

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH 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.

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 94(3).

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.

The Standards contemplated in paragraph 1 above ~~[may]~~ ~~[must]~~ may include both qualitative and quantitative standards, ~~{and must~~may include all~~}[as well as]~~ the methods, ~~[process or]~~ [processes and] technology required to implement the Standards.

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

- We propose the amendments outlined above to Draft Regulation 94(3).
- First, we consider that not all Standards will need to include both qualitative and quantitative standards. Secondly, the Commission and Council may not have information as to all available methods, processes and technology for implementation of the Standards.
- Therefore, we consider that it is best practice to retain broader criteria for the Standards to allow the Commission to recommend and the Council to adopt the required Standards.

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH 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.

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 94(alt).

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.

Regulation 94

Adoption of Standards

~~1. The Commission shall, taking into account the views of [recognized experts,] [recognized experts identified in accordance with annex X] relevant Stakeholders and relevant existing internationally accepted standards, make recommendations to the Council on the adoption and revision of Standards relating to Exploitation activities in the Area, including standards relating to:~~

~~a) Operational safety;~~

~~b) The conservation [and Exploitation] of the Resources; and~~

~~c) The protection of the Marine Environment, including standards or requirements relating to the Environmental Effects of Exploitation activities, as referred to in regulation 45~~

~~**1bis.** The Council shall ensure that requirements and legally binding obligations associated with relevant and/or applicable international treaties and agreements are adopted/integrated into the ISA's Standards and Guidelines.~~

~~2. The Council shall consider and approve, upon the recommendation of the Commission [and taking into account statements submitted by Stakeholders during a public consultation,] [and giving due consideration to submission by stakeholders in the framework of the Public Consultations] the Standards, provided that such Standards are consistent with the intent and purpose of the Rules of the Authority [and] [including] [the decisions of the Council and the Assembly and developed on the basis of Best Available~~

~~Scientific Evidence]. If the Council does not approve such Standards, the Council shall return the Standards to the Commission for reconsideration in the light of the views expressed by the Council.~~

~~3. The Standards contemplated in paragraph 1 above [may] [must] include both qualitative and quantitative standards, [and must include all] [as well as] the methods, [process or] [processes and] technology required to implement the Standards.~~

~~3. **bis.** Standards shall be methodological, procedural, technical and environmental rules that are necessary to implement the regulations and to ensure a coherent approach to monitoring and assessment, as referred to in Regulation 45. Standards are legally binding on Contractors and the Authority, and shall be revised every 5 years in the light of new knowledge, e.g. resulting from environmental impact assessments and monitoring.~~

~~4. Standards adopted by the Council [and the Assembly] [and approved by the Assembly] shall be legally binding on Contractors, [Sponsoring States] and the Authority and [may] [shall] [should] be [revised] [reviewed] [eventually amended] at least every five years from the date of their adoption or revision, [and advise the Council] and in the light of improved knowledge or technology [and on the request of the Council] [or in view of unforeseeable events or environmental considerations].~~

~~2. **4 alt.** Standards adopted by the Council shall be legally binding on Contractors and the Authority and the Commission shall review these Standards and advise the Council, as to whether any revision is required at least every five years from the date of their adoption or revision, in the light of improved knowledge or technology.~~

[Regulation 94 Alt

Adoption of Standards

1. Standards and amendments thereto are binding on all activities persons operating in the Area.

2. Standards are prepared by the Commission, which shall take into account the views of recognized experts, relevant Stakeholders, and relevant existing international standards, and make recommendations to the Council on the adoption and revision of Standards.

3. The Council shall consider and approve the Standards upon the recommendation of the Commission. If the Council does not approve such Standards, the Council shall return the Standards to the Commission for reconsideration in the light of the views expressed by the Council. The Standards may be revised at least every five years from the date of their adoption or revision, and in the light of improved knowledge or technology. The Standards approved by the Council shall remain effective on a provisional basis until approved by the Assembly or until amended by the Council in the light of any views expressed by the Assembly.

4. Standards may be adopted in relation to:

(a) health, safety and labor matters;

(b) the protection and conservation of the natural resources of the Area and the prevention of damage to the flora and fauna of the Marine Environment;

(c) the prevention, reduction and control of pollution and other hazards to the Marine Environment, including the coastline, and of interference with the ecological balance of the Marine Environment, particular attention being paid to the need for ~~the~~ protection from harmful effects of such activities as drilling, dredging, excavation, disposal of waste, construction and operation or maintenance of Installations, pipelines and other devices related to such activities; and

(d) other matters.

5. Standards may include both qualitative and quantitative norms, as well as the methods, processes and technologies necessary to comply with the standards.

6. To the extent of any inconsistency between a Standard and amendments thereto, and an already approved Plan of Work, a Contractor following a reasonable transition period, shall use its best efforts to comply with any additional changes to its Plan of Work as a result of the amendment.

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

- We support replacing Draft Regulation 94 with Draft Regulation 94(alt), subject to the minor amendments outlined above.
- We consider that Draft Regulation 94(alt) is clearer and accurately reflects the requirements of the Convention and the 1994 Agreement.
- We propose amending Draft Regulation 94(alt)(1) to accurately reflect the Convention, in particular Article 157 of the Convention and the power of the Authority to create Standards.
- We have proposed a new Draft Regulation 94(alt)(6) concerning the relationship between an approved Plan of Work and subsequent amendments to the Standards and Guidelines.
- We consider that Contractors require a certain degree of business and operational certainty. For example, if a Contractor receives approval of a Plan of Work and the Standards are subsequently revised, we do not consider that a subsequent revision of the Standards should automatically result in a requirement for the Contractor to modify the approved Plan of Work in accordance with the new Standards. We suggest that a Contractor be required to use its best efforts to comply with the new Standard following a reasonable transition period.
- With respect to Draft Regulation 94, we consider that:

- Draft Regulation 94(1)(bis) should not be adopted, as any legally binding international treaties are already binding on Contractors through their Sponsoring States, Flag State or State of nationality;
- Draft Regulation 94(3) should not be adopted, as not all Standards will necessarily include qualitative and quantitative standards. Flexibility should be retained to allow the Commission to create Standards that are fit for purpose; and
- Draft Regulation 94(3)(bis) is not necessary and overly prescriptive, limiting the flexibility of the Commission to create Standards that are fit for purpose and necessary to implement the Regulations.