

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 30TH SESSION:
COUNCIL - PART II**

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(s) of Delegation(s) making the proposal:

Submitted by Nauru Ocean Resources Inc., Tonga Offshore Mining Ltd. and Blue Minerals Jamaica Ltd.

2. Please indicate the relevant provision to which the textual proposal refers.

Schedule Use of Terms and Scope, Intangible [underwater] cultural heritage

3. 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.

[“Intangible [underwater] cultural heritage” refers to practices, representations, expressions, knowledge, skills, and traditions that are transmitted from generation to generation – as expressed in the instruments, objects, artefacts, flora, fauna and cultural spaces associated therewith – that communities, groups, or, in some cases, individuals recognize as part of their cultural heritage; and relate to the underwater environment and its interaction with human cultures. This may include, but is not limited to, traditional navigation knowledge, oral histories associated with maritime landscapes, spiritual and ritual practices linked to water bodies, and artisanal fishing techniques.]

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

- Noting the discussions in the Intersessional Working Group on Underwater Cultural Heritage regarding a potential definition for intangible underwater cultural heritage in the draft Exploitation Regulations, we note that it is important that any such definition is linked to the tangible elements that support the intangible cultural heritage. This would be the most practical approach for the Authority to administer and regulate, and it also aligns with prevailing international standards for environmental impact assessments. The proposed definition in this submission follows this approach.
- This has generally been the preferred approach for internationally funded development and commercial projects, since at least the promulgation of the World Bank’s Environmental and Social Framework.¹ Specifically, the World Bank’s Guidance Note on Environmental and Social Standard 8 for Cultural Heritage states “[t]he environmental and social assessment also [in addition to tangible cultural heritage] takes into consideration the significance of intangible cultural heritage that may be materially affected or put at risk by the project.”² In 2023, the

¹ World Bank, “The World Bank Environmental and Social Framework” (2017), available at: [ESFFramework.pdf \(worldbank.org\)](#).

² World Bank, “Guidance Note for Borrowers – Environmental & Social Framework for IPF Foperations – ESS8: Cultural Heritage” (June 2018) at GN 7.1, available at:

European Bank for Infrastructure and Development, a member of the World Bank Group, provided greater clarity on this same topic in its impact assessment framework, including the following useful statement in the Guidance Note for its Performance Requirement 8 for Cultural Heritage:

For the purposes of PR8, intangible cultural heritage refers to that subset [of cultural heritage] having associations with place or with commercial use: 'With regard to intangible cultural heritage the requirements of this PR apply only if the physical component of the project will have a material impact on such cultural heritage or if the project intends to use such cultural heritage for commercial purposes'.³

<https://documents1.worldbank.org/curated/en/743151530217186766/ESF-Guidance-Note-8-Cultural-Heritage-English.pdf>

³ Guidance note, EBRD Performance Requirement 8: Cultural heritage (March 2023), p. 8, available at: <https://www.ebrd.com/documents/environment/guidance-note-performance-requirements-8-cultural-heritage.pdf>

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Schedule Use of Terms and Scope, Protection

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[“**Protection**” means any action or activity designed to reduce or prevent pollution, negative environmental impacts or other damage to environment, land, ecosystems, ~~or~~ natural resources, traditional ownership or customary use of resources, human remains and underwater cultural heritage, or intangible underwater cultural heritage by human activities, including to mitigate climate change, to reduce the risk of such damage, to protect and restore biodiversity or to lead to more efficient use of natural resources, including energy-saving measures and the use of renewable sources of energy and other techniques to reduce greenhouse gas emissions and other pollutants, as well as to shift to circular economy models to reduce the use of primary materials and increase efficiencies. It also covers actions that reinforce adaptive capacity and minimise vulnerability to climate impacts.]

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

- We note that the term “Protection” is proposed to be used in the Draft Regulations in relation to cultural rights and interests, while the existing definition focuses primarily on environmental impacts.
- To ensure the meaning of these references are clear, we propose amending the definition of “Protection” to include a specific references to cultural rights and interests, human remains, underwater cultural heritage and Intangible underwater cultural heritage.

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Schedule Use of Terms and Scope, Stakeholder

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“**Stakeholder**” means a natural or juristic person or an association of persons with an interest of any kind in, or who may be affected by, the proposed or existing Exploitation activities under a Plan of Work in the Area, or who has relevant information, [knowledge] or expertise.

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

- We note the consideration given in the Intersessional Working Group on Underwater Cultural Heritage to introducing a specific reference to Indigenous Peoples and local communities in the definition for “Stakeholder”.
- We consider that given the breadth of the definition, which is inclusive and not aimed at excluding any stakeholder, such an addition is not necessary as Indigenous Peoples and local communities are already clearly covered. As such, we propose that no amendments are necessary to the current definition and that it should remain as it is in the consolidated text.