

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH 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.

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 15

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.

~~1. If the Commission determines that the application meets the criteria set out in Regulations 12(4) and 13, it shall recommend approval of the Plan of Work to the Council.~~

~~[1. Alt. If the Commission determines that the applicant meets the criteria set out in regulation 13, it [shall][may] recommend approval of the Plan of Work to the Council.]~~

~~2(a) the Plan of Work does not comply with, or the Commission is unable to determine whether the Plan of Work complies with, [either alone or in combination with other activities and impacts], all requirements stipulated in Regulation 13 [including because of scientific uncertainty or inadequate information]~~

~~2[(e) Such approval would undermine or contradict [the Strategic Environmental Goals or Objectives pursuant to [Regulation 44 ter] or the regional goals, objectives or measures set out in the [relevant] applicable Regional Environmental Management Plan.]~~

~~2[(e) There is inadequate, [insufficient] or substandard environmental baseline information for the area covered by the proposed Plan of Work, or any part of that area.]~~

~~2 bis The Commission shall not recommend approval of a proposed Plan of Work if the applicant, its controlling shareholder or shareholders or its predecessor in law previously violated the general obligations of contractors in a non-negligible way.~~

~~6. The Commission may refuse an application and return it to the applicant. The Commission must provide reasons for refusing an application, including a summary of the deliberations of the Commission specifying what inputs have been taken into account and how these have been assessed, as well as divergences of opinion within the Commission, if any.~~

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

Para 1: we support para 1, subject to the deletion of the reference to regulation 12(4) which deals with matters the Commission must take into account. It is critical that if the applicant meets all of the requirements, the Commission must be required to

recommend approval. There is no need for the Commission to have any discretion given there are no other factors for it to consider.

Para 2(a): we suggest para 2(a) simply read “the Plan of Work does not comply with all requirements stipulated in Regulation 13”. The Commission is required to assess applications on the basis of the best scientific information available, make information requests, and engage experts as necessary. There is no reason that it should ever be unable to determine whether a Plan of Work complies with the requirements.

Para 2(c): we suggest sub-para 2(c) is deleted. REMPs are not legally binding.

Para 2(e): we suggest that the word “inadequate” is sufficient and can be given an appropriate interpretation.

Para 2bis: this para is vague in its application and what would constitute a “non negligible way”.

Para 6: we question whether or on what basis the Commission may refuse an application. This language grants a broad discretion to the Commission to refuse an application for any reason. Under the Convention and Agreement, the Commission must recommend approval or disapproval or may not make a recommendation. It does not have the power to ‘refuse’ applications. We suggest this paragraph 6 is deleted.