

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28<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 of Working Group:**

IWG of the Whole.

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

Submitted by Nauru Ocean Resources Inc., Tonga Offshore Mining Ltd and Blue Minerals Jamaica Ltd.

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

Draft Reg 38(1).

**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.**

*A Contractor shall, within ~~90~~120 Days of the end of each Calendar Year, submit an annual report to the Secretary-General, in such format as may be prescribed from time to time in the relevant [Standards, and taking account of the] Guidelines, covering its activities in the Contract Area and reporting on compliance with the terms of the exploitation contract.*

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

- We support the adoption of Draft Regulation 38(1) with the proposed amendment outlined above.
- We respectfully consider that, given the complexity of the reporting requirements and other ongoing activities, 90 days is not a sufficient amount of time to finalize the annual report.
- We note that certain information and parts of the report can only be analyzed and completed after the end of each calendar year. We consider that 120 days is an appropriate amount of time to finalize the annual report following the end of the calendar year.
- Therefore, we have proposed to change the time frame to 120 days.

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Submitted by Nauru Ocean Resources Inc., Tonga Offshore Mining Ltd and Blue Minerals Jamaica Ltd.

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Draft Reg 38(2)(b).

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*(b) The quantity and [quality] [dry metal content] of the Resources [recovered] [extracted] during the period and the [volume] [tonnage] of Minerals ~~and metals~~ [produced] [recovered], marketed and sold by the Contractor from the Area during the Calendar Year, reported against the Mining Workplan;*

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

- We support the adoption of the proposed amendments to Draft Regulation 38(2)(b), subject to our additional amendments outlined above.
- We consider that the wording "recovered" is more appropriate than "produced" as this is consistent with the definition of Minerals in the Draft Regulations.
- We propose that annual reports prepared under Draft Regulation 38 should be limited to the Minerals extracted, marketed and sold by the Contractor itself from the Area, and should not include the downstream sale of metals. Contractors may not be involved in the production of metals and may not have access to information related to downstream sale of metals. As such, we propose to delete the term "Metals", as the exact quantity of Metals (as defined in the Draft Regulations) will only be determined after processing. For the reasons outlined above, this information may not be available to all Contractors.

- Finally, we consider that a requirement to include tonnage of Metals in the annual report can be included in the exploitation contract on a case-by-case basis, if that Contractor is undertaking their own processing.

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

Draft Reg 38(2)(e)(alt)(bis).

**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.**

*(e) alt bis. Details of any ~~accidents~~ or Incidents arising during the period;*

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

- We support the proposed adoption of Draft Regulation 38(2)(e)(alt)(bis) with the above amendment, and propose that Draft Regulation 38(2)(e) and Draft Regulation 38(2)(e)(alt) are not adopted.
- We consider that the reference to "accidents" in Draft Regulation 38(2)(e)(alt)(bis) should be removed as it introduces uncertainty as to what constitutes "accidents" for inclusion in an annual report.
- We consider that limiting the wording of Draft Regulation 38(2)(e)(alt)(bis) to "Incidents" provides sufficient clarity to Contractors of their obligation to disclose relevant events of concern to the Authority.
- We oppose the adoption of Draft Regulation 38(2)(e) and Draft Regulation 38(2)(e)(alt) – it is in line with general international commercial practice for annual reports to detail any Incidents, rather than demonstrate or provide information showing compliance with relevant standards.

- Finally, we also consider that Contractors' compliance with health, labor and safety standards and the matters described in Draft Regulation 38(2)(e) will be sufficiently monitored through the Inspections conducted under Part XI of the Draft Regulations.

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Submitted by Nauru Ocean Resources Inc., Tonga Offshore Mining Ltd and Blue Minerals Jamaica Ltd.

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

Draft Reg 38(2)(g)(ter).

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~~(g) The [methodology used and] actual results obtained from [Test Mining activities or] environmental monitoring programmes, including observations, measurements, evaluations and the analysis of environmental parameters, reported against, [where applicable, any [criteria, technical Standards and indicators] [environmental objectives, thresholds and standards] pursuant to the [applicable Regional Environmental Management Plan and the] Environmental Management and Monitoring Plan, [and the Contractor’s annual environmental compliance assurance plan for that year] together with details of any response actions implemented under the plan and the actual costs of compliance with the plan;~~

~~(g) bis. Details of any accidents, Incidents, or Notifiable Events involving risk or harm to the Marine Environment arising during the period, information on compliance with environmental standards, and actions taken in respect of the Contractor’s environmental procedures and environmental management system, reported against the Environmental Management and Monitoring Plan, and the Emergency Response and Contingency Plan where relevant.~~

~~(g) ter. An annual environmental compliance assurance plan, setting out environmental compliance assurance actions for the following year aimed at delivering the outcomes set out in the Environmental Monitoring and Management Plan, and containing key indicators against which the Contractor’s effectiveness in environmental compliance assurance can be reviewed;~~

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

- We support the proposed adoption of 38(2)(g)(ter), and propose that Draft Regulation 38(2)(g) and Draft Regulation 38(2)(g)(bis) are not adopted.
- We consider that the proposed annual environmental compliance assurance plan in Draft Regulation 38(2)(g)(ter) is straightforward and clear while providing a clear obligation for a Contractor to demonstrate their environmental compliance in their annual report.
- We consider that Draft Regulation 38(2)(g)(bis) should not be adopted because it duplicates the production of information concerning risks which are included in other parts of Draft Regulation 38(2), including Draft Regulations 38(2)(e) and 38(2)(h).

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Submitted by Nauru Ocean Resources Inc., Tonga Offshore Mining Ltd and Blue Minerals Jamaica Ltd.

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Draft Reg 38(2)(i).

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*(i) Evidence that insurance is maintained, including the amount of any deductibles and self-insurance, together with the details and amount of any material claims made or material amounts recovered from insurers during the period;*

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

- We support the proposed adoption of Draft Regulation 38(2)(i), subject to the above amendment.
- We consider that the disclosure of details of claims and amounts recovered from insurers should be limited to material claims and amounts.
- A requirement to report immaterial claims and amounts will result in a significant administrative burden on both Contractors and the Secretariat, without providing meaningful information or assistance to the Authority. Limiting such claims and amounts to those that are material will ensure that only relevant, useful information is required to be reviewed by the Secretary-General.



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

Draft Reg 38(3).

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*Annual reports shall be published in the Seabed Mining Register, except for Confidential Information, which shall be redacted. ~~[To this end, Contractors shall submit a confidential and non-confidential version of each annual report. structure the annual reports such that any Confidential Information can clearly be identified and extracted].~~*

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

- We propose the amendments to Draft Regulation 38(3) outlined above.
- We welcome the proposal that Confidential Information should be clearly identified so it can be extracted. However, we consider that it will be more practical with less administrative burden for the Authority if Contractors are required to submit both a confidential and a non-confidential version of their annual report.
- We consider that this will ensure that only the non-confidential report is published on the Register. This approach shifts risk away from the Secretariat to the Contractor to ensure that the "non-confidential" version of the annual report does not contain information which the Contractor considers to be confidential.

- We consider that the liability of the Authority could potentially be significant if an error was made in disclosing confidential Contractor information.

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Submitted on behalf of Nauru Ocean Resources Inc., Tonga Offshore Mining Ltd and Blue Minerals Jamaica Ltd.

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

Draft Reg 38(4) Alt 1.

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*The Commission shall review annual reports received and shall, after providing Contractors with an opportunity to comment on any sections of concern, prepare and submit to the Council a summary report pertaining to Contractors’ annual reports, which shall record inter alia any failures to comply with this reporting requirement, any instances or concerns regarding non-compliance with the Rules of the Authority, any trends or findings from the review, any relevant comments provided in response by Contractors and any related recommendations for the Council’s consideration.]*

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

- We support Draft Regulation 38(4) Alt 1, subject to the amendments proposed above.
- In the interests of fairness, transparency and due process, we consider that Contractors should have the opportunity to comment on the summary report.
- Contractors are directly engaged in mining operations and have unique insights and perspectives that can assist the Commission and the Council in fulfilling their respective mandates.
- Contractors are also directly affected by the outcomes arising from the summary report. Giving Contractors an opportunity to provide input will ensure that the

Commission provides Contractors with due process and ensures a summary report that is balanced, informative and of optimal usefulness to the Council.