

**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. 50

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. A Contractor shall not dispose, dump or discharge into the Marine Environment any Mining Discharge, except where such disposal, dumping or discharge is permitted in accordance with:

(a) The assessment framework for Mining Discharges as set out in the [applicable](#) Standard;

(b) The Environmental Management and Monitoring Plan; and

(c) International [applicable](#) ~~[agreed]~~ ~~[applicable]~~ rules, standards and recommended practices and procedures [established by the International Maritime Organization](#) ~~regulations set out by the International Maritime Organization~~ .

~~2. Paragraph 1 above shall not apply if such disposal, dumping or discharge into the Marine Environment is necessary for the safety of the vessel or Installation or the safety of human life, provided that such disposal, dumping or discharge is conducted so as to allminimize the likelihood possibility of harm to human life and prevent Harm to the Marine Environment. If Serious Harm to the Marine Environment occurs as a result of disposal, dumping or discharge, the Contractor shall monitor, [and] Mitigate [and remediate] the impacts of such harm, and shall report forthwith about such disposal, dumping or [discharge] to the Authority.~~

~~[2.Alt. Paragraph 1 above shall not apply if such disposal, dumping or discharge into the Marine Environment is necessary for the safety of the vessel or Installation or the~~

safety of human life, provided that such disposal, dumping or discharge is conducted so as to minimize the likelihood of harm to human life and ~~prevent Harm to the Marine Environment.~~]

[...]

4. The applicant or contractor must maintain ~~also keep~~ a register of discharges ~~to be updated at least [weekly] [monthly,] where possible, allowing to it be consulted in real time that shall be~~ and reported discharges annually to the Authority as part of ~~the mandatory~~ its annual report under regulation 38 ~~that must be prepared throughout the operation.~~

Explanation / Comment

- In paragraph 4 (previously para 5), it has been proposed to change the interval on how often the applicant or contractor must update the register of discharges from “weekly” to “monthly”. These suggestions are placed in square brackets. However, after given it careful consideration, I would – in my capacity of Facilitator – suggest deleting the phrase “to be updated at least [weekly] [monthly,] where possible” as the focal point of the provisions is the following reference to reporting annually to the Authority on any discharges. It is placed in double square brackets. Alternatively, I could also propose a reference to the register being updated “immediately” after a discharge event. I invite for a discussion on this.

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

- We prefer the previous drafting of Draft Regulation 50(1)(c) which referred to the regulations set by the International Maritime Organization. This provided clarity and certainty regarding this provision, rather than the less clear reference to all “international agreed rules, standards and recommended practices and procedures”.
- Consistent with our previous submissions, we also propose deleting Draft Regulation 50(2) and instead adopting Draft Regulation 50(2alt).
- Draft Regulation 50(2alt) is clear and concise. It establishes a clear and limited exception for actions that are necessary for safety reasons without the extraneous material in the existing paragraph 2.
- We have proposed an amendment to Draft Regulation 50(2 alt) given that where discharge or dumping is necessary for safety it will not always be possible to entirely prevent harm to the environment. Instead, the requirement should be to minimize the likelihood of harm.
- We support the Facilitator’s comment to delete the phrase “to be updated at least [weekly] [monthly,] where possible” and instead require Contractors to report annually on discharges. We do not support the Facilitator’s proposal that the register shall be updated “immediately” after a discharge event. Immediate or real time reporting would not be realistic nor practical for Contractors or the Authority and suggest as soon as practicable.