

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 29<sup>TH</sup> 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](mailto:council@isa.org.jm).

1. Name(s) of Delegation(s) making the proposal: Australia
2. Please indicate the relevant provision to which the textual proposal refers.  
  
DR26 - Environmental Performance Guarantee
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.

**Environmental Performance Guarantee**

1. A Contractor shall lodge an Environmental Performance Guarantee in favour of the Authority ~~and no later than the on execution of the contract commencement date of Commercial Production in the Mining Area.~~

2. The required form and amount of the Environmental Performance Guarantee shall be ~~[assessed and recommended by the Commission and]~~ determined ~~[by the Council]~~ according to the applicable Standards and take ~~into consideration account of the applicable~~ Guidelines, and shall reflect the forecasted costs required for:

(a) The premature Closure of Exploitation activities;

(b) The Decommissioning and final Closure of Exploitation activities, including the removal of any Installations and equipment; and

(c) The post-closure monitoring and management of residual Environmental Effects.

3. The amount of an Environmental Performance Guarantee may be provided by way of instalments over a specified period. ~~[In such cases, commercial production may only commence once the full amount has been provided.]~~

~~[3 bis. The Environmental Performance Bond shall take the form of a letter of credit or surety bond guaranteed by a financial institution with a long-term credit rating of AA- or better from Fitch Ratings, Moody's or Standard & Poor and meeting the other financial criteria provided for in the Standard.]~~

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4. The amount of the Environmental Performance Guarantee shall be reviewed and updated [every five years] ~~[annually by the Contractor]~~:

(a) Where the Closure Plan is updated in accordance with these Regulations; or

(b) As the result of:

(i) A performance assessment under Regulation 52;

(ii) A modification of a Plan of Work under Regulation 57; or

(iii) A review of activities under a Plan of Work under Regulation 58;

[(iv) [After consultation with a Contractor,] ~~if~~ The Authority considers that the likely cost of the activities outlined in (2) have substantially increased;] and

(c) At the time of review by the Commission of a Final Closure Plan under Regulation 60.

(d) Inflation and other market or economic conditions impact on the amount of the guarantee that must be held.

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

On paragraph 1, Australia submits that the relevant day by which the Environmental Performance Guarantee must be paid is the date of execution of the contract, not date of commercial production.

On paragraph 3, Australia proposes reinserting the final sentence. Australia does not support commercial production occurring until the entire Environmental Performance Guarantee has been paid in full.

On paragraph 4(d), Australia proposes reinserting this language. Exploitation contracts run for up to 30 years. During this period, inflation and other market conditions have the potential to significantly impact the real value of the Environmental Performance Guarantee. It is important that the Environmental Performance Guarantee reflects the real costs necessary to address environmental harm and closure plans so the Environmental Performance Guarantee amount must be updated to reflect these changes in market.