

**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.im.

1. Name of Working Group:

Consolidated 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.

Schedule, Use of Terms and Scope, Serious Harm

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.

[“**Serious Harm**” means any effect from activities in the Area on the Marine Environment which represents an [unlawful] significant adverse change in the Marine Environment [outside of the Mining Area and that is irreversible or lasts for multiple generations of the relevant population](#), determined according to the rules, regulations and procedures of the Authority on the basis of internationally recognized standards and practices informed by Best Available Scientific Information [and, where available, relevant traditional knowledge of Indigenous Peoples and local communities].]

~~[Alt. “**Serious Harm to the Marine Environment**” means an Environmental Effect that, individually in combination or cumulatively meets any of the following criteria:~~

- ~~———— (a) it is not likely to be redressed through natural recovery within a reasonable period;~~
- ~~———— (b) it impairs the ability of affected populations to replace themselves;~~
- ~~———— (c) it degrades the long-term natural productivity of habitats or ecosystems;~~
- ~~———— (d) causes, on a more than temporary basis, a loss of species richness or biological diversity, including community structure, genetic connectivity among populations, ecosystem functioning and ecosystem services on the seabed, at the sea surface, and in midwater and in the benthic boundary layer, or habitat; or~~
- ~~———— (e) any other criteria contained in the relevant Regional Environmental Management Plan, or Standards.]~~

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

- We support the original definition of “Serious Harm”, with one amendment, as compared to the alternate proposal to define “Serious Harm to the Marine Environment”. The alternative definition is particularly problematic given the detailed criteria it specifies –

including sub-paragraph (a) which is not realistic given that most mineral resources will not naturally recover in a reasonable period.

- We are also concerned the proposed new definition is vague and may elevate all environmental impacts to being “Serious Harm to the Marine Environment” given that any “impairment” or “degradation” could fall within this definition. Such an elevation to the definition would be inconsistent with the object and purpose of an exploitation phase pursuant to Part XI of the Convention.
- We consider the original definition of “Serious Harm”, when read with the definition of “Marine Environment”, was sufficiently clear with one change. Creating a new term to cover the same concept invites ambiguity, contradiction and confusion.
- Importantly, we are concerned that the original definition of “Serious Harm” failed to reflect the concept of spatial and temporal scale, which is needed to ensure the definition is meaningful. The level of harm caused by an impact can only be determined by reference to an appropriate spatial and temporal scale. We have proposed edits to the wording to ensure that such a scale is considered.
- In particular, the Mining Area (where Minerals will be directly extracted from) will necessarily be subject to significant adverse change as minerals will be removed from the environment. These impacts cannot be included within the scope of Serious Harm given they are necessarily entailed as part of the mining process and cannot be avoided. Contractors cannot be penalized for activities and impacts that UNCLOS explicitly mandates – i.e. deep seabed mining.