

**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:

Open-ended Working Group of the Council on the financial terms

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

Submitted by Nauru Ocean Resources Inc. and Tonga Offshore Mining Ltd.

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

Part III, Draft Reg. 27.

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.

1. Where the requirements of regulation 25 are satisfied and the Contractor has lodged an Environmental Performance Guarantee in accordance with regulation 26, the Contractor, consistent with Good Industry Practice, shall make commercially reasonable efforts to bring the Mining Area into Commercial Production in accordance with the Plan of Work.

2. Once Commercial Production has begun, the Contractor shall promptly notify the Secretary-General of the date of commencement of Commercial Production. Upon notification, the Secretary-General shall notify members of the Authority, in particular coastal states in close proximity to the Mining Area, that Commercial Production has begun and the location of the Mining Area.

~~{2bis Once the Contractor determines that it is engaging in sustained large-scale recovery operations which yield a quantity of materials in excess of the thresholds specified in the Standards, the Contractor shall promptly notify the Secretary General of the proposed date of commencement of Commercial Production together with supporting documentation and other evidence as specified in the Standards. The Secretary General shall transmit the notification and supporting documentation and evidence to the Commission, which shall consider the proposal and supporting materials and approve or reject the Contractor’s proposed date.~~

~~3 Promptly following approval or rejection by the Commission, the Secretary General shall, as applicable, confirm the date of commencement of Commercial Production to the Contractor, or notify the Contractor of the rejection and invite the Contractor to re-~~

~~submit its proposed date of commencement of Commercial Production under Regulation 27(2).~~

~~4. Upon confirmation, the Secretary General shall notify members of the Authority, in particular coastal states in close proximity to the Mining Area, that Commercial Production has begun and the location of the Mining Area.~~

~~5. The date of commencement of Commercial Production, will be the date confirmed to the Contractor according to Regulation 27(3).]~~

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

- We support reinstating Draft Reg. 27(2).
- We consider Commercial Production should begin per the terms set forth in the Draft Regulations and should be determined by the Contractor in accordance with an improved definition.
- Commencement of Commercial Production should not require an extra layer of review and determination by the Commission, which serves no substantive purpose and will only result in further delays.
- We consider such delays impacts the Contractor's obligation to make "*commercially reasonable efforts*" to bring the Mining Area into Commercial Production in accordance with the Plan of Work.