

**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:

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 57

The Text in **red** shows the text as provided by the Facilitator. New text proposals are shown in **blue**.

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 57

Modification of a Plan of Work by a Contractor

1. A Contractor shall not modify the Plan of Work annexed to an exploitation contract, except in accordance with this regulation.

[2. A Contractor shall notify the Secretary-General if it wishes to modify the Plan of Work. The Secretary-General shall, in consultation with the Contractor, consider whether a proposed modification to the Plan of Work constitutes a Material Change in accordance with the Guidelines. If the Secretary-General considers that the proposed modification constitutes a Material Change, the Contractor shall seek the prior approval of the Council based on the recommendation of the Commission under regulations 12 and 16, and before such Material Change is implemented by the Contractor.]

2 alt. If a Contractor wishes to modify a Plan of Work, it shall notify the Secretary-General. The Secretary-General shall [inform the Council and] transfer the ~~{alt 1. request}~~[alt 2. modified Plan of Work] to the Commission, to consider whether a proposed modification to the Plan of Work constitutes a Material Change in accordance with the [applicable] Annex ~~Standards~~. If the Commission considers that the proposed modification constitutes a Material Change, the Contractor ~~{may submit an appropriate recommendation to the Council}~~ shall seek the prior approval of the Council ~~shall seek the prior approval of the Council~~ bBased on this recommendation of the Commission, under regulations 12 ~~and to~~ 16, ~~{the Council may give its prior approval}~~ and before such Material Change is implemented by the Contractor. The sponsoring State shall also be informed.

3. Where the proposed modification under paragraph 2 [alt 1. relates to a Material Change in] [alt 2. may have a potential impact on] the Environmental Management and Monitoring

Plan or Closure Plan, such plans shall be dealt with in accordance with the procedure set out in regulation 11, prior to any consideration of the modification by the Commission.

[3 alt 1. Where the proposed modification under paragraph 2 is determined to constitute a Material Change, the Council, based on the recommendations of the Commission, shall determine whether the Contractor is required to undertake an environmental impact assessment and prepare an environmental impact statement of the proposed modification in accordance with Regulations [46bis] and [47], respectively. The Environmental Impact Statement, and any revisions to the Environmental Management and Monitoring Plan or Closure Plan, shall be dealt with in accordance with the procedure set out in regulation 11, prior to any consideration of the modification by the Commission.]

[3 alt 2. Where the proposed modification constitutes a Material Change, the public participation procedure as outlined in regulation 11 shall be held.]

4. Notwithstanding Paragraph 2, ~~the Secretary-General may propose to~~ and the Contractor may agree to a change to the Plan of Work that is not a Material Change in accordance with the relevant Standards, to correct minor omissions, errors or other such defects. ~~After consulting the Contractor, the Secretary-General may make the change to the Plan of Work, and the Contractor shall implement such change.~~ The Secretary-General shall so inform the Commission and the Council at its their next meeting. The Council may decide to apply the procedure as provided in paragraph (2).

~~4. alt 1. The Commission may propose a change to the Plan of Work that is not a Material Change, to correct minor omissions, errors or other such defects. The Secretary General will transmit the proposal to the Contractor. The Contractor will respond to the proposed change. In case of Contractor's agreement the Commission will recommend the change to the Plan of Work, and the Contractor shall implement such change. The Secretary General shall so inform the Council at its next meeting.~~

4 alt 2. The Commission may recommend a change to the Plan of Work that is not a Material Change. The Secretary General will transmit the recommendation to the Contractor, and the Contractor shall implement such change. The Secretary-General shall so inform the Council at its next meeting. In the instance of correcting minor omissions, errors or other such defects which are not substantive, the ISA Secretariat will be responsible for making the change and informing the Contractor and the Sponsoring State.

4 alt 3. The Commission or the Secretary-General may propose a change to the Plan of Work that is not a Material Change, to correct minor omissions, errors or other such defects. The Secretary General will transmit the proposal to the Contractor. The Contractor will respond to the proposed change. The Commission will recommend the change to the Plan of Work, and the Contractor shall implement such change. The Secretary-General shall so inform the Council at its next meeting and the Sponsoring State.

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

- We support para 2bis with the amendments in blue.
- We think a list of substantial criteria are needed outlined at best in an Annex with a set of indicative criteria to define “material change” that the Commission will apply in their assessment. An Annex is more appropriate than a Standard.
- We furthermore think that the normal approval procedure should apply as far as appropriate. To this end, we suggest to refer to regulations 10 to 16. In particular, regulations 13 and 15 are important.
- Instead of para 3 and para 3 alt 1, we suggest the para 3 alt 2 in order to ensure that in case of material change the public has the chance to comment on the modifications according to the procedure as outlined in regulation 11.

- Finally, we support regulation 4 alt 3 with the amendment in blue.