

**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.

Annex X, Section 7.1.

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.

7.1 The Contractor shall be liable to the Authority for the actual amount of any damage, including damage to the Marine Environment, arising out of its wrongful acts or omissions, and those of its employees, subcontractors, agents and all persons engaged in working or acting for them in the conduct of its operations under this Contract, including the costs of reasonable measures to prevent and limit damage to the Marine Environment, arising out of its wrongful acts, account being taken of any contributory acts or omissions by the Authority or third parties. This clause survives the termination of the Contract and applies to all damage ~~caused by the Contractor~~ arising out of the Contractor's wrongful acts regardless of whether it is caused or arises before, during or after the completion of the Exploitation activities or Contract term.

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

- We support the proposed amendment to Annex X, Section 7.1.
- We consider that the proposed amendment provides an appropriate limitation on Contractors' liability while clearly providing that Contractors will be accountable for any damage arising out of their wrongful acts.

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

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Annex X, Section 9.3.

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The Council shall review the notification, and if the Council determines that the Contractor is in compliance with the conditions set out above, this Contract ~~shall be~~ ~~[shall-be]~~ ~~[may-be]~~ renewed on the terms and conditions of the standard exploitation contract that are in effect on the date that the Council approves the renewal application.

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

- We oppose the proposed amendment to Annex X, Section 9.3.
- We consider that, if a Contractor is in compliance with the conditions set out in Annex X, Section 9, then the renewal should be granted. We do not consider that further discretion should be afforded to the Council in circumstances where a Contractor has met all conditions for a renewal.
- It is critical that Contractors and their investors have operational certainty that, if a Contractor makes a renewal application which satisfies the regulatory conditions for a renewal that have been outlined, that renewal is granted.

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

Annex X, Section 12.3 and 12.4.

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.

12.3 Any suspension or termination shall be by written notice to the Contractor, through the Secretary-General, which shall include a statement of the reasons for taking such action. The suspension or termination shall be effective 60 Days after such written notice, unless the Contractor within such period disputes the Authority’s right to suspend or terminate this Contract in accordance with Part XI, Section 5, of the Convention ~~[in which case this Contract shall only be suspended or terminated in accordance with a final binding decision in accordance with Part XI, Section 5, of the Convention.]~~ in which case this Contract shall only be suspended or terminated in accordance with a final binding decision in accordance with Part XI, Section 5, of the Convention.

~~[12.4 If the Contractor takes such action, this Contract shall only be suspended or terminated in accordance with a final binding decision in accordance with Part XI, Section 5, of the Convention.]~~ [12.4 If the Contractor takes such action, this Contract shall only be suspended or terminated in accordance with a final binding decision in accordance with Part XI, Section 5, of the Convention.]

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

- We oppose the proposed deletion from Annex X, Section 12.3 and 12.4.
- We consider it critical for commercial certainty that the above wording is retained. The length of time required for a final binding decision to be issued is unpredictable and without limitation.

- In circumstances where a Contractor exercises its rights under the Convention and challenges a suspension or termination, the status quo of existing operations should be maintained while a final binding decision is pending.
- The proposed amendments to Annex X, Section 12.3 and 12.4 may negatively impact Contractor risk premiums and, ultimately, the cost of operations due to the uncertainty they create.
- We consider that these amendments are not in the best interests of any party or stakeholder, as they will have an unnecessary negative impact on the economics of the Exploitation operations.