

**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.im](mailto:council@isa.org.im).

**1. Name of Working Group:**

Consolidated text.

**2. Name(s) of Delegation(s) making the proposal:**

Republic of Nauru

**3. Please indicate the relevant provision to which the textual proposal refers.**

Regulation 13 / 13 Alt

**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 13**

~~(d) Demonstrate that the applicant and, if applicable its parent company, legal predecessor, senior management and controlling shareholders, have Has satisfactorily discharged their obligations to the Authority, including having a satisfactory record of past performance both within the Area [and in other jurisdictions];~~

~~(d) Alt. [moved from (h)] Has d) Demonstrate~~ a satisfactory record of past performance both within the Area [and in other jurisdictions, **if applicable**];

~~(k) Whether performance of the Plan of Work can be effectively monitored and controlled by the Authority, to minimise Environmental Effects, and ensure compliance with the rules, regulations and procedures of the Authority.~~

~~[5 bis The Commission shall determine whether the draft plan of work and the accompanying plans and information demonstrate that the proposed activities will not interfere with any cultural rights or interests.]~~

~~[7. — In assessing a Plan of Work, the Commission shall determine whether the applicant is under the Effective Control of the Sponsoring State, according to applicable, [Guidelines], and whether the Sponsoring State has enacted domestic legislation covering activities in the Area that:~~

~~-(a) is in force and applicable,~~

~~-(b) provides available recourse through the domestic legal system in accordance with Article 235(2) of the Convention, and~~

~~-(c) does not contain provisions that appear to exempt liability of the sponsored entity from a cause of action that may result from its conduct of activities in the Area.]~~

**Regulation 13 Alt**

~~7(a) Whether the Plan of Work will provide optimum revenue to the Authority, and taking into account negative externalities caused by any damage to the Marine Environment, will benefit humankind as a whole;~~

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9(c) ~~(iv) it will not cause Environmental Impacts outside of the relevant Contract Area and will not cause Environmental Impacts to any area designated by the Authority [or other relevant authority] as a protected area in terms that prohibit such impact;~~

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

We prefer the structuring of regulation 13alt and its approach to assessing the applicant and the application. Both these regulations are overly detailed, and we would support that the content be taken to a guideline in order that the regulatory text is not overburdened.

In terms of specifics:

**Regulation 13**

Para (1)(d): we question the Authority's mandate to include parent companies, its parent company, legal predecessor, senior management and controlling shareholders. Equally, how would this criterion be applied to State- or State-owned enterprise contractors given the need to apply requirements under the regulations on a uniform and non-discriminatory basis? We suggest para 1(d) is deleted and (d) alt retained.

Para 5(k): we find paragraph 5(k) rather odd in its phrasing. The plan of work should demonstrate the applicant's ability to monitor and control activities and ensure compliance. *How* the Authority will effectively monitor, and control activities is a matter for the Authority. Removing the text "by the Authority" may make more sense, unless the paragraph is intended to reference the adequacy of remote monitoring technology and real time data where available. (Similarly for regulation 13Alt, para. 9(c)(vi)).

Para 5bis: requires further discussion, not least how this would be assessed objectively. To be bracketed.

Para 7: these are not matters for the Commission to assess. (Similarly for regulation 13Alt, para. 5).

**Regulation 13 Alt**

Para 7(a): this is not a matter for consideration by the Commission. The requirement for optimum revenue is relevant to the development of financial terms.

Para 9(c)(iv): given the definition of Environmental Impact is broad, the language in sub-para. (c)(vi) risks applications being rejected for relatively minor environmental impacts. We suggest this is deleted.