

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS  
DURING THE 29<sup>TH</sup> 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](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 27 (2.bis)

**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 27 [OEWG]**

**Commencement of Commercial Production**

[...]

[2. bis Once the Contractor determines that it is engaging in ~~S~~sustained ~~L~~large-scale ~~R~~recovery operations which yield a quantity of materials in excess of ~~the thresholds specified in the 60%~~ of the Contractor’s annual design capacity over a 90 day period, the Contractor shall promptly notify the Secretary-General of the proposed date of commencement of Commercial Production together with supporting documentation and other evidence as specified in the Standards. The Secretary-General shall transmit the notification and supporting documentation and evidence to the Commission, which shall consider the proposal and supporting materials and approve or reject the Contractor’s proposed date.

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

- We propose that the threshold is specified directly in subparagraph 2bis as opposed to leaving it to the Standard. Having a clear understanding of when commercial production starts is crucial for Contractors. This number is also unlikely to be changing frequently and there is no reason why it should be left to be determined in the Standard.
- We note that although there are different approaches adopted in various land-based mining regulatory systems, we consider that tying the commencement of commercial production to achieving a certain percentage of the project’s capacity over a 90-day period would be the clearest and most appropriate solution. For example, the benchmark of achieving 60% of rated capacity over a 90 day period is widely used in Canadian jurisdictions and is reflected in the Model Mining Development Agreement developed by the IBA. Using a set percentage would exclude subjectivity and ensure that the benchmark is fit for each specific Contractor and their exploitation plan.