

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.

Regulation 14

Amendments to the proposed Plan of Work

1. At any ~~reasonable~~ time prior to making its recommendation to the Council and as part of its consideration of an application under Regulation 12, the Commission may:

(a) Request the applicant to provide additional information on any aspect of the application prior to making a recommendation; and

(b) Request the applicant to amend its Plan of Work, or propose specific amendments for consideration by the applicant where such amendments are considered necessary to bring the Plan of Work into conformity with the requirements of these Regulations.

2. Where the Commission makes a request under paragraph 1, the Commission shall provide to the applicant a brief justification and rationale for such a request. The applicant must respond ~~[within the timeframe requested by the Commission, which shall be at least]~~ [90 Days after the receipt of the request,] by agreeing to the request, rejecting the request, or making an alternative proposal for the Commission's consideration.

3. The timeframe referred to in Regulation 12 (2) shall be extended by the timeframe determined by the Commission pursuant to paragraph 1.

4. ~~The [alt 1. Secretary General] [alt 2. Commission] shall publish any amendment, additional information, or revised application received pursuant to paragraph 2 at the website, and where these are significant, shall provide an opportunity for public consultation in accordance with Regulation 11.~~

5. ~~The Commission shall then in light of take into account the applicant's response under paragraph 1 and any responses received from public consultation under paragraph 4 into account in making its recommendations to the Council.~~

Comment

Several delegations proposed the removal of paragraphs 4 and 5, which have now been proposed to be deleted.

We were supportive of DR14 in its previous formulation. Indeed, provided the deletions are reinstated, DR14 could be relied upon to simplify and streamline the now-very-complex DR11.

We do wonder if **paragraph (3)**, should be amended to '...timeframe determined by the Commission pursuant to paragraph ~~1~~ 2.' as DR14(1) does not refer to any timeframe (but DR 14(2) does). We would also suggest adding into paragraph (2) an alternative option for 'any such other timeframe as may be agreed between the Commission and the applicant', to allow flexibility on the response time from the applicant, where this is mutually agreeable.

We are surprised by characterisation that 'several delegations' proposed deletion of **paragraphs (4) and (5)**. During the March 2024 Council session and subsequent written submissions, in addition to our own delegation, five Council

delegations supported the paragraphs' inclusion (Costa Rica, Italy, Chile, Germany and Nauru - the latter with proposed edits), and two Council members propose their deletion (Russia and China). Deletion in that context seems premature. We would like to add our support to the retention of these paragraphs, as they gave meaningful **opportunity for public comment** in the event of a substantially revised application, and for the LTC to consider these aspects its own assessment. For paragraph (4) we would suggest that the Secretary-General would be responsible for publication on the website (as this is an administrative function) but the LTC should determine whether the revisions are significant (a technical assessment). We think the proposal from Nauru to use 'Material Change' terminology here may be a sensible one (subject to the definition of that term in the Schedule being drafted in a way that includes an application for a plan of work).¹

¹ https://www.isa.org.jm/wp-content/uploads/2024/05/Nauru_Reg_14.pdf