

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 29TH 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.

1. Name of the Working Group

Financial Terms of an Exploitation Contract

2. Name of the Working Group

Financial Terms of an Exploitation Contract

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

Brazil

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

Regulation 77

5. 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.

~~[4. If the Contractor is in [gross and persistent breach] [serious, persistent and willful violation] of any payment obligations in accordance with this Part, the Council [shall] [may] suspend or [terminate] the [Exploitation] Contract pursuant to Regulation 103 of these Regulations and the Contractor’s company principals shall be barred from direct or indirect involvement with any Contractor or subcontractor operating in the Area for a period of [10] years].~~

5. The Sponsoring State shall be informed at the beginning of any procedure potentially leading to a determination according to this Regulation, and may provide written representations to the Secretary-General, the Council or the Finance Committee.

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

We see no need of taking action against the principals of the Contractor, as it would amount to a personal sanction. The individuals in question would have to be heard and their responsibility and degree of control over Contractor’s activities would have to be specifically assessed. The whole procedure would be unnecessarily complicated. Moreover, sanctions against individuals find no base in UNCLOS Part XI. On the other side, a finding of a breach under Regulation 77 may give rise to Sponsoring State’s

responsibility for failing to discharge its due diligence obligation to prevent such violations by its associated Contractor. Therefore, the procedure would be more legitimate and acceptable to all States if affected Sponsoring States could take part in the proceedings, in the manner of proposed Paragraph 5.