

**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:

IWG - IM.

2. Name(s) of Delegation(s) making the proposal:

Republic of Nauru

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

Regulation 13

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)(d) ~~Demonstrate that the applicant and, if applicable its parent company, legal predecessor, senior management and controlling shareholders, have~~ Has has satisfactorily discharged its ~~their~~ obligations to the Authority, ~~including having a satisfactory record of past performance both within the Area [and in other jurisdictions, if applicable];~~

(e) ~~Demonstrate that the applicant h~~Has ~~[or can demonstrate that it will have]~~ the financial and technical capabilities [and capacity] to carry out the Plan of Work, ~~[meet or exceed environmental performance obligations]~~ and to meet all obligations under an exploitation contract ~~[according to criteria defined by the Council]~~

(e)bis. ~~Demonstrate that the applicant can f~~Fulfil the obligations to protect and preserve the Marine Environment in accordance with the Convention and the Agreement, and ~~as listed out in the Rules of the Authority;~~

2(b) The applicant is ~~[or will be]~~ capable of committing ~~[or raising]~~ sufficient financial resources...

4(c) ~~[alt 1. Demonstrates that the Environmental Plans will secure] [alt 2. Provides under the Environmental Plans to secure] [alt 3. Ensures though the Environmental Plans will secure] [alt 4. Demonstrates that the draft Plan of Work and the accompanying plans and information will ensure]...~~

5. ~~(k) Whether performance of the Plan of Work can be effectively monitored and controlled by the Authority, to minimise Environmental Effects, and ensure compliance with the Rules of the Authority.~~

~~5 bis. The Commission shall determine whether the draft plan of work and the accompanying plans and information demonstrate that the proposed activities will not interfere with any cultural rights or interests.~~

~~[7. In assessing a Plan of Work, the Commission shall determine whether the applicant is under the effective control of the sponsoring State, according to applicable Guidelines, and whether the sponsoring State has enacted domestic legislation covering activities in the Area that:~~

~~(a) is in force and applicable;~~

~~(b) provides available recourse through the domestic legal system in accordance with Article 235(2) of the Convention, and~~

~~(c) does not contain provisions that appear to exempt liability of the sponsored entity from a cause of action that may result from its conduct of activities in the Area.]~~

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

Para 13(1)(d): we question the authority / mandate to include parent companies etc. How would this criterion, for example be applied to State- or State-owned enterprise contractors given the need to apply requirements under the regulations on a uniform and non-discriminatory basis?

Para 13(1)(e): we support “or can demonstrate that it will have” as contracts / agreements etc. including those for financing will be contingent on the approval of a plan of work. Additionally, any criteria should be established in applicable guidelines where necessary. Similarly, we support “or will be” in para 2(b).

Para 5(k): we do not fully understand why the Commission would take this into account, and what the consequences would be if it did. The question here is *how* the Authority will monitor activities to be considered as part of its ICE mechanism.

Para 5bis: we consider the standard here is too high, not least how this would be assessed objectively.

Para 7: these are not matters for the Commission or the Authority to assess.