

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28<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:**

Informal Working Group – Environment.

**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 46ter

**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.**

**Preparation of Environmental Management and Monitoring Plans**

1. Each applicant or Contractor ~~for Exploitation~~ shall prepare an Environmental Management and Monitoring Plan in accordance with this regulation ~~and Annex VII~~.

2. The purpose of an Environmental Management and Monitoring Plan is to manage and confirm that observed Environmental Effects meet the applicable Standards on environmental quality objectives and environmental performance for the mining operation. The plan shall address any issues that arise from the Environmental Impact Statement and will set out commitments and procedures on how the Environmental Effects and risks of the mining operation will be measured, monitored, managed and mitigated, including on pollution control and Mining Discharge in Regulations 49 and 50.

[3. The Environmental Management and Monitoring Plan shall include all elements and matters prescribed by the Authority in Annex VII to these regulations and shall:

3(a) *Retain*.

3(b) *Retain*.

3(c) *Retain*.

3(d) *Retain*.

3(e) *Replace 2(c) at Annex VII*.

3(f) *Move to new 2(c)bis at Annex VII*.

3(g) *Move to new 1(a)ter at Annex VII*.

~~3bis — The Contractor shall conduct monitoring for the entire duration of exploitation. In addition to the Monitoring required to be environmental monitoring programme performed by the Contractor, the Environmental Management and Monitoring Plan shall contain a supplementary monitoring programme for at least the first seven years of commercial production mining operations, to be conducted by competent independent experts and in compliance with the applicable Standards. The Contractor shall~~

~~conduct monitoring for the entire duration of the mining operation and comply with any post-closure monitoring requirement according to Regulations 59-61 and the applicable Standard.~~

~~4. The Contractor shall provide information on the implementation and compliance of the Environmental Management and Monitoring Plan pursuant to Regulations 51 and 52 in its annual report in accordance with regulations 38, paragraph 2(g), and 46bis, paragraph 4, for evaluation by the Legal and Technical Commission, as well as environmental data and information for publicly release, in an accessible format, consistent with Best Scientific Practices monitoring data and information at a regular basis and where practicable in real-time or on a monthly basis.~~

~~5. The A Contractor shall allocate sufficient resources and assign clear roles, and responsibilities and management reporting to in the implementation of, and compliance with the its Environmental Monitoring and Management Plan, in relation commensurate with to the relevant risks and impacts of the Exploitation activity. See note below – suggest move to regulation 51~~

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

**General comments:** we support the further streamlining of this regulation (see below). We would not support merging 46bis and 46ter entirely given the latter relates to the preparation of a plan, the former ongoing monitoring.

For a better, more logical flow, we suggest that Section 3 of this Part IV is titled “Environmental Management and Monitoring”. That section could be structured as follows:

### **Section 3: Environmental management and monitoring**

Regulation 46: Environmental management system

Regulation 46 ter: [Preparation of e](#)Environmental Management and Monitoring Plan

Regulation 51: Compliance with the Environmental Management and Monitoring Plan

Regulation 46 bis: Environmental monitoring

Regulation 52: Review of the Performance assessments of the Environmental Management and Monitoring Plan

Regulation 53: Emergency Response and Contingency Plan

Para 1: “for exploitation” does not make sense.

Para 2: This paragraph references both “environmental quality objectives” and “environmental performance”. Paragraphs 3(e) & (f) reference “environmental objectives and environmental performance standards” and “environmental [quality] objectives” respectively. It is important in the context of an outcome or result-based approach to environmental regulation that these terms are clearly understood and defined.

Para 3: we support generally the streamlining approach to the regulations. However, that streamlining can also entail moving content to the annexes, such as Annex VII, while ensuring that the directing regulation covers the basic elements. We have made suggestions above, noting that this may be subject to further intersessional work.

Para 3bis: in line with our comments on 46bis(3), this paragraph 3bis no longer makes sense following the removal of the independent expert requirement. The requirement to manage and monitor is continuous during the term of the contract and not a specific time frame. The last sentence is covered by regulation 46bis(1). Paragraph 3bis can be deleted.

Para 4: the content of this paragraph is adequately addressed at regulation 46bis(4). It can be deleted in this regulation.

Para 5: management reporting lines will be important in the accountability and decision-making process. Resources should be commensurate with the degree of risk and potential impacts of the activity. We suggest this paragraph 5 is moved to regulation 51 at new paragraph (d).