

**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:

Submitted by Nauru Ocean Resources Inc., Tonga Offshore Mining Ltd. and Blue Minerals Jamaica Ltd.

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

Annex IV – Environmental Impact Statement, paragraph 1(b)

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. Preparation of an Environmental Impact Statement

The Environmental Impact Statement prepared under these regulations and the present annex shall: [...]

(b) Provide information [based on data from,] ~~[as a general rule, a minimum of 15 years of]~~ [monitoring], in accordance with the ~~relevant~~ regulations, ~~and taking into account the applicable regional environmental management plan,~~ [~~requirements of regional environmental management plans,~~] and]Standards and [~~taking into account the relevant~~] Guidelines ~~and the relevant applicable regional environmental management plan, and taking into account the relevant applicable regional environmental management plan~~, corresponding to the scale and potential magnitude of the activities, to assess the likely Environmental Effects of the proposed activities. Such effects shall be discussed in proportion to their significance. Where an applicant or Contractor considers an Environmental Effect to be of no significance, there should be sufficient information to substantiate such conclusion, or a brief discussion as to why further research is not warranted; and

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

- We consider that the specification of 15 years for baseline data collection is arbitrary and inconsistent with the current Recommendations on Exploration.
- The Recommendations are clear. It is not appropriate to change these requirements now after Contractors have designed and developed plans based on the existing recommendations and requirements.

- A minimum period of 15 years is also inappropriate given the length of time that Contractors have been able to undertake such activities in the Area.

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Annex IV – Environmental Impact Statement, paragraph 1(d)

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1. Preparation of an Environmental Impact Statement

The Environmental Impact Statement prepared under these regulations and the present annex shall: [...]

~~[(d) Be peer reviewed by competent independent experts, before submission and include a description of the experts, their qualifications, and the results of their review.]~~

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

- In line with our submission on Draft Regulation 48alt(3)(c), we disagree with a requirement for mandatory outside expert peer review for the Environmental Impact Statement, and so propose deleting sub-paragraph 1(d).
- We consider that the Commission is empowered to conduct such a review and engage additional technical expertise if necessary.

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Annex IV – Environmental Impact Statement, Section 1.5.3

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1.5.3 Consultation overview.

Provide overview of mandatory voluntary [, as well as any] stakeholder consultation processes and consultations.

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

- We note that the consultation overview in Section 1.5.3 should be evaluated together with other provisions on stakeholder consultation elsewhere in the Draft Regulations to ensure consistency and accuracy once the regulations regarding stakeholder engagement and consultation have been settled.

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Annex IV – Environmental Impact Statement, paragraph 2

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2. Template for Environmental Impact Statement

The required contents and recommended format for an Environmental Impact Statement is outlined below. It is intended to provide the ~~International Seabed~~ Authority, its member States and other stakeholders with ~~unambiguous~~ documentation of the potential Environmental Effects based on the Best Available Scientific Evidence, Best Environmental Practices, and Best Available Techniques, and Good Industry Practice on which the Authority can base its decision, and any subsequent approval that may be granted. Further detail for each section is provided following the overview.

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

- We propose amendments to this paragraph for clarity and consistency with the relevant regulations on Environmental Impact Statements.
- We also do not consider that the standard for the EIS should be “unambiguous” documentation. This is too high a bar that would remove from consideration a range of potential sources regarding environmental impact.

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Annex IV – Environmental Impact Statement, Section 2.2

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2.2 Other applicable /national legislation, policies and regulations

Outline any other legislation, policies, regulations or Sustainable Development Bills that do not necessarily apply specifically to seabed mining or the environment, but may be relevant to the proposal (e.g., shipping regulations, maritime declarations, flag State laws, climate ~~change policies~~). This section should also refer to national regulations and laws that relate to the effects of Exploitation activities on coastal States., ~~or other places where components of Exploitation (e.g., processing) could occur.~~

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

- We propose removing the phrase “or other places where components of Exploitation (e.g., processing)” could occur from this paragraph.
- It is not appropriate for the Environmental Impact Statement to document all processing related to minerals recovered from the Area – that requirement is expansive, overly burdensome and difficult for the Contractor to satisfy.
- Minerals can be processed at a variety of locations and facilities, including dependent on market conditions and by third parties if they are on sold at an early stage. The narrow category of processing explicitly included in the definition of “activities in the Area” will be sufficiently covered by the remainder of Section 2.2.

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Annex IV – Environmental Impact Statement, Section 3.3.2

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3.3.2 Mining Equipment

Describe any equipment expected to be used ~~to qualify as Best Available Technology~~ for mining and support operations (e.g., mining vessels/platforms, supply vessels, barges), including the anticipated frequency of vessel movements for these activities. Also, including a description of any specific technologies developed to reduce impacts should be included.

[...]

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

- We propose removing the requirement to describe any equipment expected to qualify as Best Available Technology, and replacing it with a requirement to describe the actual equipment expected to be used for mining and support operations.
- The focus of the EIS should be on the actual activities the Contractor will conduct and how they will be undertaken.

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Annex IV – Environmental Impact Statement, Section 3.3.3

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3.3.3 Transport/materials handling

Provide a description of all methods to be used to transport the mineral-bearing ore, including from the sea floor to the surface and how it relates ~~in relation to Best Environmental Practice~~, and any methods related to the trans shipment of the mineral-bearing ore, including transfers at sea. ~~Describe the energy requirements of the requisite machinery.~~ Also, a description of any specific technologies developed to reduce impacts should be included [, highlighting at which levels, in the water column (generation of plume at the seafloor, turbidity in the water column, addition of bottom sediments to the surface waters) resulting impacts to the marine ecosystem, may be mitigated during the different phases for collection, separation, lifting, transportation, processing, and discharge of effluents.]

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

- Section 3.3.3 is unclear. We propose amendments to clarify how we understand the reference to Best Environmental Practices is intended to operate here.
- We also propose removing the requirement to describe the energy requirements of the requisite machinery, as it is unnecessary and potentially goes to commercially sensitive information that may also be proprietary to third parties.

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Annex IV – Environmental Impact Statement, Section 3.3.4

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3.3.4 On-site processing

Provide a [detailed] description of the [plan for] processing of the mineralized material that will occur within or above the Area and how it relates in relation to Best Environmental Practice, including water column activities (such as riser pipe transfer) and shipboard processing. Include a description of any methods to be used on the sea floor to separate the mineralized material from surrounding sediment and/or rock, as well as any dewatering and separation of the mineralized material at the surface.

This section should also cover any disposal of seawater/ ~~finer~~ [and include the spatial layout of the activities over time which will provide a comprehensive map of the disturbance area from which to assess harm to the Marine Environment].

Include a description of the waste management, transport, disposal and discharge of sediment, wastes or other effluents into the Marine Environment and the disposal of waste from general ship operations, including the specific technologies and methods to be adopted to reduce harmful impacts of such disposal to the marine environment. **The description should acknowledge respective ISA Standards and Guidelines as well as other applicable legal frameworks.** Describe the management of shipboard wastes to be transported to shore-based disposal facilities, including the handling and management of hazardous materials should also be described, together with a description of the nature of such material and its transportation, storage and

disposal. ~~[Describe the energy requirements of the requisite machinery.]~~ Also, a description of any specific technologies developed to reduce impacts should be included.

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

- Section 3.3.4 is currently unclear. We propose amendments to clarify how we understand the reference to Best Environmental Practices is intended to operate here.
- We also propose removing the requirement to describe the energy requirements of the requisite machinery, as it is unnecessary and potentially goes to commercially sensitive information that may also be proprietary to third parties.

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Annex IV – Environmental Impact Statement, Section 3.5.3

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3.5.3 Workforce description

This section should also outline capacity-building objectives and commitments.

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

- We support capacity building, however, consider that it should not be placed under Section 3.5 of the EIS which is titled “Construction and Operating Standards”.
- We propose that Section 3.5.3 instead be moved to a separate section on training and capacity building.

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Annex IV – Environmental Impact Statement, Section 3.5

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3.5 Construction and operating standards

Outline the design codes or certification standards to which the equipment will be or has been built, as well as the operating standards that will be applied to mining operations, ~~including those for~~ any relevant **Best Available Technology and Best Environmental Practice** guidance ~~issued by the ISA [International Seabed Authority]~~. This section should include subsections such as those set out below.

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

- It is not clear to us what the purpose of the insertion of the “Best Available Technology” and “Best Environmental Practice” standards is here. We propose amendments to Section 3.5 to clarify how they are intended to operate.

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Annex IV – Environmental Impact Statement, Section 3bis1

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3bis1 Summary of Scoping results, including of the risk assessment process

Provide a brief overview of the results of the scoping exercise including with regard to the sufficiency of the scientific baseline data collected during exploration [or through other means](#) to support a robust Environmental Impact Assessment.

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

- We propose amending Section 3bis1 to clarify that baseline data may come from sources other than a Contractor’s own exploration – for example if an applicant relies on exploration done by others.

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Annex IV – Environmental Impact Statement, Section 3bis.2

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3bis.2 Methodology for Collecting Baseline Data

For each of the baseline descriptions of the Marine Environment in sections 4 and ~~5 and socioeconomic [and sociocultural] environment in section 6~~, describe the methodology for collecting **and analysing** baseline data, including:

1. spatial and temporal extent of sampling;
2. spatial and temporal frequency of sampling;
3. gear used for sampling and any modifications or calibrations conducted to the gear;
4. results of power analysis;
5. limitations of sampling and how this may impact certainty of impact assessments; and
6. any cooperation with other research programmes in the Area, such as with the ISA, States, other Contractors, or non-governmental organizations.

Highlight any deviations from baseline data collection requirements provided in relevant Standards and Guidelines, and the Regional Environmental Management Plan **[, and provide a rationale for those deviations.]**

Assess the sufficiency of baseline data collected and compiled in view of the aim to establish mining-related environmental change in relation to natural variability.

Raw baseline data ~~and computer code [with sufficient metadata and code comments,]~~ used to analyse and provide a description of the Marine Environment

shall be included in the annexures of the Environmental Impact Statement or, if the data ~~and/or code have~~ has been previously submitted to the Authority, the applicant may provide a link to the Authority's database where the data ~~and/or code~~ ~~[is] [are]~~ is stored or other location where such information has been made available online.

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

- We consider that the reference to the socioeconomic and sociocultural environment in Section 3bis.2 are not appropriate given the aspects of methodologies in this section.
- For example, it is not clear how spatial and temporal sampling would be relevant to socioeconomic and sociocultural issues.
- We also oppose a requirement to share computer code in an EIS. Computer code can be proprietary – either to Contractors or their subcontractors, commercially sensitive and highly valuable intellectual property. It would be neither fair nor reasonable to require such code be produced as part of the EIS.

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Annex IV – Environmental Impact Statement, Section 3bis.4

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3bis.4 Methodology for Assessments of potential environmental impacts and Environmental Effects to the Marine Environment

For each assessment of potential environmental impacts and Environmental Effects in sections 7 and 8 and socioeconomic ~~[and sociocultural]~~ environment in section 9, describe the methodology used to assess impacts and Environmental Effects from proposed operations and alternatives considered in section 3.7. ~~in line with the applicable regulations and standards and taking into account the applicable guidelines.~~

Data ~~and~~, predictive models, ~~and computer code~~ used to analyse and provide a description of the Marine Environment shall be included in the annexures to the Environmental Impact Statement or, if the data ~~and/or~~, model, ~~and/or code~~ has been previously submitted to the Authority, ~~[the applicant may provide a link to the Authority's database where the data and/or code is stored]~~ other location where such information has been made available online. Each description of methodology used to assess impacts shall include:

- a) a description and justification of analyses and models used to summarize the data; and
- b) any limitations associated with the analysis or results.

~~In accordance with Regulation 47quater, where predictive models have been used these shall be reviewed by competent independent experts and the relevant review reports shall be provided as annexures to the Environmental Impact Statement~~

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

- Consistent with our submissions on Draft Regulation 47alt and others, we oppose requiring Contractors to engage various and multiple independent experts to review and comment on the EIS and its various elements.
- It is up to the Authority to review and consider these matters. This role should not be outsourced to experts paid for by Contractors. This would usurp the role of the Commission, which has the expertise and responsibility for fulfilling this function.
- We also oppose a requirement to share computer code in an EIS. Computer code can be proprietary – either to Contractors or their subcontractors, commercially sensitive and highly valuable intellectual property. It would be neither fair nor reasonable to require such code to be produced as part of the EIS.

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Annex IV – Environmental Impact Statement, Section 4.11

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4.11 Greenhouse gas emissions [~~and climate change~~]

Provide a description [~~and quantification~~] of the level of gas and fluid emissions from [~~both natural and~~] anthropogenic activities ~~in the Area~~ related to the proposed exploitation activities in the proposed mining area, as well as those affecting sea floor and water-column chemistry. [~~The climate mitigation functions and services of the ocean should also be described (including CO₂ uptake and sequestration, or nutrient cycling).~~]

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

- It is not feasible for individual Contractors to describe and quantify the level of gas and fluid emissions from all anthropogenic activities in the entire Area, as well as those affecting sea floor and water-column chemistry.
- As such, we propose that Section 4.11 be revised to limit the reporting requirement to the proposed exploitation activities in the proposed mining area.

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Annex IV – Environmental Impact Statement, Sections 6.2.2bis and 9.2.1.2bis

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6.2.2bis Submarine cables

This section describes the known in situ non-project-related submarine cables occurring within the Contract area. Provide a map showing known submarine cables in relation to proposed operations and note any areas of interaction or cumulative impact.

9.2.1.2bis Submarine cables

A description of potential impacts on known non-project-related submarine cables occurring within the project area, along with proposed management measures and a description of residual impacts.

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

- We note that the Contractor’s ability to provide the information contemplated by Sections 6.2.2bis and 9.2.1.2bis is contingent on States and other actors providing the relevant information, as addressed elsewhere in the Draft Regulations.

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Annex IV – Environmental Impact Statement, Section 13

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13. Consultation [and engagement](#)

Consultations [and engagement](#) shall be inclusive, transparent and open to all relevant stakeholders, including States, global, regional, subregional and sectoral bodies, as well as civil society, the scientific community, indigenous peoples and local communities.

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

- We consider that Section 13 should also cover stakeholder engagement, which is a distinct process to consultation and be harmonised with other provisions in the regulations concerning stakeholder engagement and consultation.

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Annex IV – Environmental Impact Statement, Section 15

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15. Study team

Outline the people involved in carrying out the environmental impact assessment studies and in writing the Environmental Impact Statement. If independent scientists or other experts were involved in any of the work, they should be listed. ~~Any remuneration should be mentioned.~~ The names, [current and validated contact information,] occupational qualifications and their role in the generation of the Environmental Impact Statement of such people should also be included. [A statement that those individuals so named concur with the content of the report should be included.] Any conflict of interest must be identified, disclosed in detail in this section including the way it was and continues to be managed.

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

- We note that if disclosure of remuneration is included, procedures should be in place to protect against disclosure of the personal information of the individuals involved.
- We propose that Section 15 should be drafted to include such procedures or to remove this requirement.

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Annex IV – Environmental Impact Statement

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Annex IV

Environmental Impact Statement

Explanation / comment

- This to have a better overview going forward as it is imperative that we move on with this work output to create the needed regulatory basis. I therefore propose, when we read through this annex, that we decide after each section whether it should be *included* in the relevant regulation(s), be *moved* to a Standard or *kept* as an annex. I invite for a discussion on this.
- 5. Please indicate the rationale for the proposal. [150-word limit]**
- We support the Facilitator’s suggested approach to reviewing Annex IV, as we believe it will help streamline the Regulations and move content to the relevant Standards and Guidelines, ensuring the Regulations are fit for purpose.
 - At present Annex IV includes an inappropriate level of detail for Draft Regulations. Indeed, we consider that the best approach to Annex IV would be to send it to the Commission for it to incorporate Annex IV into a Standard & Guideline.