

**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:

OEWG.

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 63

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. The Council may, taking into account the recommendations of the Commission [and the Economic Planning Commission in accordance with the applicable Standard](#), provide for incentives, including financial incentives, on a uniform and non-discriminatory basis, to Contractors to further the objectives set out in article 13 (1) of annex III to the Convention.

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

We consider the original text formulated by the Commission correct, subject to minor modification including the role of the Economic Planning Commission and application of a standard – or Council policy on incentives - to outline the criteria or parameters to be considered by both Commissions and the Council, including clarification of the nature of any incentives to be considered. This regulation is a directing regulation; its operationalisation will be through a standard (or policy) and discussion between experts on the respective Commissions.

The Commission clearly gave these matters due consideration in the light of the provisions of the Convention (repeated below) and formulated a regulation accordingly. Indeed the text for this regulation is sourced largely from the Convention.

That said, between the 3 revised options now presented, we prefer the Chair’s Proposed Text as a clearer starting point. However, this text does not incorporate the role of the Commissions and limits financial incentives to contractors undertaking joint arrangements with the Enterprise. Equally, there is no reference to a document to provide policy or other direction to the Commissions.

Relevant Convention provisions:

Article 11(2), annex III: Contractors entering into such joint arrangements with the Enterprise may receive financial incentives as provided for in article 13 of this Annex.

Article 13(14), annex III. The Authority may, taking into account any recommendations of the Economic Planning Commission and the Legal and Technical Commission, adopt rules, regulations and procedures that provide for incentives, on a uniform and non-discriminatory basis, to contractors to further the objectives set out in paragraph 1.

Relevant objectives in paragraph 1 include: (b) to attract investments and technology to the exploration and exploitation of the Area; and (d) to provide incentives on a uniform and non-discriminatory basis for contractors to undertake joint arrangements with the Enterprise and developing States or their nationals, to stimulate the transfer of technology thereto, and to train the personnel of the Authority and of developing States.

Article 13(1)(f) to ensure that, as a result of the financial incentives provided to contractors under paragraph 14, under the terms of contracts reviewed in accordance with article 19 of this Annex or under the provisions of article 11 of this Annex with respect to joint ventures, contractors are not subsidized so as to be given an artificial competitive advantage with respect to land-based miners.