

**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.

Draft Reg. 45(2)

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.

2. The Council shall, based on the recommendations of the Commission, adopt Environmental Standards in accordance with regulation[s] 94 [and 95], inter alia on the following subject matters:

(a) Baseline investigations;

(b) Environmental quality objectives;

(c) Indicators and quantitative environmental thresholds, ~~including but not limited to:~~

~~(i) biodiversity status and ecosystem structures, functions and services;~~

~~(ii) sediment plume properties such as [turbidity, depositional footprint and chemical composition], dispersion and dilution, resettlement, temperature [and,] toxicity [and chemical composition]~~

~~(iii) Physico-chemical Characteristics of seawater and sediment, [including] water chemistry and temperature~~

~~(iv) light emissions;~~

~~(v) noise and vibrations emissions and~~

~~(vi) habitat [disturbance] [removal].~~

(d) Monitoring procedures

(e) Mitigation measures ~~[, including restoration measures]~~

~~(f) [Minimum] [t]echnical [and operational] requirements for environment protection with regard to [all] the equipment used for the Exploitation activities~~

(g) Assessment of accidental events and natural hazards leading to environmental emergencies as well as environmentally hazardous discharges and residual effects of such emergencies, including preparation and implementation of emergency response and contingency plans.

(h) Procedural and substantive requirements relating to submissions or reports required by these regulations, including but not limited to: Plans of Work, Environmental Management Systems, ~~Environmental Impact Assessments,~~ ~~[Environmental Risk Assessments,]~~ Environmental Impact Statements, Environmental Management and Monitoring Plans and Closure Plans.

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

- Consistent with our earlier written submissions, we remain concerned with three of the topics the proposed Draft Regulation 45(2) requires to be covered by Environmental Standards – in subparagraphs (c), (f) and (h).
- First, under sub-paragraph (c), the list as currently drafted is overly prescriptive in relation to the contents of the Environmental Standards. Simple references to thresholds will ensure the LTC has broad power to consider and formulate relevant and appropriate thresholds. There is no need to specify the various aspects of these thresholds here, as it constrains the Commission's ability to develop sufficiently dynamic thresholds to suit all Contractors in all situations.
- We also note that in sub-paragraph (c)(ii) it is unclear why both "depositional footprint" and "resettlement" are referred to. Given we understand these terms are referring to the same phenomena we propose that only one of these terms is used in the relevant Standard.
- Second, under sub-paragraph (e), we propose deleting the reference to "restoration." Restoration is not a subset of mitigation measures, as implied by the drafting here. Further, for consistency with other references to restoration, if retained this reference should begin with "if feasible".
- Third, under sub-paragraph (f), given the diversity of equipment and systems that may be used when undertaking activities in the Area, it will be difficult to formulate a Standard relevant to all operations and responsive to changes in technology. We also note that the other Standards contemplated – such as those around the development of thresholds – can be used to assess the impact and appropriateness of particular systems. There is therefore no need to prescriptively specify exact requirements around such equipment in a separate Standard.
- Finally, under sub-paragraph (h), the reference to Environmental Impact Assessments is not appropriate. These Assessments are processes, not submissions or reports. Assessment outcomes will be reported on in the relevant Environmental Impact Statement. We propose deleting the references to Assessments.

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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. 45(3)

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3. In the event that an application for a Plan of Work is submitted and the environmental Standards and Guidelines have not been adopted, the Council shall prepare and adopt any outstanding environmental Standards with 12 months of its receipt of the application. ~~The Authority shall not approve any Exploitation [activities] unless the environmental Standards [and Guidelines] have been adopted.~~

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

- Consistent with our previous written submissions, we remain very concerned that certain aspects of the Draft Regulations (such as Draft Regulation 45(3)) impose absolute and arbitrary blocks on the Authority’s ability to consider and approve applications for exploration, contrary to the provisions of the Convention and the Part XI Implementation Agreement.
- The existing text that seeks to prevent the approval of a plan of work in the absence of environmental standards is contradictory to the Authority’s treaty obligations pursuant to Section 1, Paragraph 15(c) of the Part XI Implementation Agreement.
- The Authority is capable of adequately assessing such applications while the Standards are being developed and has a variety of sources to aid its work (including those specified in the Draft Regulations and Annex III of the Convention).
- As such, we propose amending Draft Regulation 45(3) to instead require the Council to complete any outstanding Standards within a set period of time of receiving its first application for a Plan of Work for exploitation. This is based on drafting used in Draft Regulation 44bis(2).

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Draft Reg. 45(5)

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5. [The application of this Regulation shall be without prejudice to the function of the ~~Council~~ Commission to develop other Standards and ~~or~~ -Guidelines on the protection and conservation of the natural resources of the Area and the prevention of damage to the flora and fauna of the Marine Environment, ~~taking into account the development of the exploitation activities in the Area~~. Environmental Standards and Guidelines shall be regularly reviewed and updated in response to advancements in scientific knowledge and experience ~~[and new contributions from Indigenous Peoples and local communities~~ traditional knowledge.]

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

- We propose minor amendments to Draft Regulation 45(5) to clarify that it is the Commission who will develop Standards and Guidelines regarding the protection and conservation of the natural resources of the Area.
- We also propose removing the phrase “taking into account the development of the exploitation activities in the Area” as it is unclear and unnecessary. The Commission is already tasked with considering activities in the Area as a part of developing Standards and Guidelines governing those activities.
- Finally, it is unclear what “new contributions from Indigenous Peoples and local communities” entails. We suggest replacing this with “traditional knowledge”.