

**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. 56 (1)(a)/(a) alt.

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.

Regulation 56

Funding of the Environmental Compensation Fund

1. In adherence to the ~~precautionary~~-polluter-pays principle the Fund will consist of, but not be limited to, the following monies:

(a) The prescribed percentage or amount of fees paid **after approval of a plan of work and** prior to the commencement of **mining activities (Commercial Production) in the Area under an Exploitation Contract** by Contractors or the Enterprise to the Authority;

~~(a) alt. The requirements and modalities governing contributions to the Fund in accordance with regulation 56, including the establishment of the minimum size of the fund, and the modalities for replenishment of the fund upon disbursement~~

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

- Consistent with our earlier submissions, we prefer Draft Regulation 56(1)(a) as compared to Draft Regulation 56(1)(a)alt, which is unclear and does not provide meaningful direction on the composition of the ECF.
- We also note that Draft Regulation 56(1)(a)alt does not appear to work grammatically here given it does not actually specify any monies that would go into the Fund. Instead, it appears aimed at establishing what the contributions will be through a different process.
- We also note that the process for funding the ECF and amount of payments must be reasonable. In particular, in accordance with the principle of non-discrimination

between contractors it should not disadvantage the first Contractor either directly or inadvertently through its design and application.

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Draft Reg. 56 (1)(c) alt and (f)

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1. In adherence to the ~~precautionary~~ polluter-pays principle the Fund will consist of, but not be limited to, the following monies: [...]

~~(c) alt. Establishment of rules, guidelines and modalities for determining entities eligible to access the Fund, which may include states and private entities that have suffered damages. —~~

[...]

~~(f) An annual levy paid by Contractors or the Enterprise to the Fund; and~~

(g) ~~The prescribed~~ Any contributions paid by Sponsoring States to the Fund.

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

- We oppose the inclusion of Draft Regulation 56(1)(c)(alt) as the establishment of the rules is not a source of monies as contemplated by the start of paragraph 1. As such this insertion does not work grammatically in this context.
- We consider that in view of Draft Regulation 56(1)(a), which provides for the payment of a percent of the Contractor’s fees to the Fund, Draft Regulation 56(1)(f) is not needed. It is unclear why Draft Regulation 56(1)(f) is contemplating an additional levy in addition to the percentage of fees specified in Draft Regulation 56(1)(a).