

**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:

President's Text

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 18 bis (2) and (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.

Regulation 18 bis [President's Text]

Obligations of the Contractors

[...]

~~2. The contractor, its holding, subsidiaries, affiliated and Ultimate Parent companies, agencies and partnerships shall have responsibility or liability for any damage arising out of wrongful acts in the conduct of its operations, account being taken of contributory acts or omissions by the Authority, and shall be held liable for the actual amount of damage.~~

~~3. In the event that Contractors fail to comply with their payment obligations under these Regulations, holdings and Ultimate Parent Companies shall be held responsible to effect such payments to the Authority on behalf of Contractors.~~

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

- We reiterate our opposition to Draft Regulation 18 bis (2) and (3). While we recognize the importance of ensuring there is an effective liability mechanism regarding exploitation activities, there is no legal basis for the approach proposed.
- The contract establishes the primary legal relationship regarding exploitation rights, and it is between the contractor and the Authority. The contractor alone remains responsible and liable for its performance. It is neither legally permissible nor appropriate for the Authority to attempt to unilaterally expand the scope of liability under the contract to non-parties.
- Draft Regulations 18 bis (2) and (3) are also contrary to established and fundamental contractual rules and norms of the legal systems of most member States. Non-parties to a contract are rarely bound by that contract, especially via a unilateral extension of contract obligations without their consent, with no reciprocal rights given in exchange.