

**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 24

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 24 [President's Text]

Change of control

...

2. Where there is a change of control of the Contractor, or there is a change of control in any entity providing an Environmental Performance Guarantee on behalf of a Contractor, the Contractor shall, as soon as reasonably practicable but no later than 24 hours, notify the Secretary-General and the Sponsoring State in advance of such change of control, ~~[but in any event within 90 Days thereafter and in the case of an entity providing an Environmental Performance Guarantee, no later than within 90 Days thereafter]~~. The Contractor shall provide the Secretary-General and the Sponsoring State with such details as he or she shall reasonably request of the change of control [including whether or not the change of control affects the Contractor's nationality or State of effective control. ~~[for the purposes of determining the Sponsoring State.]~~ [On receipt of such notification and any further details pursuant to this paragraph, the Secretary-General shall promptly notify the Commission and the Council.]

3. After consulting the Contractor or entity providing the Environmental Performance Guarantee, as the case may be, the ~~Commission shall Secretary-General may:~~

(a) Determine ~~whether that~~, following a change of control of the Contractor or the entity providing the Environmental Performance Guarantee, the Contractor will continue to be able, to meet its obligations under the

exploitation contract or Environmental Performance Guarantee, in which case the contract shall continue to have full force and effect, or

(b) In the case of a Contractor, treat a change of control as a transfer of rights and obligations in accordance with the requirements of these regulations, in which case regulation 23 shall apply; or

(c) In the case of an entity providing an Environmental Performance Guarantee, require the Contractor to lodge a new Environmental Performance Guarantee in accordance with regulation 26, within such time frame as the Secretary-General shall stipulate.

(d) Confirm with the Sponsoring State, ~~[through the Secretary-General,]~~ whether its sponsorship continues, or require a written notice under regulation 21 bis. where sponsorship has terminated.

~~[(e) Provide a report on any developments pertaining to this paragraph to the Council at its next meeting.]~~

4. Where the ~~[Commission]~~ ~~{Secretary-General}~~ determines that, following a change of control, a Contractor may not ~~be able to~~ have the ~~[operational or]~~ financial capability to meet its obligations under its exploitation contract, the ~~{Secretary-General shall inform the Commission accordingly. The}~~ Commission shall submit a report of its findings and recommendations to the Council. ~~[The Council shall consider the matter at its next meeting with a view to take a decision.]~~

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

- Para 2: Germany welcomes the addition of the last sentence in this para requiring the Secretary-General to promptly notify the Council and the Commission upon receiving a notification relating to change of control and any further information thereto.
- Para 3: Germany supports the change from Secretary-General to Commission in this para. We are of the view that the functions in this para are not administrative functions and requires the Commission to make appropriate determinations. Since the Commission considers these matters when an application is submitted and reports to the Council, it is only appropriate that changes in control that meets the definition under paragraph 1 should also undergo the same process. Otherwise, by circumventing the Council, the process may be open to abuse.
- Para 3(e): Germany supports the inclusion of this sub-para requiring the Commission to provide a report to the Council on any developments.
- Para 4: Germany again supports the change from Secretary-General to Commission, in line with our comment above. Moreover, we see the need to extend the determination to include operational capability (in addition to financial), which might be affected as a result of the change in control. Finally, we also support the addition of the last sentence, which makes clear that the Council will consider the report and recommendations of the Commission at its next meeting.