

**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 29

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 29 [President's Text]

Reduction or suspension in production ~~due to market conditions~~ []

1. Notwithstanding regulation 28, a Contractor may temporarily reduce or suspend production ~~due to market conditions~~ ~~[or other factors]~~ but shall notify the Secretary-General thereof and provide the rationale for such a reduction or suspension [as soon as practicable thereafter] ~~[no later than one month from the date of the reduction or suspension]~~. Such reduction or suspension may be for a period of up to 12 months.

2. If the Contractor proposes to continue the reduction or suspension for more than 12 months, the Contractor shall notify the Secretary-General in writing, at least [30 Days] prior to the end of the 12-month period, giving its reasons for seeking a further reduction or suspension of that length of time. [] ~~If business practices are suspended due to global economic conditions or force majeure, the contractor shall be allowed to maintain a longer suspension, The Commission shall [in consultation with the Economic Planning Commission], upon determining that the reasons for the reduction or suspension are reasonable, including where the prevailing economic conditions make Commercial Production impracticable, [of for other circumstances beyond the Contractor's control] recommend approval of the suspension to the Council. The Council shall, based on the recommendation of the Commission, decide on the reduction or suspension requested by the Contractor. The Contractor may apply for more than one suspension. [During the period when the Contractor reduces or suspends production, the annual fixed fee or royalties paid by the Contractor shall be exempted or deducted appropriately].~~

~~3. — In the event of any suspension in Exploitation mining activities, the Contractor shall continue to monitor and manage the Mining Area in accordance with the Closure Plan. Where suspension continues for a period of more than 12 months, the Commission may require the Contractor to submit a final Closure Plan in accordance with regulation 60.] Where the Contractor elects to suspend all production for more than five consecutive years, the Council may [suspend] terminate terminate[] the exploitation contract following consultation with the Contractor pursuant to DR 18ter, and the Contractor [may] [] shall be required to implement the final Closure Plan.~~

~~4. — A Contractor shall notify the Secretary General as soon as it recommences any mining activities, and no later than 72 hours after such recommencement, and, where necessary, shall provide to the Secretary General such non market information as is necessary to demonstrate that the issue triggering a reduction or suspension has been addressed. The Secretary General shall notify the Council that production has recommenced.~~

Regulation 29 bis

Procedure for suspensions in Exploitation activities

1. Any time that there is a suspension of Exploitation activities under these Regulations, the Secretary-General shall notify the Council and publish notice on the website of the Authority when activities have been suspended, which shall include the rationale for the suspension, and when the activities have recommenced.
2. Where a suspension of Exploitation activities is required for any reason by the Authority, the Authority will provide the Contractor with a suspension notice to specify what operations under the Plan of Work must cease, and which, if any, may continue, and any other relevant terms and conditions for the suspension
3. During a suspension of Exploitation activities for any reason:
 - (a) a Contractor shall notify the Secretary-General as soon as it intends to recommence any or all of the suspended activities no later than [72 hours] before such recommencement, and, where necessary, shall provide to the Secretary-General such information as is necessary to demonstrate that the issue triggering a suspension has been addressed; or
 - (b) a Contractor shall report to the Secretary-General on at least a monthly basis with regards to the reasons for continuing the suspension, providing such information as is necessary to justify that the issue triggering a suspension continues.
4. The Secretary-General shall supply all information received pursuant to paragraph (3) to the Commission for review and to make a recommendation to the Council. The Council shall determine when the relevant Exploitation activities should recommence, giving the Contractor no less than 60 Days' written notice where resumption of activities is required.
5. In making its review under paragraph (4), the Commission shall take into account the recommendations of the Economic Planning Commission where applicable, and shall examine whether the reasons for the suspension are reasonable, and whether a continued suspension or a recommencement of activities, would be in the best interests of humankind in the circumstances.
6. Throughout the duration of any suspension in Exploitation activities, the Contractor shall continue to monitor and manage the Mining Area in accordance with the relevant section of the Closure Plan.
7. Where a suspension in Exploitation activities continues for a period of more than 12 months, the Commission may require the Contractor to submit a final Closure Plan in accordance with regulation 60.
8. Where the Council requires recommencement of Exploitation activities after a suspension under this regulation, and the Contractor does not comply with that requirement, this shall be treated as a serious violation of a fundamental term of the contract and these regulations, and the Authority shall take appropriate compliance action.

9. In the event that a Contractor elects to suspend all Commercial Production for more than five consecutive years, the Council may after discussion with the Contractor decide that Commercial Production has ceased, and require the Contractor to implement the final Closure Plan.

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

- Para 2: Germany suggests deleting the later part of para 2 and instead regulating all procedural requirements for suspensions in a standalone regulation 29bis, for which a draft text is provided here. This new DR will apply to all suspensions enacted for any reason under the exploitation regulations. The new DR will also help to prevent a situation whereby a Contractor might “suspend” operations indefinitely after the profitable period of production, to avoid closure requirements. In this respect, DR 29bis may be regarded as a lesson learned from land-based mining. In addition, DR 29bis will help to streamline the various regulations that address forms of suspensions (eg DR 4, 21, 28, 29, 80, 99, 103, and Annex X).