

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 30<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:**

Kingdom of the Netherlands

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

Draft Regulation 89 – amendments are made in tracked changes and highlighted yellow, as reflected below. Red text was already included in the original consolidated text.

**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. ~~{There shall be a presumption that any} [All] All~~ data and information regarding the Plan of Work, Exploitation Contract, its schedules and annexes or the activities taken under the Exploitation Contract ~~{are} {shall be} is~~ public, other than Confidential Information.

2. “Confidential Information” means:

~~{(a) [Data and information that have been designated as Confidential Information by a Contractor in consultation with the Secretary General under the Exploration Regulations and which remains Confidential Information in accordance with the Exploration Regulations;]}~~

[...]

~~{(e) [Documents exempt from disclosure due to attorney-client privilege].}~~

3. “Confidential Information” does not mean or include data and information that:

[...]

~~{(f) [Relate to the Protection and Preservation of the Marine Environment, provided that] [unless] the Secretary General may agree that such information is regarded as Confidential Information for a reasonable period where there are bona fide academic reasons for delaying its release;}~~

~~{(f) Alt. Relate to the Protection and Preservation of the Marine Environment, provided that the Secretary General may designate such information as Confidential Information for a reasonable period, subject to such conditions as may be appropriate, where the Commission agrees that there are bona fide academic reasons for delaying its release on the terms proposed by the Secretary General and the decision including the reasons are reported to Council;}~~

{(f) Alt.\_2. Are environmental data, including all baseline and monitoring information;}

[...]

~~6. Nothing in these Regulations shall affect the rights of a holder of intellectual property~~

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

The following explains the changes made:

- Paragraph 1: Either information is confidential or it is public. The phrase “there shall be a presumption” causes confusion, in the sense that it suggests a third category of “presumably public” information;
- Paragraph 2(a): Information should be confidential for the reasons mentioned in paragraphs (b)-(d). If it does not qualify as such, it should not be confidential by operation of the Exploration Regulations;
- Paragraph 2(e): It is not clear why the information mentioned in paragraph 1 should be attorney-client privileged;
- Paragraphs 3(f)-(f) alt 2: The Kingdom of the Netherlands prefers f. alt 2 over (f) and (f alt); and
- Paragraph 6: This paragraph is much too broad. Indeed, the rights of a holder of intellectual property will – and must – be affected by these Regulations, for example when a Contractor also holds intellectual property.