

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 29TH 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.

1. Name of Working Group:

President's Text

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 20

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 20 [President's Text]
Term and renewal of exploitation contracts**

1. ~~Subject to the provisions of section 8.3 of the exploitation contract,~~
The maximum initial term of an exploitation contract is 30 years from execution of the contract ~~{from the commencement of Commercial Production}~~. The Authority and the Contractor may agree to a shorter period in light, of the expected economic life of the Exploitation activities of the Resource category set out in the Mining Workplan [and the policies and objectives of the Authority cited in regulation 2. ~~{The Authority and the Contractor may agree to a shorter period in light, of the expected economic life of the Exploitation activities of the Resource category set out in the Mining Workplan [and the policies and objectives of the Authority cited in regulation 2.]~~}

2. An application to renew an exploitation contract shall be made in writing addressed to the Secretary-General and shall be made no later than ~~one two~~ years before the expiration of the initial period ~~or renewal period, as the case may be,~~ of the exploitation contract.

~~3. The Contractor shall supply such documentation as may be specified in the Standards and Guidelines. If the Contractor wishes to make any changes to a Plan of Work and such changes are Material Changes, the contractor shall submit a revised Plan of Work.~~

~~[3.Alt. The Contractor submitting an application to renew an exploitation contract shall supply a revised plan of work, including an updated EIA, as well as such documentation as may be specified in any applicable Standard~~

~~and taking account of Guidelines. Submission of a revised Plan of Work for the purposes of this regulation is deemed to be a Material Change for the purposes of regulation 57.~~

3.Alt. The Contractor submitting an application to renew an exploitation contract shall supply a revised Plan of Work and a revision for all accompanying plans in accordance with Regulation 7 as well as such documentation as may be specified in any applicable Standard and taking into account Guidelines.

4. The Commission shall consider such application to renew an exploitation contract in accordance with Part II, Sections 2 to 4 of these regulations. ~~at its next meeting after submission of any revised plans or responses by the Contractor pursuant to regulation 11(2), provided the documentation required under paragraph 3 has been circulated at least [30]/[60] Days prior to the commencement of that meeting of the Commission.~~

5. In making its recommendations to the Council under paragraph 6 below, the Commission shall examine and assess applications in accordance with regulation ~~13~~ 12, against the criteria contained in regulation ~~12~~ 13, and take account of any report on the review of the Contractor's activities and performance under a Plan of Work under regulation 58, as well as any other relevant information from, inter alia, performance assessments, annual reports, ~~and~~ environmental reports, inspection reports, compliance reports, monitoring and compliance data, third-party or whistle-blower complaints, and legal actions against the contractor. ~~, legal actions against the contractor.~~

6. The Commission ~~shall~~ may recommend to the Council the approval of an application to renew an exploitation contract, and an exploitation contract ~~shall~~ may be renewed by the Council provided that:

~~(a) — The Resource category is recoverable annually in Commercial and Profitable Quantities from the Contract Area;~~

~~(a)alt. {The term of renewal reflects the expected economic life of the mining project, taking into consideration such factors as the depletion of the ore, the useful life of mining equipment and processing facilities and commercial viability.}~~

...

~~{(b) bis. The cumulative environmental impact does not exceed the thresholds set by the applicable Regional Environmental Management Plan as a result of the renewal, and that such renewal does not hinder the achievement of the strategic and regional environmental goals and objectives;}~~

(b)bis. The cumulative environmental impact does not exceed the thresholds set by the applicable Regional Environmental Management Plan as a result of the renewal, and that such renewal does not hinder the achievement of the strategic and regional environmental goals and objectives;

(b)ter. The Contractor's final report sufficiently demonstrates that the Contractor has met and complied with all environmental goals, objectives, and thresholds and can demonstrate that the PRZs and IRZs met their objectives, and that the Contractor's application for an extension includes designation of suitable PRZs and IRZs for the extension period in accordance with Annex Xter.

...

(f) {The Sponsoring State has reconfirmed their sponsorship of the Contractor by reissuing their certificate of sponsorship.}

7. ~~Each~~ A renewal period shall be a maximum of 10/15 years for a maximum overall duration of the exploitation contract of 40 years.

...

10. An exploitation contract in respect of which an application for renewal has been made ~~shall~~ may, despite its expiry date, remain in force for a maximum of [three] months after its expiry date and only under extraordinary circumstances ~~until such time as the renewal application has been considered and its renewal has been granted or refused.~~

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

- Para 1: Germany suggests the contract term should commence from the date on which the contract is executed. In contrast, Commercial Production is a changeable date that would create uncertainty not least because commercial production may not be continuous. Germany also suggests keeping the last sentence of para 1 to enable the ISA to set a shorter contract period where that might be necessary, be it because of the size of the deposit or as a precautionary measure. Germany's position is that the regulations need to be future proof by providing for regulatory flexibility to enable the ISA to respond to advances in scientific knowledge.
- Para 3: Germany strongly supports 3.ALT and requests its reinsertion. It is imperative that the ISA reserves for itself the power to assess an extension of a contract on its merits, including against past performance of the contractor. Indeed, the need to submit a revised plan of work at the time of contract renewal was noted by the LTC in ISBA/25/C/18. Scientific knowledge will progress in the coming decades, and we need to ensure the regulations allow the ISA to respond to such changes, not least to meet the Council's legal obligation 'to exercise control over activities in the Area' (UNCLOS, Article 162(2)(l)). As currently drafted, DR 20 could allow infinite renewals of the contract without the need to resubmit a plan of work. This is inconsistent with the fact that the plan of work sets out the activities which the contractor has to perform, and therefore will necessarily need to be re-written and re-assessed. Indeed, an extension is likely to focus on new mining sites within the contract area, which will require baseline studies, new IRZs/PRZs, and an EIA, including assessing the cumulative effects of several mining sites.
- Para 4: to avoid duplication or complications, Germany suggests that renewals should be subject to the review process set out in DR 9 to 16.
- Para 5: Germany supports inclusion of the last sentence as the ISA should have access to information about the contractor's performance which includes relevant legal actions brought against the contractor. Where such legal action is not relevant to the application, the LTC and Council can of course decide to disregard it.
- Para 6: Germany aligns itself with the African Group, Chile and others in preferring the term "may" over "shall". Germany prefers para 6(a.alt) over 6(a). Germany strongly supports the inclusion of para 6(b.bis), as indicated in previous submissions but is open to placing it elsewhere in the regulations, eg DR 13. Germany proposes a new paragraph 6(b)ter which aims to ensure that a Contract extension is subject to the Contractor demonstrating that they met all environmental goals and objectives and that their IRZs/PRZs have performed as expected and that sufficient space is

available in the Contract Area to accommodate new IRZs/PRZs for the extension phase. Additionally, Germany supports the inclusion of para 6(f) as sponsorship is a fundamental requirement for a contract extension.

- Para 7: Germany supports specifying a maximum duration for the contract as the regulations otherwise provide for an indefinite number of renewals. This has been supported by several States parties in the past.
- Para 10: to avoid the circumstances described in paragraph 10, an application for renewal should be submitted two years before the expiry of the contract, rather than only one year before (see para 2).