

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS
DURING THE 29TH SESSION: COUNCIL - PART I**

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:

Informal Working Group on Institutional Matters

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 12(1.bis), (1.ter), (2), and (4)

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.

Regulation 12 [IWG IM]

Rules for considering applications

1. bis ~~Subject to paragraph 1.ter. and to Regulation 11(4),~~ The Commission shall commence ~~the~~ its consideration of an application ~~at its next meeting after receipt of the application~~ [within 30 Days of its receipt of the application, including via virtual and intersessional meetings in addition to its regular meetings, if necessary] ~~[provided that the notifications and information pursuant to Regulation 11(1)-(2.ter) have been circulated at least [30] [90] Days prior to the commencement of that meeting of the Commission.]~~

~~[1.ter The Commission may defer consideration of an application to a subsequent meeting if the complexity of the application so requires.]~~

2. The Commission shall consider applications expeditiously and shall ~~endeavour to~~ submit its reports and recommendations to the Council no later than [120]/~~[180]~~ Days from whichever date occurs later out of:

(a) The close of the comment period, in accordance with Regulation 11(1)(a);

(b) The date of submission of a revised plan, in accordance with Regulation 11(2 bis); or

~~(c) The date the Commission receives additional information or amendments to the Plan of Work requested by the Commission under Regulation 14.~~

[...]

4. In considering the proposed Plan of Work, the Commission shall take into account:

[...]

~~(a) ter Any advice or reports received from any competent organ of the United Nations or of its specialized agencies or any international organizations with competence in the subject matter;~~

~~[...]~~

~~[(d) any objectives or measures established in the relevant Regional Environmental Management Plan.]~~

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

- Consistent with our earlier submissions, we strongly oppose the proposal that the Commission will only consider applications during its bi-annual meetings. There is no reason that the Commission should wait until its scheduled meeting to commence its consideration of applications. This would only invite regulatory delay and be unduly burdensome to both the Contractors and the Commission. We have proposed clear language to avoid any doubt that the application has to be considered within 30 Days of its receipt regardless of whether the Commission has any of its bi-annual meetings scheduled in this time period. The Commission is empowered to work intersessionally. It should make use of this power to ensure the efficient processing and consideration of applications and representations by applicants.
- We also consider that Draft Regulation 12(1 ter) is inconsistent with Article 6 of Annex III of UNCLOS and so propose to delete it and the reference to it in Draft Regulation 12(1bis). Article 6 requires the Authority to take up for consideration proposed plans of work in the order in which they are received. Draft Regulation 12(1 ter) is also ambiguous and would create uncertainty regarding what it means for an application to be “overly complex”.
- As an expert body, the Commission should not need to defer its consideration of an application due to complexity and should resort to powers at its disposal, including the use of independent experts, to assist its consideration.
- We consider there is no need to insert “endeavour to” in Draft Regulation 12(2). The Commission should be required to submit its recommendations by a definitive deadline and not have a vague timeline which gives no clarity for applicants. We also consider that a 120 day period is sufficient for the Commission to consider each application.
- We also consider that Draft Regulation 12(2)(c) is unnecessary as Draft Regulation 14(3) explicitly extends the relevant timeframe for Commission consideration by the amount of time an applicant is given to provide additional information. We propose to remove subparagraph 2(a)ter as it contains a broad category of documents that Contractors may not be able to foresee or prepare for.
- We also oppose the inclusion of subparagraph 2(d) as Regional Environmental Management Plans are not legally binding and should not be presented as such by requiring Commission to conder any objectives or measures established therein.