

**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:**

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 73bis

**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. Where a royalty return shows any underpayment of royalties, the Secretary General must demand payment from the Contractor within [XX] number of days.~~

~~2. If no payment is received, the Authority shall add the payment due to the next period of royalty collection.~~

~~3. Proper measures shall be taken against contractors who do not pay the underpaid royalty in due time.]~~

**Explanation / Comment**

- One participant has proposed a new regulation to address underpayment. I invite comments on whether this is necessary, or whether underpayment of royalties would constitute a non-payment of royalty (for the underpaid portion) and so be covered by the existing provisions requiring payment of royalties and imposing penalties for late or non-payment.

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

- Our position is that a specific regulation on underpayment, as per Chair’s comment, is unnecessary.
- We consider that the proposed Draft Regulation 73bis(3) is unnecessary and unclear. It is not necessary as non-compliance with provisions should be dealt with using the ordinary enforcement mechanisms, there is no need to explicitly contemplate this in the

substantive regulations. It is also unclear as “proper measures” and “due time” are vague terms that lack definition.