

**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 58 (Review of a plan of work)s

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

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 58

Review of ~~activities under~~ a Plan of Work

1. A Plan of Work shall be reviewed ~~at~~ intervals not exceeding five years from the date of signature of the exploitation contract. [~~alt 1. The Commission or the Council can initiate additional reviews~~][~~alt 2. or by decision of the Council based on the recommendations of the Commission~~] in accordance with the applicable Standards and taking into account the applicable Guidelines [or] where, ~~according to the relevant organ of the Authority, as appropriate in the opinion of the Secretary General,~~ there have occurred any of the following events or changes of circumstance ~~taking into account~~:

1 alt. ~~Activities under~~ a Plan of Work shall be reviewed at intervals not exceeding five years from the date of signature of the exploitation contract, or more frequently at the request of the Commission or the Council, including where any of the following events or changes of circumstance have occurred:

[(a) A proposed Material Change in the implementation of the Plan of Work;]
[Facilitators' note: proponents for deletion of this sub-paragraph noted that a material change would be a potential outcome of a review, not a trigger for a review.]

[(a bis.) Identification of a new **significant** environmental risk, or a significant change to existing risk calculations;]

(a bis alt.) Information has come to light that was not available when the Plan of Work was approved, including changes in **Best Available Techniques** or **Best**

Available Scientific Information, and shows that more appropriate conditions are necessary to deal with the Environmental Effects of the activity;

(a ter.) An indication that the cumulative effects impacts as a result of Exploitation activities exceed any environmental thresholds established under the applicable Standards [and objectives established under the applicable Regional Environmental Management Plan;]

(a quat.) New significant information relevant to the effective protection of the Marine Environment;

(a quin.) Adverse impacts on the environment or other activities have arisen that were not anticipated, or are of a scale or intensity that was not anticipated, when the Plan of Work was approved.

(a sexies.) a request by another international body concerning other activities or measure in the Marine Environment pursuant to regulation 31.

(b) Any Incident;

(c) Recommendations for improvement in procedures or practices following an inspection report under regulation 100;

(d) A performance assessment which requires action under regulation 52(8);

[(e) Changes in ownership or financing which may adversely affect the financial capability of the Contractor;][Facilitators' note: proponents for deletion of this sub-paragraph consider this criteria should trigger a compliance response, not a regular review process that leads to an amended Plan of Work. This point may be relevant to the Intersessional Working Group on Inspections, Compliance and Enforcement.]

~~(f) Significant Changes in Best Available Techniques;~~

~~(g) Significant Changes in Best Available Scientific Information;~~

~~(g bis.) Significant Changes in Best Environmental Practices;~~

(h) Operational management changes, including changes to subcontractors and suppliers[, whereby the Commission, after review with the Contractor of the Contractor's activities under the Plan of Work, shall recommend to the Council whether any modifications to the Plan of Work are necessary.] ~~the relevant organ of the Authority as appropriate shall [Secretary General may] review with the Contractor the Contractor's activities under the Plan of Work, and such organ shall recommend to the Council [discuss] whether any modifications to the Plan of Work are necessary or desirable.~~

(h bis.) Changes in the overall policy of the Authority.

[Facilitators' note: one submission asks for more clarity on the procedure for 'pulling the trigger' to initiate the review; and queries whether or not the Contractor is expected to suspend activities until the review concludes and a new Plan of Work is adopted? Another submission noted the need for a threshold of 'significance' for trigger events, and suggested this could be further detailed in Standards.]

2. [alt 1. The Contractor shall commission a competent, independent expert or experts to undertake a review under paragraph (1)] [alt 2. A review of activities under paragraph (1) shall be undertaken by the Contractor and verified by an independent expert] in accordance with the relevant regulations, Standards and taking into account the Guidelines. The

~~[Secretary General] or [and]~~ [the Contractor] shall invite the sponsoring State or States, and relevant coastal States, to participate in the review of ~~[activities]~~ [the Plan of Work].
The results of the review shall be compiled as a report.

[Facilitators' note: submissions noted that it was yet to be discussed who would be conducting the review, which point needs to be settled in order to be reflected clearly in this regulation 58].

3. The Secretary-General shall forward the report on each review to the Commission and Council, and the sponsoring State or States. Where, as a result of a review, ~~[alt 1. the Contractor or the Council, based on the recommendation by the Commission,~~ wishes to make any changes to a Plan of Work and such changes are Material Changes ~~requiring the approval of the Council, based on the recommendation of the Commission,~~ the Contractor shall seek that approval in accordance with regulation 57(2) and, where applicable, regulation 57(3) ~~[alt 2. Material Changes need to be made to the Plan of Work, the Commission shall recommend the relevant changes to the Council, and the Contractor shall implement them].~~

~~[[3 alt.] The organ person or persons in charge of the review shall report on each review to the Commission and Council, the sponsoring State or States and the relevant coastal States. Where, as a result of a review, material changes the Council, Commission, Contractor or reviewer identifies that modifications need to be made to the Plan of Work, the Commission shall recommend said changes to the Council, and the Contractor shall implement such changes as soon as viable. Where, as a result of a review, the Contractor wishes to make any changes to a Plan of Work and such changes are Material Changes requiring the approval of the Council, based on the recommendation of the Commission, the Contractor shall seek that approval in accordance with regulation 57(2) and, where applicable, regulation 57(3) shall apply.~~

4. ~~[alt 1. For the purpose of the review, the Contractor shall provide all]~~ ~~[alt 2. The Secretary-General may request the Contractor to submit such additional data and] information required by the [alt 1. independent expert or experts] [alt 2. Secretary-General] in the manner and at the times [alt 1. as the Secretary-General reasonably requested]~~ ~~[as may be necessary for the purposes of this regulation].~~

5. Nothing in this regulation shall preclude the ~~appropriate organ of the Authority]~~ ~~Commission or the Council Secretary General,~~ the sponsoring State or States, or the Contractor from making a request to initiate discussions regarding any matter connected with the Plan of Work, exploitation contract or the activities under the exploitation contract in cases other than those listed in paragraph (1).

6. The Secretary-General shall make publicly available the findings and recommendations resulting from a review of activities under this regulation.

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

- We support paragraph 1alt with the amendment in Green. It is the PoW which is to be reviewed not “an activity under the PoW”.
- We support all indents under paragraph 1alt, including those as alt versions. We deleted three indents as they seem to be redundant. The list of indents will need a streamlining. We seek clarification for indent hbis.
- We support paragraph 2alt, as amended in Green.
- In Para 3 we support the original version as amended.

- We seek clarification for what reason paragraph 4alt 1 was included.
- We support paragraph 5 and 6 as proposed by the facilitator.