

United Kingdom of Great Britain and Northern Ireland**ISA Council 2025 (30th Session) Part II: Friends of the President Proposal****Draft Regulation 57 (Modification of a Plan of Work)****EXPLAINER****Definition of “Material Change”**

- The UK proposal uses as a starting point the first definition of “Material Change” in the Revised Consolidated Text¹ (RCT) (as opposed to Alt or Alt 2, which we propose to delete).
- We consider the adjective “significant” to be more appropriate in this context than the alternative word “substantial” contained in RCT version of the definition.
- We have amended the definition to clarify the list of changes which are included as Material Changes.

Regulation Title

- The UK proposes to delete the words “by a Contractor” from the title of Draft Regulation (DR) 57, as this Regulation also addresses modifications proposed by the Commission (see paragraph 7 of the UK’s proposal).

Paragraph 1

- The purpose of the UK proposal is to create a general procedure for modifications or changes to a Plan of Work. As noted in the UK’s intervention on DR48bis at the ISA Council in March 2025, it is essential that DR 48bis and DR57 work together. The UK proposes that in addition to this proposal on DR57, DR48bis(2)(a) is deleted.
- The RCT version of DR57 addresses “Material Changes” and “corrections” but nothing in between. The UK considers that there should also be a procedure for other proposed modifications of a Plan of Work.
- While DR57 provides a general procedure for proposed modifications to a Plan of Work, other DRs create bespoke procedures for the modification of certain parts of a Plan of Work. For example:
 - DR26(4) and (5) provide a bespoke process to update the amount of an Environmental Performance Guarantee; and

¹ ISBA/30/C/CRP.1 1

- DR59(4)-(6) and DR60 respectively provide bespoke processes (i) for revision of a Closure Plan towards the planned end of the period of Exploitation and (ii) preparation of a Final Closure Plan.

Accordingly, the UK considers it important to make clear that the process set out in DR57 applies unless a modification is permitted pursuant to other applicable Regulations.

Paragraph 2

- The UK proposal uses as a starting point the first two sentences of DR57(2Alt) in the RCT (as opposed to DR57(2), which we propose to delete).
- The UK proposal provides that a Contractor proposing a modification is required to notify the Secretary-General, who notifies the Council and Commission within 7 Days.
- A 7 Day period is standard for this type of action and is used in respect of the Secretary-General/Secretariat elsewhere in the DRs. For example, DR9 (Receipt, acknowledgement and safe custody of applications); DR11 (Publication and review of the Environmental Plans); DR17 (The Exploitation Contract); DR 21 (Termination of Sponsorship); and DR24 (Change of Control).

Paragraph 3

- The UK's approach to timings in this proposal has been to align them as far as possible with the timings for consideration of an application for a Plan of Work.
- The UK proposal uses as a starting point the third sentence of DR57(2Alt) in the RCT.
- The UK proposal clarifies that the Commission is required to consider any proposed modification in accordance with any applicable Standards and applying the procedure (including timelines) in Regulation 12, with necessary changes.

Paragraph 4

- DR57(3Alt) of the RCT version requires an Environmental Impact Assessment (EIA) of a proposed modification which constitutes a Material Change. The UK considers it more appropriate to require a revision of the existing EIA for the Plan of Work as a whole, taking into account the proposed modification.
- Paragraph 4 of the UK's proposal addresses proposed modifications which the Commission considers Material Changes. The Commission is required to report to the Council and recommend whether the EIA and Environmental Plans should be revised. The Council decides whether a revised EIA and

Environmental Plans are required, in which case the Contractor is required to submit these, and the Commission is required to assess them and report to the Council. The Council then decides whether to approve or disapprove the proposed modification.

Paragraph 5

- Paragraph 5 of the UK's proposal addresses proposed modifications which the Commission considers not to be Material Changes. Here, the UK proposes that the Commission approves or disapproves the proposed modification and reports its decision to the Council. The Commission's action is referred to as a decision to make clear that under this paragraph the Commission is the primary decision-maker, subject to the Council's power to require the Commission to follow the procedure set out at paragraph 4.
- If no Council member disagrees with the Commission's decision, it takes effect 60 Days after the Council is notified. As soon as a Council member disagrees with the Commission's decision to approve, the procedure at paragraph 4(b)-(d) must be followed (i.e. the proposed modification is assessed as a proposed Material Change). If any Council member disagrees with the Commission's decision to disapprove, the Council is required to decide within 60 Days whether to request the Commission to reconsider within a further 60 Days its decision, following which the Council decides how to proceed.
- 60 Days is an appropriate timescale for this provision and is used elsewhere in the DRs. For example, this timescale is used for certain actions by the Council under DR35 Alt (Chance discovery of human remains and Underwater Cultural Heritage) and for certain actions by the Commission under DR52 (Performance assessments of the Environmental Management and Monitoring Plan).

Paragraph 6

- Paragraph 6 of the proposal addresses corrections of minor omissions, errors or other such defects agreed between the Secretary-General and a Contractor. The UK has used as a starting point DR57(4) of the RCT but has amended it to clarify the process.
- The Secretary-General and the Contractor may agree changes to correct minor omissions, errors or other such defects.
- The UK proposes that, within 60 Days of being notified of any agreed changes, the Commission must recommend to the Council whether they should be assessed as proposed modifications. The agreed changes take effect on the date of the Secretary-General and the Contractor's agreement, unless the Council decides to apply the proposed modification procedure set

out above. The Council is required to consider the Commission's recommendations at its next meeting, provided they have been notified to the Council at least 60 Days prior to the commencement of the Council's meeting.

Paragraph 7

- Paragraph 7 of the UK's proposal addresses changes proposed by the Commission to correct minor omissions, errors or other such defects. The UK has used as a starting point DR57(4bis) of the RCT but has amended it to clarify the process.
- DR57(4bis) of the RCT does not include a role for the Council. The UK considers it appropriate to include a power for the Council to decide that a proposal by the Commission is to be assessed as a proposed modification pursuant to paragraphs 3-5 of the Regulation.
- The UK proposes that the Secretary-General acts as the point of contact between the Contractor and Commission, transmitting notifications under this Regulation. This is consistent with DR93 (Notice and general procedures).
- First the Commission sends its proposal to which the Contractor can respond within 60 Days. The Commission has a further 60 Days to consider the Contractor's response, following which it takes a decision. The Contractor and Council are notified of the Commission's decision, which takes effect from the date of notification, unless the Council decides to apply the proposed modification procedure. In sub-paragraphs (e)-(g) we describe the Commission's action as a decision, to make clear that the Commission is the primary decision-maker, subject to the Council's power to require a change to be assessed as a proposed modification (i.e. the same approach as is proposed in paragraph 5). The Council is required to consider the Commission's decision at its next meeting, provided it has been notified to the Council at least 60 Days prior to the commencement of the Council's meeting.

Paragraph 8

- The UK proposal for paragraph 8 replicates DR57(5) of the RCT with the addition of a clarification that modifications are to be recorded in the Seabed Mining Register by the Secretary-General as soon as reasonably practicable following approval or agreement in accordance with the Regulation.