

**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

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 Reg. 22(1)

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. The Contractor may ~~_, [solely for the purpose of raising financing to effect its obligations under an exploitation contract and only with the prior consent of the Sponsoring State or States and of the Council [which consent shall not be unreasonably withheld or delayed], based on the recommendations of the Commission],~~ mortgage, pledge, lien, charge or otherwise encumber all or part of its interest under an exploitation contract.

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

- We remain concerned that Draft Regulation 22(1) unduly encroaches on the rights of Contractors. As the President noted in comments for the previous version of this text, the Convention does not contain any provision implying – let alone specifying – that a Contractor cannot make use of their contractual rights for financing purposes, including by using their Contract as security.
- Establishing and undertaking activities safely and effectively in the Area requires significant investment. Contractors' rights to undertake exploitation in the Area is one of the most significant assets they enjoy. Therefore, to prevent or hinder Contractors from making use of that asset to arrange funding for their activities would significantly hinder the realization of the deep seabed mining regime envisaged by the Convention.
- It would also be impracticable for the Commission, Council and Sponsoring States to be involved in every fundraising decision that every Contractor may embark upon

utilizing its contractual rights as security. We also note that all *transfers* of contractual rights are still subject to the specific regulations governing transfers.

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

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Draft Reg. 22(4)

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.

~~4. The Council may require that the beneficiary of the encumbrance referred to in paragraph 1 above:~~

~~(a) Shall subscribe to any internationally adopted standards for the extractive industries which are widely accepted including environmental and social governance standards, with reference to relevant Standards and Guidelines where relevant; or and~~

~~(b) Shall be properly regulated through a national financial conduct authority in accordance with the Guidelines.~~

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

- Draft Regulation 22(4) purports to extend the jurisdiction of the Authority to a wide variety of new entities that are not in a contractual or other legal relationship with the Authority.
- The Convention establishes a clear system of sponsorship and contracts that creates rights and obligations vis-à-vis Contractors. It does not envisage extending that system to other entities merely due to their financing relationship with Contractors. It would be inappropriate and *ultra vires* with the Convention to do so via these Regulations.