

**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 Institutional Matters

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

The Kingdom of the Netherlands and Ireland

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

DR13. Assessment of Applicants and applications

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.

Red is the original text. Blue represents our suggestions.

1 (e) Demonstrate that the applicant has ~~for can demonstrate that it will have~~ the financial and technical capabilities [and capacity] to carry out the Plan of Work ~~in accordance with the regulations, Standards and taking into account the Guidelines~~, [meet or exceed environmental performance obligations] and to meet all obligations under an exploitation contract [according to criteria defined by the Council]

3. In considering the technical capability of an applicant, the Commission shall determine in accordance with ~~Standards and taking into account~~ Guidelines whether the applicant has provided sufficient information to demonstrate it has ~~for will have~~

(a) Certification to operate under internationally recognised quality control and management standards, ~~including on the assessment of the equipment, operational procedures and processes used in exploitation activities in relation to its environmental impact in accordance with Best Available Techniques, Best Environmental Practices and the relevant Standards, in particular those developed under regulation 45.~~

(a bis.) The necessary technical and operational capability to carry out the proposed Plan of Work in accordance with ~~Best Available Techniques~~, Good Industry Practice and ~~Best Environmental Practices~~ using appropriately qualified and adequately supervised personnel;

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

In 2017, the Netherlands submitted a paper on the development of an assessment methodology and approval process for environmentally responsible mining technologies (ISBA/23/C/5). In Council Decision ISBA/23/C/18, the Council formally requested the Commission to consider, as appropriate, the submission by the Netherlands entitled “Development of environmentally responsible mining technologies: towards an approval process for mining equipment”, in the context of its work on the draft regulations.

The paper proposes to develop an approach for the assessment of mining technologies that could facilitate the application of future innovative technological developments. Current available technologies for exploitation are expected to exert different pressures on the ecosystem that may lead to various types of environmental impacts on the marine ecosystem. Future technological developments are not only needed to reduce such impacts but are also expected as innovations continue. A question that arises concerns how exploitation activities and the use of equipment to conduct exploitation will be assessed in relation to their impact on the marine environment. With regard to the impacts of equipment and how they are applied, the obligation to use of the latest technical developments needs to be incorporated in the regulations. The objective of the paper as submitted by the Netherlands in 2017 and of this proposal is to develop an assessment methodology for equipment, operational procedures and processes used in deep sea mining exploitation, and a subsequent approval process.

One method used internationally for such an approval process is the use of a private system of standardization and conformity assessment, which culminates in the prerequisite to have certification as proof for the assessment. The textual submission for DR13 requires from the contractor certification to confirm the performance of the equipment, operational procedures and processes used in exploitation activities in relation to their environmental impact. Certification can be part of an approval process as proposed in the paper for the LTC to ensure that the equipment, operational procedures and processes used in exploitation activities meet the relevant requirements for environmental protection (for example as set in the Standards, in particular those developed under regulation 45).

This suggestion is in line with the aforementioned paper from 2017 and the Council decision, but also with UNCLOS, Annex III, Article 4(2), which requires that qualification standards of applicants “shall relate to the financial and technical capabilities of the applicant and his performance under any previous contracts with the Authority.”