

**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:**

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. 47 ter (bis) alt (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. An ~~environmental~~ Environmental Impact Assessment Scoping Report shall include the following:

(a) A brief description of the proposed ~~Exploitation activities and any ancillary features~~

(b) A preliminary environmental risk assessment.

~~(b) A description and overview of tentative timelines and deadlines for the proposed environmental baseline studies and Environmental Impact Assessment [conducted under the Exploration contract and any associated activities,~~

~~(c) A description of what is known about the environmental setting, including any Underwater Cultural Heritage, for the project (Contract Area and regional setting),~~

~~(d) A description of data gaps, potential data gaps or data with a high level of large uncertainty associated with it for the project,~~

[...]

~~(e) Any assumptions and how they are being addressed, and assessment of their implications to the environmental risk assessment findings,~~

~~(f) A preliminary impact analysis which categorizes the important issues into high-risk, medium-risk and low-risk for the Environmental Impact Assessment to address~~

and evaluates the need for further information ~~[studies?]~~, taking into account the environmental risk assessment,

~~(j) A preliminary environmental risk assessment,~~

[...]

~~(l) A preliminary Stakeholder list that proactively identifies likely key Stakeholders, and an indicative schedule and methodology for engagement with such key Stakeholders throughout the Environmental Impact Assessment process,~~

[...]

~~(p) An explanation for how the activities and studies planned for the Environmental Impact Assessment will be sufficient to determine likely environmental impacts, and to propose Mitigation measures and management strategies and monitoring methodology,~~

~~(q) A note describing and explaining any divergence from ~~relevant ISA~~ applicable Guidelines.~~

#### **Explanation / Comment**

- I note that the very detailed regulations in Regulation 47 ter paragraph 3 and 4 could be moved to the Standard and Guideline on “Environmental Impact Assessment Process” (section on “Scoping”) which can be found on the ISA’s website (The Mining Code: Standards and Guidelines – International Seabed Authority (isa.org.jm) which I have also suggested in the accompanying Matrix I introduced earlier. They are placed in square brackets, and I invite for views on this.

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

- We propose to delete “ancillary features” from Draft Regulation 47 ter (bis) alt (4)(a) as it is unclear what this is referring to or intended to cover.
- We also propose deleting the phrase “conducted under the Exploration contract and any associated activities” from Draft Regulation 47 ter (bis) alt (4)(b) as it is duplicative and unnecessary.
- We propose several textual changes to Draft Regulation 47 ter (bis) alt (4) for consistency and to ensure the obligation upon Contractors is clear. We also propose to move the reference to “preliminary environmental risk assessment” earlier in the list given its role in the Report.
- We also support the proposal of the Facilitator to move the detail from paragraphs 3 and 4 to the Standard and Guidelines.

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Draft Reg. 47 ter (bis) alt (5)

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5. Upon receipt of a scoping report from an applicant or Contractor, the Secretary General shall:

(a) Make the report available on the Authority’s website, with an invitation for members of the Authority and Stakeholders to submit comments in writing within a period of 90 days;

(b) Following the close of the comment period under paragraph (1)(a), provide any comments received to the applicant or Contractor [~~within 2 weeks~~ within 14 days] for their response within [60 Days];

(c) At the expiry of the timeframe specified in paragraph (1) (b), provide the Commission with the scoping report, any stakeholder comments received, and any responses to those comments from the applicant or Contractor.

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

- We support Draft Regulation 47 ter (bis) alt (5) but note that it should be evaluated against other consultation provisions in the Draft Regulations once these are finalised to ensure there is no ambiguity or contradiction in the required processes.
- For clarity we also propose to substitute “2 weeks” with “14 days”.

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Draft Reg. 47 ter (bis) alt (6) and (7)

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6. The Commission shall consider a scoping report submitted in accordance with this regulation, and any comments and responses received, in accordance with any ~~relevant~~applicable Standards and taking into account Guidelines. Based on this review, the Commission shall, within 60 days following the receipt of the report and any comments or responses under paragraph (5)(c). approve a scoping report, ~~disapprove~~reject it or make recommendations to the applicant or Contractor regarding the proposed environmental impact assessment, accompanied by a detailed rationale.

7. The Commission’s recommendations under the previous paragraph [paragraph 6] may include recommendationss:

(a) To revise the environmental risk assessment or other aspects of the scoping report based on different methodology or inputs,

(b) To amend the proposed terms of reference for the environmental impact assessment, or

(c) To re-submit a revised scoping report for further Stakeholder consultation and Commission review, in the case where uptake of any of the Commission’s recommendations are likely to lead to a Material Change in the Scoping Report.

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

- As per our previous submissions, we propose specifying a timeframe in Draft Regulation 47 ter (bis) (6) for the Commission to approve, reject or make recommendations regarding a scoping report. A timeframe will ensure that the

Commission's consideration of the scoping report cannot be indefinitely delayed and is consistent with the approach taken under the Convention for the Commission's consideration of other matters. We welcome the request for views on an appropriate time period for this timeframe and suggest 60 days.

- We also propose minor amendments to ensure the language is consistent with that used elsewhere in the Draft Regulations.

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Draft Reg. 47 ter (bis) alt (8)

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**8. The applicant or Contractor shall, before proceeding with an environmental impact assessment process:**

**(i) take full account of the Commission’s recommendations under this regulation, or any recommendations or scoping reports concluded prior to the adoption of these Regulations and in accordance with an Exploration contract; and**

**(ii) ~~agree~~ consult with the Commission concerning the final contents of the proposed terms of reference in the Scoping Report ~~with the Commission~~ either under these Regulations or pursuant to other applicable Regulations adopted by the Authority or in accordance with an Exploration Contract.**

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

- We consider that it is important to recognise that existing Contractors may already have completed scoping work in accordance with their Exploration Contracts.
- Such work should be taken into account for the purposes of Draft Regulation 47 ter (bis) alt (8).
- If the Contractor has already completed sufficient scoping work prior to the finalisation of these Regulations, the Contractor should be allowed to proceed with its Environmental Impact Assessment Process on the basis of that work and consultation with the Commission.

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Draft Reg. 47ter(bis) alt (2) and (3)

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2. An applicant or Contractor shall use environmental impact assessment scoping to identify and prioritize the main activities and potential impacts associated with the proposed activities ~~mining operation~~, in order to focus the Environmental Impact Assessment and Environmental Impact Statement on the key environmental issues.

3. In undertaking the environmental impact assessment scoping process, the applicant or Contractor shall:

[...]

(c) Proactively identify Stakeholders in accordance with ~~relevant~~ the applicable Standards and taking into account any ~~relevant~~ Guidelines,

[...]

(e) Use the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities.

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

- We propose to substitute “mining operation” with “activities” in Draft Regulation 47ter(bis) alt (2) for clarity and consistent use of terminology across the Draft Regulations.
- We also request clarification as to what subparagraph (e) will require in practice. We consider that the terms used here require clarification, for example to what extent Contractors will need to proactively search for what traditional knowledge is available.