects with the rules applicable to staff of the Enterprise or any other rules proposed by the Authority; and

(l) A copy of documents to evidence the applicant's Environmental Performance Guarantee, in accordance with regulation 26.

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

Australia suggests removing 'or will have' before 'access to the necessary financial and technical capability'. We do not think a plan of work should be considered until access to all the necessary financial and technical capability, and necessary resources has crystallised. Ensuring that the necessary access has been secured does not mean the Contractor must already have the financial and technical capability and resources in their possession, but that they must have guaranteed access to it when required.

This is the level of certainty that we think should exist prior to LTC consideration, particularly given the difficulties in the LTC quantifying and assessing a *future* ability to access funds and technology, including difficulty assessing how secure such access will be.