

**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:

President's Text

1. Name(s) of Delegation(s) making the proposal:

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

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

Draft Reg. 21(2) alt.

3. 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, ~~{as defined in this Regulations, if}~~ if a State ~~may~~ terminates its sponsorship ~~{of a Contractor, it shall promptly}~~ by providing ~~to~~ 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:[...]~~

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

- We propose deleting the phrase "as defined in this Regulations" from Draft Regulation 21(2)alt as the terms of sponsorship are negotiated by Sponsoring States and their Contractors, not defined in the Regulations.
- We also consider that this regulation should not mandate a date of termination and this should be left to the determination of the relevant Sponsoring State.

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Draft Reg. 21(2.alt.bis.)

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2.alt.bis. If the reasons for termination of sponsorship include non-compliance under its terms of sponsorship, the Contractor must ~~immediately~~ if instructed to by the Secretary-General based upon their determination that the reasons for termination justify suspension, suspend its ~~mining operations~~ exploitation activities until the Council has considered the matter in accordance with paragraph 6 below.

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

- We remain concerned with the inflexible nature of Draft Regulation 21 (2.alt.bis) which does not allow for proper consideration of the reasons of the termination and particular circumstances of non-compliance.
- We have proposed amendments to ensure proper due process is followed prior to any suspension. Our amendments also use the more specific term "exploitation activities" to ensure other operations such as care and maintenance can continue.

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Draft Reg. 21(3)

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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, 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~~shall suspend 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. Any such suspension of an exploitation contract shall be lifted once a certificate of sponsorship is submitted in accordance with regulation 6.

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

- We consider that if a sponsorship is terminated the Contractor should be given the opportunity to obtain a new Sponsoring State before the termination takes effect
- We also would again propose that the contract be suspended rather than terminated under this paragraph. Our proposed language further specifies that the suspension is lifted once the new certificate of sponsorships is submitted.
- This would ensure that the Contractor does not entirely lose its rights and obligations under the contract. It will also simplify the process for recommencing relevant activities in the Area. This reduces the administrative burden and costs on Contractors, member States, and the Authority. It would also help ensure the continuity of operations in the Area and facilitate care and maintenance of operations while the Contractor seeks other sponsors.

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Draft Reg. 21(6)

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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 the case of termination of ~~sponsorship contract~~ that also equates to a material breach of ~~compliance with the terms of~~ the exploitation contract ~~[may]/[shall,]~~ pursuant to regulation 103, require the Contractor to take remedial action or other steps including, where justified under regulation 103, to suspend, ~~or continue the suspension of,~~ its exploitation activities ~~mining operations~~ 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]

- We oppose replacing "may" with "shall" in Draft Regulation 21(6). The Council should have the ability to properly determine whether suspension is appropriate, depending on the particular circumstances.
- We reiterate our proposals in our last round of written submissions for clarifying the language used in Draft Regulation 21(6). Our proposed edits make clear that the paragraph relates to the termination of sponsorship, and that the Authority can take appropriate action where there is a material breach in accordance with Draft Regulation 103.

- We also propose to replace the term “mining operations” with the more specific and consistently used term “exploitation activities.” This paragraph relates to exploitation activities, and not the broader operations of Contractors.

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Draft Reg. 21(8)

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8. [If a Sponsoring State terminates its sponsorship of a Contractor, this has no impact on the sponsorship of that Contractor by any other Sponsoring State ~~except in circumstances where the sponsorship termination occurred due to the reason in subparagraph 2(i), any other Sponsoring State or States will also be deemed to have terminated sponsorship of the Contractor that is non-compliant under its terms of sponsorship.~~]

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

- We do not consider appropriate that any Sponsoring State be forced to terminate a sponsorship due to termination by another Sponsoring State. This would unduly infringe upon the first Sponsoring State's sovereign rights.
- Each Sovereign State should be free to make their own determinations as to material non-compliance.