

**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 38(2)(d)

**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 38 [OEWG]**

**Annual report**

2. Such annual reports shall be in accordance with applicable Standards and taking into consideration Guidelines and include:

[...]

(d) An annual financial report, in conformity with internationally accepted accounting principles and certified by a duly qualified firm of public accountants, of the actual and direct Exploitation expenditures, which are the capital expenditures and operating costs of the Contractor in carrying out the programme of activities during the Contractor’s accounting year in respect of the Contract Area, together with an annual statement of the computation of payments paid or payable by the Contractor to the Authority or Sponsoring States, ~~governments, state enterprises, and other contractors, as well as payments and other forms of financial benefit received by the Contractor from Sponsoring States~~, and reported against the Financing Plan;

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

- We reiterate our concern with the overreaching and unnecessary nature of Draft Regulation 38(2)(d)’s requirement for contractors to report on payments to any and all governments, state enterprises and other contractors as well as payments and other financial benefits received from Sponsoring States. This requirement is excessive, unnecessary and overly burdensome. It is also unclear why the Authority requires this information. We propose this sub-paragraph be limited to payments to the Authority and its Sponsoring States.

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Draft Regulation 38(2)(g)

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**Regulation 38 [OEWG]**

**Annual report**

2. Such annual reports shall be in accordance with applicable Standards and taking into consideration Guidelines and include:

[...]

(g) The actual results [and data] obtained from environmental monitoring programmes, including observations, measurements, evaluations and the analysis of environmental parameters, reported against ~~[the Strategic Environmental Goals and Objectives in Regulation 44ter, the relevant Regional Environmental Management Plan including its Regional Environmental Objective and] [where applicable, any criteria and] [thresholds included in the applicable Standards, and against~~ the Environmental Management and Monitoring Plan], together with details of any response actions implemented under the plan and the actual costs of compliance with the plan;

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

- We consider that annual environmental reporting under Draft Regulation 38(2) should only be against the Contractor’s Environmental Management and Monitoring Plan (EMMP), not against the Regional Environmental Management Plan (REMP) which is not legally binding upon the Contractor.
- The EMMP is the document that directly regulates environmental management and monitoring the Contractor’s activities. The REMP is a document created by the Authority, which will be reflected in the EMMP.