

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

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 52

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. A Contractor shall conduct performance assessments of ~~their-its~~ Environmental Management and Monitoring Plan. The Commission shall review the performance assessments of the Environmental Management and Monitoring Plan undertaken by a competent and independent auditor hired by a Contractor in accordance with the ~~relevant-applicable~~ Standards and taking account of the ~~relevant applicable~~ Guidelines. ~~[In conducting such a performance assessment of the Environmental Management and Monitoring Plan, the Contractor shall ensure assess:~~

1(b) The continued appropriateness and adequacy of the plan, including the **management conditions** and actions attaching thereto;

1(e) ~~The-That~~ changes in knowledge, technology, mining patterns, monitoring techniques and detection capabilities are reflected according to Good Industry Practice, Best Available Techniques and Best Environmental Practices;

1(g) Information and data derived from monitoring ~~at the mine site and~~ impact area, including the mining area as well as from any Exploitation by other Contractors is provided

2bis. An ad hoc performance assessment may be requested by the ~~[Council]~~ [Compliance body]Committee

(d) When deemed necessary by the ~~Council-Committee following investigation into~~ in response to third-party information submitted to the ~~Council~~ Authority

4. The Secretary-General shall publish the Performance Assessment Report and provide opportunity for Stakeholders to comment, and at the end of that consultation period shall transmit the report and any Stakeholder’s comments to the Commission ~~[and the Compliance Committee / Inspector General]~~. The Commission shall ~~in consultation with the [Compliance Committee / Inspector General]~~ review the performance assessment report and any stakeholder comments received ~~to it at its next available meeting, provided that the report has been circulated at least 30 Days in advance of such meeting~~ within 60 days of receipt of such report and comments. The Commission ~~should~~ shall, where necessary and appropriate, consult external experts ~~to in its in-its~~ review of the performance assessment.

5. Where the Commission upon review of the report and any Stakeholder comments received in relation to it, ~~and upon the advice of the [Compliance Committee / Inspector General]~~ considers the performance assessment...

~~6. Where the Commission has reasonable grounds to believe that a performance assessment cannot be undertaken satisfactorily by a Contractor consistent with the applicable Standards at the cost of the Contractor, an independent competent person to conduct the performance assessment and to compile the report.~~

8(a) Recommend to the ~~Council~~ Compliance Committee to consider issuing a compliance notice under regulation 103 or

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

Para 1: we support the Facilitator's proposal to move sub-paragraphs (a) to (g)ter to Standards and Guidelines to help streamline the regulation. We therefore propose removing the last sentence to paragraph 1.

Para 1(b): **we seek clarity on what is meant by management conditions.** Is this intended to be management measures?

Para 1(e): changes should be by reference to the benchmark terms.

Para 4: paragraph 4 raises a general issue of institutional functioning, particularly that of the Commission across the regulations. We see it as challenging to link the Commission's consideration and approval of matters or documents to its twice-yearly meetings. This presents a potential for undue regulatory delay for time sensitive matters and is unduly burdensome to both the Commission and contractors. We suggest a review period of 60 days.

We consider it too early to involve the compliance body in the review process. Non-performance does not necessarily equate to non-compliance. Paragraph 8(a) provides for a recommendation by the Commission to the Committee regarding enforcement which is sufficient for this regulation.

Para 5: ditto regarding comments on committee involvement.

Para 6: it would appear that paragraph 6 is no longer necessary in light of paragraph 3 which requires that the contractor to engage a competent and independent auditor.

Para 8(a): it will be for the Committee to determine an issue of non-compliance warranting the issue of a compliance notice.