

**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:**

President's Text

**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. 94(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 Council shall consider ~~and approve~~adopt~~{and approve}~~, upon the recommendation of the Commission and taking into account statements submitted by Stakeholders during a public consultation, the Standards, provided that such Standards are consistent with the intent and purpose of the Rules of the Authority, including the decisions of the Council and the Assembly and, to the extent relevant, developed on the basis of Best Available Scientific Evidence, Best Environmental Practices, Best Available Techniques, and Good Industry Practice. If the Council does not approve such Standards, the Council shall return the Standards to the Commission for reconsideration in the light of the views expressed by the Council. The Standards ~~approved~~adopted by the Council shall remain effective on a provisional basis until approved by the Assembly or until amended by the Council in the light of any views expressed by the Assembly.

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

- We are concerned by the proposed deletion of the word "approve" in Draft Regulation 94(2) as it makes the aim of the Council's consideration less clear.
- We consider that the term "adopt" should be included as the Council provisionally adopts Standards until approved by the Assembly.
- This language is also similar to that used in the Convention and Agreement.

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Draft Reg. 94(4)

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4.~~alt.~~ Standards or amendments thereto adopted by the Council ~~[and approved by the Assembly]~~ shall be legally binding on Contractors, member States and the Authority from the date of their adoption and the Commission shall review these Standards at least every five years from the date of their adoption or revision and advise the Council, in the light of improved knowledge or technology, as to whether any revision is required.~~†~~

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

- We do not consider it necessary to require the Assembly to approve Standards before they become legally binding. This would only unnecessarily delay their adoption.
- Standards are to form part of the rules, regulations and procedures of the Authority as legally binding instruments, therefore they become legally binding on Contractors on a provisional basis until their approval by the Assembly.

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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. 94(5.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.**

~~[5.bis. To the extent of any inconsistency between a Standard and amendments thereto, and an already approved Plan of Work, a Contractor following a reasonable transition period, shall use its best efforts to comply with any additional changes to its Plan of Work as a result of the amendment.]~~

5.bis. To the extent of any inconsistency between a Standard and amendments thereto, and an already approved Plan of Work, a Contractor following a reasonable transition period, shall use its best efforts to comply with any additional changes to its Plan of Work as a result of the amendment.

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

- We consider that Draft Regulation 94(5.bis) provided important clarity regarding how new and amended Standards will apply to Contractors with existing Plans of Work. We propose it be reinstated to ensure there is certainty regarding how new and amended Standards will be implemented.
- While the President's comment referred to overlap or conflict with paragraphs 4.alt and 4.bis, paragraph 5.bis deals with a separate issue. Paragraphs 4.alt and 4.bis refer to when Standards become legally binding and allowing for transition periods. Paragraph 5.bis deals with an "inconsistency" between a Standard and existing Plan of Work once the Standard is binding. This is an important issue that needs additional clarification – to ensure that Contractors are not subject to contradictory obligations and benefit for a stabilized regulatory framework.