

THE PEW CHARITABLE TRUST'S COMMENTARY

***ON THE REVISED CONSOLIDATED TEXT: DRAFT REGULATIONS ON
EXPLOITATION OF MINERAL RESOURCES IN THE AREA,
DATED 29 NOVEMBER 2024 (ISBA/30/C/CRP.1)***

Key

Black font, red font, and grey text-boxes are replicated from the Draft Regulations text.

Blue font represents commentary or edits proposed by The Pew Charitable Trusts.

Section 4

Periodic review of inspection mechanism

Regulation 105 bis

Periodic ~~R~~review of ~~I~~nspection, Compliance and Enforcement ~~M~~echanism

1. ~~[~~Every 5 years from the date of establishing the Compliance Committee,~~]~~ the Council shall review the Authority's inspection, compliance and enforcement mechanism to ensure that the manner of its operation and activities accords to ~~best~~ international standard of best regulatory practice and for the purpose, request information from the Compliance Committee and the Secretary-General.

1. bis The report of the periodic review shall be published ~~on~~at the Authority's website~~;~~ ~~[with any Confidential Information redacted.]~~

2. In the light of the review, the Council may, taking into account any recommendations of the Commission, [Chief Inspector]~~[and the Compliance Committee]~~, adopt amendments to the mechanism.

Comment

During the second part of the twenty-ninth session, several delegations raised the need for a discussion of the review period and whether it should be 5 years, and also the need for conformity with Article 55 of the Convention was raised.

We support DR105 bis. Whether the regime for activities in the Area operates effectively hangs entirely on the ISA's ability successfully to monitor and enforce Contractors' compliance with the rules. Public trust and confidence in the ISA as a regulator will be enhanced by regular and transparent self-reflection and improvement.

In terms of drafting, we would suggest the Council retain an option to conduct the review more regularly (either by starting **paragraph (1)** with 'at least every 5 years...' or inserting 'or sooner if required' after the first sub-clause.

In **paragraph 1 bis**, we support deletion of the wording '*with any Confidential Information redacted*'. The ISA's treatment of Confidential Information is covered in DR90 and applies throughout the regulations. It need not be repeated in every regulation that relates to publication of information.