

**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.jm.

1. Name of Working Group:

Informal Working Group on Environment

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 48 bis (2)(a)-(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 48 bis ~~At~~ [IWG ENV]

**New Environmental Impact Assessment and Revised Environmental Impact Statement
[Revision for change or new or increased effect or risk]**

[...]

[2.] A Contractor shall conduct an [additional new] Environmental Impact Assessment in accordance with Regulation 47 ~~ter~~ and submit an [additional] revised Environmental Impact Statement [wheren]:

(a) A [Material] ~~C~~change to an existing Plan of Work is proposed which is likely to [significantly] increase the adverse Environmental Effects [or risks] caused by the activities, and is not covered by Regulation 57(3),

(b) A [significant Material] ~~C~~change in the Marine Environment [compared to baseline data], and which is not the result of natural variability or natural changes in the Marine Environment, is detected through monitoring or other data sources which would call for a new or [revised reviewed] Environmental Impact Statement [or Environmental Management and Monitoring Plan],

(c) An activity described in the Plan of Work is predicted to consistently and persistently exceed the impact thresholds set out in the Standards on environmental thresholds in a manner that results in demonstrated non-compliance with these Regulations,

(d) An applicable ~~relevant~~ Standard, activity or predicted [significant] impact has not already been addressed by an Environmental Impact Statement, or

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

- We strongly support the inclusion of the words “significantly” and “significant” in Draft Regulation 48 bis. It is critical that the Regulations properly reflect that there are various levels of impact and adverse effect and that a minimal level of effect will necessarily and always occur with any human activity.
- As such, it is not feasible or useful to require a Contractor to conduct new Environmental Impact Assessments (EIA) merely due to any increase in adverse effects or any change in the Marine Environment no matter how minor. Instead, Draft Regulation 48bis needs to contain appropriate thresholds to be met before this process is required. Otherwise, there will be constant EIAs being conducted, wasting time and resources of Contractors and stakeholders, and risking stakeholders having ‘consultation fatigue’ reducing the value of engagement.
- We also propose an amendment to Draft Regulation 48bis(2)(b) to clarify that changes that result due to the natural variability of the Marine Environment will not trigger a requirement to conduct a new EIA.
- In relation to Draft Regulation 48bis(2)(c), we are concerned that this could capture minimal and temporary impacts beyond the threshold. We propose that this should be limited to consistent and persistent impacts that result in demonstrated non-compliance.

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Draft Regulation 48 bis (4)-(7)

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 48 bis ~~At~~ [IWG ENV]

New Environmental Impact Assessment and Revised Environmental Impact Statement
[Revision for change or new or increased effect or risk]

[...]

4. Where required by the Commission under paragraph 3, the Contractor shall submit a revised Environmental Impact Statement or revised Environmental Management and Monitoring Plan to the Commission for review.

5. Where the Commission determines that any change to the statement or plan constitutes a Material Change, the procedure set out in Regulation 11 shall apply.

6. In the course of conducting a new Environmental Impact Assessment and preparing a revised Environmental Impact Statement as required by any Material Change, a Contractor shall endeavour to engage with potentially directly affected Stakeholders, and in accordance with [Regulation 93 ter], the Standards, and taking into consideration the Guidelines.

7. The Contractor shall also conduct a consultation regarding the revised Environmental Impact Statement in accordance with Regulation 93 bis.

8. For the avoidance of doubt, the Contractor may continue its operations in accordance with its approved Plan of Work, Environmental Impact Statement and Environmental Management and Monitoring Plan, while preparing any revisions in accordance with paragraphs 3 through 7 and while the Commission is considering any such revisions.

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

- We have proposed two clarifications in relation to Draft Regulation 48bis(4)-(7).
- First, in relation to paragraph 4, the Commission's power to require revisions is set out in paragraph 3. As such, we consider it appropriate to explicitly refer to this in paragraph 4 for clarity.
- Second, we propose a new paragraph 8 that clarifies that while the process set out in paragraphs 3 to 7 are undertaken the Contractor is able to continue to undertake its activities in accordance with its approved Plan of Work, Environmental Impact Statement and Environmental Management and Monitoring Plan. Once any revisions are finalised and approved, the Contractor will then amend its operations to accord with such revisions.