

**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. 61(1) and (1 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.

~~1. A Contractor shall implement the Final Closure Plan in accordance with Best Environmental Practices and Good Industry Practice and shall report to the Secretary General on the progress of such implementation on an [annual] [two year] basis [after an initial 5 year period] [or on a case by case basis agreed by the Council on recommendation from the Commission]. This report shall include a summary of the results of monitoring, conducted in accordance with the applicable Standard and pursuant to the post closure monitoring programme, and management actions taken in response to any adverse Environmental Effects identified through monitoring, until completion of execution of the Final Closure Plan.~~

1 alt. A Contractor shall implement the Final Closure Plan and shall report to the Secretary-General on the progress of such implementation, including a summary of the results of monitoring, conducted in accordance with the applicable Standard and pursuant to the monitoring programme, and management actions taken in response to any residual adverse Environmental Effects identified through monitoring, until completion of execution of the Final Closure Plan. Such report will be submitted in accordance with the following schedule: on annual basis during the first [three] [five] years after cessation of mining activity, on two year basis during the next [six] [four] years, on five yearly basis during the remaining term of the Closure Plan. This schedule can be corrected in agreement with the Council on recommendation from the Commission.

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

- We consider that Draft Regulation 61(1 alt) is preferable to the original Draft Regulation 61(1) as it more clearly specifies that the Contractor shall implement the Final Closure Plan, shall report to the Secretary-General on that implementation, and sets timeframes around the relevant reports.
- We have proposed one amendment to Draft Regulation 61(1 alt) to ensure consistency with references to what adverse Environmental Effects are being responded to – namely “residual” effects.

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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. 61(2) and (2 bis)

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 Contractor shall continue to monitor the Marine Environment for a minimum of [such period] [X years] after the cessation of activities, or until the closure objectives have been achieved, as set out in the Closure Plan and for the duration provided for in the Standards and taking into account Guidelines.~~

~~2 bis. Monitoring data shall be released publicly in an accessible format according to the relevant applicable Standard and taking into account the relevant Guidelines in intervals defined set out in the Final Closure Plan according to the applicable Standard ~~in intervals defined in the Standard~~ adhering to internationally recognized data principles, consistent with Best Scientific Practices, ~~[in monthly intervals]~~ [in annual intervals] ~~[at intervals appropriate to the monitoring schedule]~~~~

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

- Consistent with our earlier submissions, we suggest alternative wording for Draft Regulation 61(2) and reiterate our concern that stipulating a monitoring period of a specific number of years would be arbitrary, overly burdensome and lack a clear link to the purpose of the Closure Plan and post-activity monitoring obligations. We propose that monitoring continue only until the closure objectives set forth in the Closure Plan have been realized.
- We have also proposed amendments to Draft Regulation 61(2 bis) for clarity, consistency and avoiding unnecessarily introducing new defined terms.

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3. Please indicate the relevant provision to which the textual proposal refers.

Draft Reg. 61(3)

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.

3. Upon completion of implementation of the Final Closure Plan, the Contractor shall, in accordance with the procedure described in the Standard, hire a competent, independent and accredited auditor to conduct a final compliance assessment and submit a final compliance assessment report to the Secretary-General according to the ~~relevant~~ applicable Standards and taking into account ~~relevant~~ the relevant Guidelines ~~to the Secretary-General~~ to ensure that the closure objectives contained in the final Closure Plan have been met. Such report shall be reviewed by the Commission at its next meeting, ~~provided that it has been circulated at least 30 Days in advance of the meeting.~~

3 bis. The Commission shall provide a report and recommendations ~~on that performance assessment report~~ to the Council for its consideration, who shall , in light of the final compliance assessment report determine ~~decide~~ whether the final Closure Plan has been satisfactorily delivered, the objectives of the final Closure Plan have been achieved, which decision shall be relevant to the retention, release, forfeiture or use by the Authority of the Contractor’s Environmental Performance Guarantee. The report shall be published on the website of the Authority.

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

- In relation to Draft Regulation 61(3), we consider that there is no need to specify a timeframe for circulation of the final compliance assessment report prior to the Commission considering it.
- We have also proposed amendments to Draft Regulation 61(3 bis) to better reflect the process that the Council should go through upon its receipt of the Commission’s report and recommendations.

- We have also proposed amendments for consistency and clarity.

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3. Please indicate the relevant provision to which the textual proposal refers.

Draft Reg. 61(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. If, on the basis of the auditor’s report and Commission’s recommendations provided pursuant to paragraphs (3) and(3bis),), the Council decides that a Contractor has failed to meet the conditions of, or deadlines related to, , the objectives of the Final Closure Plan and reporting hereon, the Council shall direct the Contractor to take the necessary and appropriate ~~what further action must be taken~~ to achieve ~~satisfactory delivery of the objectives of the Closure Plan.~~

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

- We have proposed amendments to Draft Regulation 61(4) to clarify the substance of the direction the Council must give to the Contractor in the event it decides the Contractor has failed to meet the objects of the Final Closure Plan.
- Any directions given pursuant to this paragraph must be limited to what is necessary and appropriate to achieve the Closure Plan’s objectives. Our amendments ensure the Council is properly focused on this when it makes this decision.