

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 29<sup>TH</sup> SESSION:  
COUNCIL - PART I**

*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:**

Federal Republic of Germany

**3. Please indicate the relevant provision to which the textual proposal refers.**

DR 15

**Red text** is in original draft; **blue text** indicates Germany's textual proposals

**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.**

**Regulation 15 [IWG IM]**

**Commission's recommendation for the approval or disapproval of a Plan of Work**

~~1. Taking into account regulations 12(4) and 13, if the Commission determines that the applicant application meets the relevant requirements, it shall [alt. may] recommend approval of the Plan of Work to the Council.~~

[1 alt 1.] The Commission may recommend approval of a proposed Plan of Work if the Plan of Work complies with all requirements stipulated in Regulation 13 and the Commission has sufficient information to determine that all requirements in Regulation 13 have been met;

~~[1 alt 2.] If the Commission determines that the applicant meets the criteria set out in regulations 12(4) and 13, it shall recommend approval of the Plan of Work to the Council.~~

...

(a bis) a summary of any uncertainties inherent in the Plan of Work and how the applicant ~~is~~ proposed to address these;

...

2. The Commission shall not recommend approval of a proposed Plan of Work if:

~~(a) the Plan of Work does not comply with all requirements stipulated in Regulation 13;~~

(a alt 1.) the Plan of Work does not comply with, or the Commission is unable to determine whether the Plan of Work complies with, either alone or in combination with other activities and impacts, all requirements stipulated in Regulation 13, including because of scientific uncertainty or inadequate information;

~~(a alt 2.) The Commission is unable to determine that the Plan of Work either alone or in combination with other activities and impacts ensures effective protection of the marine environment, based on the criteria set out in Regulation 13(4) (c) (e) and (f), on the basis of Best Available Scientific Information, and applying the precautionary approach~~

~~(a alt 3.) Pursuant to regulation 13(4)(c) (e) and (f), the Plan of Work fails to provide for the effective protection of the marine environment from harmful effects that may arise from the proposed activities, or if the information is sufficiently uncertain or inadequate to determine, pursuant to regulation 13(4)(c) (e) and (f), that the Plan of Work provides for the effective protection of the marine environment from harmful effects that may arise from the proposed activities.~~

~~(a alt 4.) The Commission determines that the Plan of Work either alone or in combination with other activities and impacts does not ensure effective protection of the marine environment, based on the criteria set out in Regulation 13 (4) (e), on the basis of Best Available Scientific Information.~~

(b) part or all of the area covered by the proposed Plan of Work is included in:

...

{(iv) an Area of Particular Environmental Interest or any other site disapproved for exploitation by the Council, [or that sets a spatial or temporal protective measure], as ~~determined~~ indicated in the applicable Regional Environmental Management Plan;}

{(v) any other area designated for preservation for reasons of special biological, scientific, archaeological, historic, cultural, aesthetic or wilderness significance;}

(vi) A Reserved Area or an area designated by the Council to be a Reserved Area, except in the case of eligible applications under these regulations made in respect of a Reserved Area;

{(vii) An area that has not been subject to prior exploration activities;}

{(viii) An area not covered by a Regional Environmental Management Plan.}

{(c) Such approval would undermine or contradict the Authority's strategic environmental goals or objectives pursuant to DR 44ter or the regional goals, objectives or measures set out in the applicable Regional Environmental Management Plan.}

{(d) Such approval would pose a reasonable risk of damage to an in-service or planned submarine cable or pipeline, or cause undue interference with the freedom to lay submarine cables and pipelines when considered in conjunction with other approved Plans of Work [or is otherwise unable to give reasonable regard to other marine users in the area under application.}

{(e) There is inadequate, insufficient, or substandard environmental baseline information for the area covered by the proposed Plan of Work, or any part of that area.}

{2 bis. The Commission shall not recommend approval of a proposed Plan of Work if the applicant, its controlling shareholder or shareholders or its predecessor in law previously violated the general obligations of contractors in a non-negligible way.}

3. The Commission shall not recommend the approval of a proposed Plan of Work if it determines that:

...

~~[(c) Such approval would permit a State party or entities sponsored by it to monopolize or significantly control the production of any single mineral or metal produced globally; or]~~

4. If the Commission determines that **it will not recommend approval of the Plan of Work** ~~[alt 1. for any reason,][alt 2. pursuant to paragraphs (1) (3)]~~ the applicant does not meet the ~~[criteria] [requirements]~~ set out in ~~[regulation s 12, 13 and 14][the regulations,~~ the Commission shall so inform the applicant in writing, ~~by provide ing the reasons why any [criterion has][any requirements set out in regulation 13 have not been met by the applicant or why the Commission has been unable to make a determination,~~ and shall provide the applicant with a further opportunity to make representations within 90 Days of the date of notification to the applicant. During this period the Commission shall not make a recommendation to the Council on the application.

5. ~~[At its next available meeting,]~~ **T**he Commission shall consider any such representations made by the applicant when preparing its reports and recommendations to the Council, ~~[alt 1. provided that the representations have been circulated at least 30 days in advance of that meeting] [alt 2. which it shall do within 30 days of its receipt of such representations].~~ ~~The Commission shall then consider the application afresh, in the light of the representations, in accordance with this Section 3.~~

6. The Commission may refuse an application and return it to the applicant. The Commission must provide reasons for refusing an application, **including a summary of the deliberations of the Commission specifying what inputs have been taken into account and how these have been assessed, as well as divergences of opinion within the Commission, if any.**

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

- For paragraph 1, Germany prefers ALT.1 and we would propose additional wording that speaks to the need to have sufficient information for the LTC to be able to make the determinations under DR 13. It will be a matter for the Commission to decide whether and when an application is accompanied by sufficient baseline information. This is in line with the precautionary approach or principle and offers a procedural safeguard to ensure Contractors gather sufficient baseline data during the exploration stage, which is an established requirement already.
- For paragraph 2(a), Germany prefers ALT.1, as that is the most inclusive wording. The potential reasons for not recommending approval of a Plan of Work are broader than environmental concerns, while ALT.2, ALT. 3, and ALT.4 seem to focus exclusively on environmental concerns. However, we have merged elements from the other alternatives into ALT.1 to present a compromise.
- In paragraph 2(c), we propose adding reference to the new DR 44ter on environmental goals and objectives.
- In paragraph 4, Germany supports ALT.1 and the red text. In our view, there are various different reasons why a Plan of Work may not be approved and the wording here should reflect that instead of being restricted to a few reasons.

- In paragraph 5, Germany suggests deleting the obligation for the LTC to consider comments from the applicant within 30 days, as that timing is unrealistic. It may be more than 30 days until the LTC's next meeting. We also note that the regulations place a heavy workload, sometimes with time-bound deliverables, on the LTC in a number of provisions, which may simply not be realistic as the Commission may be unable to respond to several urgent matters in parallel. Germany therefore suggests to exercise caution when drafting provisions around timelines.
- Lastly, we support the inclusion of paragraph 1(a.bis), the bracketed sub-paragraphs under 2(b), 2(c), 2(d), and 2(e), and 3(c) which add useful information. We also support inclusion of paragraph 2.bis to account for previous track records, although we suggest integrating it within paragraph 3.