

**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:

Open-ended Working Group of the Council on the Financial Terms of a Contract

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 Regulation 64Qui

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.

The Authority shall adopt Standards {and Guidelines} providing for the effective operation of the Additional Royalty and Top-up Profit Share Payment, including but not limited to:

- (a) definitions of Inclusion Criteria, Subsidies, Relevant Activities, and Tax Exemptions;
- (b) applicable rates for the Assumed CIT Rate and Applicable Additional Royalty Rate;
- (c) definitions of Related Entities, Income and Covered Taxes that will be based to the greatest extent practical on the Pillar 2 Global Anti-Base Erosion Model Rules, or alternatively, may directly reference the relevant articles of the Pillar 2 Global Anti-Base Erosion Model Rules (as amended or updated from time to time);
- (d) the criteria an auditor must meet to be an Independent Auditor;
- (e) the criteria for the Equalization Measure Audit and Profit Share Independent Audit;
- (f) the fees for the Equalization Measure Audit and Profit Share Audit;
- (g) the format and required content of the Top-up Profit Share Return;
- (h) ~~the penalties, fees, and interest that the Authority shall levy on a Contractor due to non-cooperation with an Independent Auditor, late submission of a Top-up Profit Share Return, failure to submit a Top-up Profit Share Return, submission of an incomplete Top-up Profit Share Return, late payment of the Top-up Profit Share Payment and non-payment of a Top-up Profit Share Payment; and~~

(i) any other provisions as required.

Explanation / Comment

- If there is broad support for the proposal reflected in the text of DR 64Bis to DR 64Qui, I would propose that the text is moved into the various other draft regulations where similar issues are dealt with, for example moving some text to Appendix IV and the relevant Standards, and some text to the other draft regulations which deal with audit requirements, etc

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

- We consider if that if the Authority is to impose penalties associated with Draft Regulation 64Quit, further detail is needed on the basis and triggers for such penalties.
- We must ensure that any penalties imposed are lawfully applied and are consistent with the overall regime for penalties envisaged by the Convention and set out in the Draft Regulations. As such we propose to delete Draft Regulation 64Qui(h) and instead having any relevant provisions on this matter included in the Draft Regulations.
- We also support the Chair's comment regarding moving the text in Draft Regulations 64Bis to 64Qui to the relevant Standard.