

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 27<sup>TH</sup> SESSION:  
COUNCIL - PART III**

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:**

President's text

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

Republic of Nauru

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

Regulation 18 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.**

~~{Regulation18 bis~~

~~Obligations of the Contractors.~~

~~1. Contractor shall comply with these Regulations and the Rules of the Authority in a manner consistent with the Convention and the Agreement.~~

~~2. Contractors, their holding, subsidiaries, affiliated and Ultimate Parent companies, agencies, partnerships, and suppliers shall be held liable for the compliance of the Contract. Particularly, they shall be jointly and severally liable for the obligation of compensating damages arising from Exploitation Activities.~~

~~3. Whether Contractors fail to comply with their payment obligations under these Regulations, holdings and Ultimate Parent Companies shall be held responsible to effect such payments to the Authority on behalf of Contractors.~~

~~4. Sponsor States shall take all legislative and administrative measures to assure that Contractors have all material, operative, and financial means to comply with the Contract and these Regulations and that no corporate limitation shall prevent Contractors, holding and Ultimate Parent Companies to compensate damages and make the payment required by the Contractors under the Contract and these Regulations.~~

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

Para 1: this obligation is reflected in the Standard Clauses for exploitation contract (Annex X, at sec 3.3(a)). We would also note that "Rules of the Authority" as currently defined includes the Convention and the Agreement but understand the text for this term and its application across the regulations is under review.

Paras 2 and 3: we recognise the importance of clarifying / establishing an effective liability mechanism relating to future exploitation activities. However, we would question the legal basis for these paragraphs given the contractual relationship is one between the ISA and a

contractor. Indeed, these regulations principally regulate the relationship between the Authority and a contractor. It is the contractor that remains responsible and liable for its performance under the contract. As regards a liability mechanism, we note ongoing discussions in relation to an environmental compensation fund and insurance requirements. Additionally, at a sponsoring State level, Nauru's legal framework for example provides for a power to require a security deposit as well as appropriate statutory and contractual indemnification.

Para 4: we consider it is a matter for the sovereign sponsoring State to determine in its own legal system the appropriate measures, consistent with its legal obligations under the Convention and the content of the 2011 Advisory Opinion. This includes making the necessary due diligence inquiries of an applicant for a sponsorship certificate in relation to the assessment of its financial resources and technical capability.