

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 29<sup>TH</sup> SESSION:  
COUNCIL - PART II**

*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](mailto:council@isa.org.jm).*

**1. Name(s) of Delegation(s) making the proposal:**

New Zealand

**2. Please indicate the relevant provision to which the textual proposal refers.**

Regulation 15.

**3. 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. If the Commission determines that the application meets the criteria set out in Regulations 12(4) and 13, it shall recommend approval of the Plan of Work to the Council.~~

{1. Alt. If the Commission determines that the applicant meets the criteria set out in regulation 13, it ~~{shall}~~{may} recommend approval of the Plan of Work to the Council.}

1. bis The Commission shall accompany any recommendation for approval made under paragraph 1 with:

(a) a report in accordance with regulation 11(5);

(a) a summary of the deliberations of the Commission including what inputs have been taken into account and how these have been assessed, as well as divergences of opinion in the Commission, if any;

(a) bis a summary of any uncertainties inherent in the Plan of Work and how the applicant is proposed to address these;

(b) any conditions the Commission considers appropriate to deal with adverse effects of the proposed activities; and

(c) a draft Contract.

...

3. The Commission shall not recommend the approval of a proposed Plan of Work if it determines that:

(b) The total area allocated to a Contractor under any approved Plan of Work would exceed:

(i) 75,000 square kilometres in the case of polymetallic nodules;

(ii) 2,500 square kilometres in the case of polymetallic sulphides; or

(iii) 1,000 square kilometres in the case of cobalt-rich ferromanganese crusts; or

...

4. If the Commission determines that it will not recommend approval of the Plan of Work ~~[for any reason]/[pursuant to paragraphs (1)-(3)]~~ the Commission it shall inform the applicant in writing, providing the reasons ~~why~~~~[any requirements set out in Regulation 13 have not been met by the applicant or why the Commission has been unable to make a determination for this determination]~~, and shall provide the applicant with a further opportunity to make representations within 90 Days of the date of notification to the applicant. During this period the Commission shall not make a recommendation to the Council on the application.

...

6. The Commission may refuse an application and return it to the applicant. The Commission must provide reasons for refusing an application, including a summary of the deliberations of the Commission specifying what inputs have been taken into account and how these have been assessed, as well as divergences of opinion within the Commission, if any.

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

New Zealand believes “may” is the appropriate language in para 1, rather than “shall”. These regulations cannot deal with every possible scenario and all potentially relevant factors in all future applications. It is therefore important to maintain some flexibility for the Commission experts in case possibilities arise that have not been considered. Our suggestions in para 4 reflect this same point. In para 1bis, we suggest including a reference to the report required under regulation 11(5), which the Commission must produce as part of its recommendations. Otherwise this reads as a complete list and there is inconsistency between these two provisions. Finally – this is not a textual suggestion as it relates to multiple regulations – but we wish to register that New Zealand supports paragraphs 3(b) and 6 but believe these do not naturally fit in regulation 15. In our view, paragraph 3(b) should be moved to regulation 8 on area to be covered by an application – this could simply state that applications that would allow contractors to exceed more than X will not be considered. In addition, paragraph 6 should be moved to regulation 11 as it does not appear to be about the Commission’s recommendations, but rather the Commission pushing back on consideration of the application altogether.