

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.

Part III

Rights and Obligations of Contractors

Section 1

Exploitation Contracts

Regulation 17

The Exploitation Contract

1. ~~[After the]~~ ~~[Upon the]~~ Council's approval of a Plan of Work, [and upon Council's request], the Secretary-General shall prepare an Exploitation Contract between the Authority and the applicant in the form prescribed in Annex IX to these Regulations.
2. The Exploitation Contract shall be signed on behalf of the Authority by the Secretary-General or duly authorized representative. The Designated Representative or the authority designated under Regulation 5 (2) shall sign the Exploitation Contract on behalf of the applicant. The Secretary-General shall notify all members of the Authority in writing of the conclusion of each Exploitation Contract.
3. The Exploitation Contract and its schedules is a public document, and shall be published [by the Secretariat] ~~[without undue delay]~~ within 7 Days in the Seabed Mining Register, except for Confidential Information, which shall be redacted.

Comments

- During the first part of the twenty-ninth session, it was suggested to insert a requirement in paragraph 1, stipulation that the Council actively is requesting the issuance of the Exploitation Contract. Such a proposal has thus been inserted.
- Delegations reached consensus during the first part of the twenty-ninth session on setting a deadline of “*within 7 Days*”. The phrase “*Without undue delay*” has thus been deleted.
- A reference to “*by the Secretariat*” has been suggested inserted to clarify who will practically publish the information.

We support the inclusion in **paragraph (1)** of the wording ‘*upon the Council's request*’. This formulation, requiring a request from the Council before a contract is negotiated and finalised, allows for situations arising in which a Plan of Work is approved provisionally by the Council, but where there is a reason for delaying the contract (e.g. because the contract is approved conditionally with certain criteria needing to be satisfied before contract signature). This seems sensible to future-proof the Regulations and to keep the Council in the driving seat for Contract issuance.

As noted above, we would also suggest moving the substance of now DR16(3 alt) into DR 17 e.g. as a new **paragraph (1bis)**:

“I bis. The Secretary-General shall ensure that the Exploitation Contract to be concluded incorporates all conditions outlined in the draft Plan of Work and the accompanying plans, as well as any additional conditions requested by the Commission or the Council.”

For **paragraph (3)**, are pleased to see specified both a **timeline for publication and a responsible actor**.