

**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:**

IWG – Institutional matters

**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.**

Draft Regulation 106

**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. Disputes concerning the interpretation or application of these regulations and an exploitation contract shall be settled in accordance with section 5 of Part XI **and Part XV** of the Convention ~~and the rules of procedure adopted by the International Tribunal for the Law of the Sea [for the conduct of expedited hearings concerning the Rules of the Authority.]~~

2. ~~In accordance with article 21 (2) of annex III to the Convention,~~ Any final decision rendered by a court or tribunal having jurisdiction under the ~~[Convention]~~ ~~and the Rules of the Authority]~~ relating to the rights and obligations of the Authority and of the Contractor shall be enforceable in the territory of any State party to the Convention ~~[affected thereby].~~

*[Facilitators’ Note: Delegates are requested to consider whether the regulations should provide mechanisms for administrative review procedures for decisions of the Authority (in addition to the more formal dispute resolution procedures in UNCLOS). This may, for example, provide for procedures that can be more efficient than a referral to ITLOS, and may provide more comprehensive grounds for review and/or legal standing in certain circumstances to parties other than Contractors and States. Delegates are also invited to discuss whether the regulations should include a requirement to attempt alternative dispute settlement, rather than requiring immediate recourse to ITLOS.]*

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

- We consider that it is not necessary to explicitly refer to the ITLOS Rules of Procedure in Draft Regulation 106(1). Where expedited hearings are necessary these can be sought in accordance with the relevant Rules. There may also be disputes regarding the regulations or an exploitation contract that cannot make use of ITLOS’s Rules of Procedure (e.g. if a Contractor opts for binding commercial arbitration under Article 188(2)(a)).
- In relation to Draft Regulation 106(2), we oppose the reference to “Rules of the Authority” as jurisdiction is established by UNCLOS not the Rules of the Authority. These

regulations should not imply that they could modify the jurisdiction established by UNCLOS.

- We also oppose the inclusion of the words “affected thereby” at the end of Draft Regulation 106(2), which is inconsistent with Article 21(2) of Annex III of the Convention. Article 21(2) establishes that decisions of courts or tribunals with jurisdiction under the Convention “shall be enforceable in the territory of each State Party”. That is, such decisions must be able to be enforced in the territories of all States Parties to UNCLOS, not just States affected by the decision.
- We also support the consideration of an optional mechanism for administrative review of decisions of the Authority (in addition to the more formal dispute resolution procedure as contained in the Convention).