

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH SESSION:
COUNCIL - PART III**

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:

IWG-Environment

2. Name(s) of Delegation(s) making the proposal:

Japan

3. Please indicate the relevant provision to which the textual proposal refers.

Part VI Regulation 48ter para 1 and para 2 alt

Blue text indicates Japan'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.

1. Subject to this Regulation, an applicant ~~or a contractor~~ shall conduct ~~a~~ "test mining" ~~[prior] to submitting an application for a Plan of Work for Exploitation before starting commercial mining under an Exploitation contract.~~ Information gathered through "test-mining" shall be compiled in a test mining report in accordance with Annex IV, be in accordance with ~~and take into account~~ the relevant Standard ~~and take into account the relevant~~ Guideline ~~and shall inform on the Environmental Plans application for a Plan of Work for Exploitation pursuant to Regulation 11.~~

2.alt. The purpose of test mining is to ensure that the proposed mining equipment and activity are technically appropriate and that effective protection of the marine environment from harmful effects is ensured. Test mining projects shall as a general rule provide evidence that appropriate equipment is available to ensure the effective protection of the Marine Environment in accordance with Article 145.

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

We believe that the purposes of test mining are (1) to ensure technical feasibility of mining and (2) to assess the environmental impacts which is reasonably considered to actually arise from commercial production in advance, and it is necessary to conduct test mining by using a system of the same scale as that used for commercial production

in order to achieve, in particular, the above mentioned second purpose. However, implementation of test mining on the same scale as commercial production requires a huge amount of funds, and it is unrealistic for many contractors to collect such necessary funds prior to submitting an application for a Plan of Work for Exploitation. In addition, the important point is to ensure, before starting commercial production, that the marine environment will be effectively protected once commercial production commences. For these reasons, it is not appropriate to limit the timing of test mining to the period before PoW submission, but rather the contractor or applicant should be allowed to flexibly choose the timing, including after submission, as long as the timing is before the start of commercial production.

We do not rule out the possibility that contractors or applicants will voluntarily choose to conduct test mining prior to submission of PoW application. But in that case, it is our understanding that since Article 153 (3) of UNCLOS provides that “(a)ctivities in the Area shall be carried out in accordance with a formal written plan of work” and the plan of work shall be “in the form of a contract”, test mining prior to submission of PoW application is to be conducted under Exploration contract. If so, we believe that it is necessary to ensure whether the test mining conducted under Exploration contract meets the purposes of and requirements for test mining in Exploitation Regulations, and to establish appropriate provisions to this end.

Regarding paragraph 2 and paragraph 2alt, we support paragraph 2alt, which is more concise. However, as noted above, we believe that test mining under Exploitation Regulations has two purposes, namely (1) to ensure technical feasibility of mining and (2) to assess the environmental impacts which is reasonably considered to actually arise from commercial production in advance, and therefore propose to include "the proposed mining equipment and activity are technically appropriate and that" in paragraph 2alt.

Lastly, since the definition of test mining and its purposes in Exploitation Regulation seem to vary from country to country, we would like to foster a solid common understanding first and then proceed with the discussion.