

**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 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.

2. Contractors shall in accordance with their Environmental Management and Monitoring Plan take ~~all measures required and~~ necessary measures to ensure that their activities are conducted so as not to cause harmful effects to the Marine Environment...

6. If the [Commission] determines, in accordance with the applicable relevant Standards and taking into ~~consideration~~ account Guidelines, that there are clear grounds for believing that, as a result of the Contractor’s operations:

(a) Serious Harm or the threat of Serious Harm to the Marine Environment is likely to occur or has occurred, the Secretary-General shall notify the Sponsoring State, and [the Commission] shall recommend that the Council issue an emergency order, which may include an order for the suspension or adjustment of operations, pursuant to Article 165(2)(k) of the Convention and take all necessary measures to prevent Serious Harm to the Marine Environment. Such recommendation shall be taken up by the Council on a priority basis. ~~Upon~~ Pending the receipt of ~~the an~~ emergency order, the Contractor shall take necessary measures in accordance with Regulation 28(3) and where applicable implement its Emergency Response and Contingency Plan pursuant to regulation 33; ~~or~~

~~(b) Other harmful effects, or threat of harmful effects, to the Marine Environment is likely to occur or has occurred, the Secretary General shall notify the Sponsoring State, and the [Commission] shall recommend that the Council issue a compliance notice pursuant to Regulation 103 or direct an inspection of the Contractor’s activities pursuant to Article 165 (2) (m) of the Convention and Part XI of these Regulations.~~

7. The Contractor shall be ~~strictly~~ liable for any response and clean-up costs...

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

Para 2: We consider a reference to the Environmental Management and Monitoring Plans would be helpful in paragraph 2. As to other proposed amendments, we suggest that the language presented in article 145 is retained being “necessary measures”.

Para 6: : the process contemplated by paragraph 6 while procedurally correct is at best, challenging, not least the time that may be taken to examine evidence and, where necessary, issue an emergency order. In connection with Incidents, Regulation 33 we understand was drafted to take account of the time and procedural challenges in issuing an emergency order and requires a contractor, in connection with Incidents, to implement its Emergency Response and Contingency Plan. We suggest that para 6(b) is deleted as a compliance notice etc. should not be automatic in the case of *any* harm.

Para 7: “strictly” should be deleted as it is beyond the scope of liability under the Convention (article 22, annex III).