

**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. 54(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 rules and procedures of the Fund shall be established by the Council on the recommendation of the Finance Committee before the [~~approval of a first plan of work for a exploitation contract beginning of Commercial Production~~] under these regulations.

~~[Those rules and procedures shall include, inter alia:~~

~~(a) A mechanism for financing the funds in accordance with Regulation 56, including replenishment upon disbursement;~~

~~(b) A description of how the funds and any interest generated will be managed and by whom;~~

~~(c) The process for accessing the funds;~~

~~(d) The type of damages and purposes eligible for claims against the funds in accordance with regulation 55;~~

~~(e) The standard of proof required for claims against the funds;~~

~~(f) A policy on refunds of Contractor payments into the funds;~~

~~(g) A process for determining disbursements or refunds from the funds; and~~

~~(h) The promotion of the participation of affected persons or other Stakeholders in decisions about disbursement of funds.]~~

Explanation / Comment

- It is noted that one submission to this regulation welcomes the additions but recalls that it has yet to be decided whether these rules and procedures for the Fund should be developed within the regulations or as a separate standard. I support this view and propose that such a standard or/ guideline is developed, and the content of paragraph 2 litra a-h is placed there as I have also suggested in the accompanying Matrix. I have placed it in square brackets and invite for a discussion on this.
- When reading this regulation, I see a need for underlining the importance of that the rules and procedures of the Fund shall be established by the Council *before* the approval of a first plan of work is given. Also, it is important that the rules and procedures of the finance committee are clarified to assist in streamlining the regulations. I invite for views on whether participants share this view and, if so, how this can be stressed.

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

- We support the proposed changes to Draft Regulation 54(2) to only require the rules and procedures for the Fund to be established before Commercial Production starts.
- There is no reason why the Fund's rules and procedures should be linked to the consideration and approval of Plans of Work as this would be inconsistent with both the Convention and the Part XI Implementation Agreement.
- The Regulations should not be usurping rights and obligations contained in the Convention and the Part XI Implementation Agreement to prevent consideration and approval of plans of work until other RRP's are in place.
- We also support the Facilitator's proposal to move the specific content of the rules and procedures of the Fund to Standards and Guidelines. Therefore, we propose the deletion of the relevant portion of Draft Regulation 54(2).