

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 27TH 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.

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 21

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.

[2.alt. Without prejudice to any terms, rights or obligations between a State and a Contractor under the terms of sponsorship, if] a State terminates its sponsorship [of a Contractor, it shall promptly] provide the Secretary-General with a written notice describing the reasons for such termination and the date the termination is to take effect, ~~and no earlier than the following timeframe:~~

~~(i) Termination due to a Contractor's material non-compliance under its terms of sponsorship takes effect [6] months after the date of receipt of the notification by the Secretary-General;~~

~~(ii) Termination due to reasons other than those listed in subparagraph (i) above takes effect [2] months after the date of receipt of the notification by the Secretary-General.]~~

~~2.alt.bis. If the reasons for termination of sponsorship include non-compliance under its terms of sponsorship, the Contractor must immediately suspend its mining operations until the Council has considered the matter in accordance with paragraph 6 below.~~

3. In the event of termination of sponsorship, ~~due to reasons other than those listed in subparagraph 2 (i) the Contractor shall~~ may, within the period referred to in [sub]paragraph 2 (ii) before the previous State's sponsorship ends, prior to the termination date referred to in paragraph 2 above obtain another Sponsoring State or States in accordance with the requirements of regulation 6, and in particular in order to comply with regulation 6 (1) and (2). Such State or States shall submit a certificate of sponsorship in accordance with regulation 6. The exploitation contract terminates automatically if the Contractor fails to obtain a Sponsoring State or States within the required period unless the Contractor has sought the Council's consent to transfer its rights and obligations under the exploitation contract pursuant to regulations 23.

6. After a Sponsoring State has given a written notice in accordance with paragraph 2 above, the Council, based on the recommendations of the Commission, which shall take account of the reasons for the termination of sponsorship, especially in-where the ~~ease of~~ termination of contract sponsorship that also equates to a material breach of compliance with the terms of the exploitation contract, ~~[may]/[shall]~~ require the Contractor pursuant to regulation 103 to

take remedial action or other steps including to suspend, ~~or continue the suspension of,~~ its ~~mining operations~~ exploitation activities until such time as the Contractor has proved to the satisfaction of the Council that the material breach of compliance with the exploitation contract has been addressed and a new certificate of sponsorship is submitted

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

Nauru considers that the current formulation of this regulation 21 is at best challenging to implement in practice and has the potential to unduly interfere with national laws and sponsorship arrangements and be prejudicial to sponsored contractor rights.

The provision for sponsorship termination in the exploration regulations is much more simplistic, recognising that sponsorship may be terminated on a date specified by the sponsoring State.

The granting and any subsequent termination of sponsorship is an act by a sovereign State in accordance with its national laws. The timeframes introduced by paragraph 2Alt(i) and (ii) are not matters to be addressed within these regulations; equally, the timeframes are somewhat arbitrary. These are matters for the sponsoring State or States to determine under their national laws and sponsorship arrangements.

Termination of sponsorship could be subject to a sponsoring States' interpretation of what constitutes non-compliance or termination for reasons of national interest unrelated to compliance. Imposing time limits within this regulation (2Alt (i) and (ii)) or immediate suspension of operations (2.alt.bis) could be unduly prejudicial to a contractor.

Naturally, where termination correlates to non-compliance with the terms of the ISA exploitation contract, this is a matter of direct concern to the Authority. This can be covered by paragraph 6 (as revised) which contemplates action being taken under regulation 103.

Finally, as regards 2 Alt, it is preferable to adopt the approach taken in the exploration regulations. The regulations do not need to empower a sponsoring State to terminate sponsorship, but to provide for the necessary notification protocols where sponsorship has been terminated.