

**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:**

Informal Working Group – Environment.

**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. 47 alt (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 purpose of an environmental impact assessment under this regulation shall be to predict environmental impacts anticipated from the proposed activities, to enable the Authority to assess the potential adverse Environmental Effects and risks, with the aim to:

(a) Ensure effective protection for the marine environment from harmful effects which may arise from such proposed activities,

[...]

(c) Avoid Serious Harm to the Marine Environment arising out of the proposed activities,

[...]

(e) Ensure that the proposed activities are carried out in accordance with the Rules of the Authority, ~~general International Law~~, including the Convention and the applicable Standards and taking into account the relevant Guidelines as well as, Best Available Scientific Information, Best Environmental Practices, and Best Available Techniques].

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

- We propose deleting the reference to “General International Law” in Draft Regulation 47 alt (2)(e). It is unnecessary, unclear, and not used elsewhere in the Draft Regulations. The existing reference to the Convention in Draft Regulation 47 alt (2)(e) already incorporates all relevant elements of broader international law.

- We also propose adding “risks” to paragraph 2 for consistency with the remainder of the Draft Regulations.

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Submitted by Nauru Ocean Resources Inc., Tonga Offshore Mining Ltd. and Blue Minerals Jamaica Ltd.

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Draft Reg. 47 alt (3)

**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.**

**3. The Environmental Impact Assessment shall:**

(a) Be based on relevant environmental baseline data that captures temporal, (seasonal and interannual) and spatial variation in accordance with relevant Standards and taking into account relevant Guidelines and the objectives and measures of the applicable Regional Environmental Management Plan,

(b) Be carried out by ~~qualified~~, independent experts or competent individuals,

(b)bis Be based on the best available science and scientific information, and, where available, relevant traditional knowledge of Indigenous Peoples and local communities.

(c) Include an environmental risk assessment including identifying any ~~and a survey of the seabed to identify Underwater Cultural Heritage, that takes into consideration the region as a whole~~ taking into account the objectives and measures of the relevant ~~and applicable~~ Regional Environmental Management Plan,

[...]

~~(e) Be subject to an independent scientific assessment prior to the submission of the proposed Environmental Impact Statement to the Authority,~~

[...]

(h) Identify scientific and other knowledge gaps or data uncertainties, and how ~~the degree to which~~ these influence the assessment.

(i) be an iterative process where specific stages [of the activities](#) are revisited and may be updated in the light of new information or new activity at a later stage.

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

- We consider that Draft Regulation 47 alt (3)(b) should not impose a requirement for review by or involvement from “independent” experts. Contractors may have sufficient expertise within their own staff that could do this work and we have proposed amendments to allow to make use of such resources.
- We also consider that a qualification requirement is unclear in this context. As such, we propose to replace “qualified” with “competent” to ensure that the EIA can be done by persons sufficiently competent to carry it out. “Competent” is also the term used in the original Draft Regulation 47.
- It is also important that the scope of “Underwater Cultural Heritage” is clear, consistently used and unambiguous. To this end, we consider it best to ensure the definition and obligations are linked to concepts found within the Convention (i.e. archaeological and historic objects), tangible objects, and traditional knowledge.
- We do not consider it is the intention for the contractor to undertake a “survey” of Underwater Cultural Heritage in its contract area, rather the contractor should identify any Underwater Cultural Heritage as part of the EIA.
- Furthermore, Draft Regulation 47 alt (3)(c) should be limited by the relevant definitions and not extended to include extraneous requirements such as “tak[ing] into consideration the region as a whole.” It is not clear how or why a Contractor working in a particular contract area is required to understand and consider “the region” in its entirety.
- We oppose Draft Regulation 47 alt (3)(e), consistent with our previous written submissions. The EIA should not be subject to an independent scientific assessment, as such a requirement would usurp the role of the Legal and Technical Commission and would be duplicative.
- We also propose minor amendments to Draft Regulation 47 alt (3)(h) and (i) for consistency and clarity.

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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. 47 alt (4)(b)

**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.**

4. The Environmental Impact Assessment process must follow certain procedural steps and entail the following elements:

[...]

(b) A stage for an assessment of environmental impacts including:

(i) An update to the environmental risk assessment, as developed during scoping, describing the likely impacts on the marine environment and Underwater Cultural Heritage and predict the nature and extent of the Environmental Effects and risks of the Exploitation ~~including residual impacts, also considering cumulative impacts, including existing and foreseen mining operations, other activities and natural phenomena.~~

(ii) An evaluation of ~~significant and~~ likely harmful effects on the Marine Environment and ecosystem services, ~~founded~~ based on clear and transparent assessment criteria and a robust evidence base, using best available ~~science and~~ scientific information;

(iii) The presentation and evaluation of potential mitigation measures, and subsequent statement of management and monitoring commitments (together with the EMMP), to mitigate, avoid and minimize harmful effects to the Marine Environment ~~effects~~, and monitor residual impacts;

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

- Consistent with our previous written submissions, we propose that the current level of detail contained in Draft Regulation 47 alt (4) should be moved to the applicable

Standard and Guideline. We particularly support the proposal to move the current sub-paragraphs under Draft Regulation 47 alt (4)(b) to the Standard and Guideline.

- We also reiterate that any reference to the term “Underwater Cultural Heritage” needs to be consistent with the definition of the term currently under negotiation. It needs to accurately incorporate concepts around cultural heritage, underwater cultural heritage and intangible cultural heritage.
- Furthermore, we propose to clarify the scope of Draft Regulation 47 alt (4)(b)(ii) by replacing the term “significant” with “likely”, to avoid creating a different and ambiguous standard from the one already captured in the Draft Regulations.
- Finally, we propose limiting the scope of Draft Regulation 47 alt (4)(b)(iii) to “harmful effects.” This will ensure the Draft Regulations take a consistent approach to referencing the proper threshold regarding actionable harms.

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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. 47 alt (4)(c)-(d)

**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.**

4. The Environmental Impact Assessment process must follow certain procedural steps and entail the following elements:

[...]

(c) A stage on the preparation and submission to the Authority of the Environmental Impact Statement to document and report the results of the environmental impact assessment in accordance with Regulation 47bis, the applicable Standards and taking into account the ~~relevant~~ applicable Guidelines,

d) The publication and review by the Commission of the Environmental Impact Statement, and publication of the Commission’s report and recommendation ~~by the Commission~~ to the Council pursuant to Regulations 11 – 15,

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

- We propose minor textual edits to streamline and clarify Draft Regulation 47 alt (4)(c)-(d) and ensure the language is consistent with that used elsewhere in the Draft Regulations.

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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. 47 alt (4)(e) and (f)

**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.**

~~(e) A decision by the Council to approve, or not approve, the proposed activities or proposed modification to the Plan of Work that was the subject of the Environmental Impact Assessment, including any conditions imposed upon an approval, which decision shall be recorded and published in accordance with Regulation 16, and~~

(f) A proactive consultation by an applicant or Contractor with Stakeholders at all stages, in accordance with relevant the applicable Standards and taking account of Guideline, which includes:

(i) Providing Stakeholders with access to up-to-date and comprehensive environmental data and information about relating to the proposed activities and ~~environmental data and their~~ impacts,

(ii) Using best efforts to obtain Stakeholder comments on the draft scoping report and draft environmental impact statement for a reasonable period in accordance with regulation [ ] and the applicable Standard.

~~(iii) Provide a reasonable opportunity for Stakeholders to raise enquiries and to make known their views,~~

(iv) Make publicly available Stakeholder comments received during the consultation process, including on the applicant or Contractor’s own website, and

(v) Record and address, in the scoping report and Environmental Impact Statement respectively, any substantive and relevant Stakeholder comments received



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

- Draft Regulation 47 alt (4)(e) relates to decisions by the Council to approve proposed activities or modifications to Plans of Work. It is not clear how this could be one of the steps that an Environmental Improvement Assessment process must follow. We propose deleting this sub-paragraph.
- It will be important to ensure consistency between Draft Regulation 47 alt (4)(f) and the results of the working group on stakeholder engagement and consultation under the Draft Regulations. Once that working group has completed its work, we suggest inserting a simple cross-reference in Draft Regulation 47 alt (4)(f) instead of separately listing the relevant criteria.
- We also propose to delete sub-paragraph (iii) as it is duplicative of sub-paragraph (ii). We note that sub-paragraphs (iv) and (v) may also not be necessary depending upon the outcomes of the cross-cutting work on stakeholder consultation and engagement.
- We also propose edits to clarify Draft Regulation 47 alt (4)(f) and ensure the language is consistent with that used elsewhere in the Draft Regulations.