

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 21

### Termination of sponsorship

1. Each Contractor that is not the Enterprise or a State Party shall ensure that it is sponsored by a State or States, as the case may be, throughout the period of the Exploitation Contract in accordance with Article 153(2)(b) of the Convention and Regulation 6, and to the extent necessary that it complies with Regulations 6 (1) and (2).

[2. Without prejudice to any terms, rights or obligations between a State and a Contractor under the terms of sponsorship, if a State [or States] terminates its sponsorship of a Contractor, it shall [promptly][within 7 Days] provide the Secretary-General with a written notice describing the reasons for such termination and the date the termination is to take effect. [, and no earlier than the following timeframe:]

~~(a) Termination due to a Contractor's material non-compliance under its terms of sponsorship: termination to takes effect [no earlier] [no later than] [6] months after the date of receipt of the notification by the Secretary General; [or]~~

~~(b) Termination due to reasons other than those listed in paragraph (a) above: termination to takes effect no [earlier] [later] than 12 months after the date of receipt of the notification by the Secretary General.]~~

[2. bis If the reasons for termination of sponsorship include [material] non-compliance under with its terms of sponsorship, the Contractor must [immediately]; [if instructed to by the Secretary General based upon their determination that the reason for termination justify suspension], suspend its Exploitation activities until the Council has considered the matter in accordance with paragraph 6 below regulation 29ter.]

3. In the event of termination of sponsorship the Contractor may, [prior to the termination date referred to in paragraph 2 above] obtain another Sponsoring State or States in accordance with the requirements of Regulation 6, and in particular in order to comply with Regulation 6 (1) and (2). Such State or States shall submit a certificate of sponsorship in accordance with Regulation 6. The Exploitation Contract terminates automatically if the Contractor fails to obtain a Sponsoring State or States within the required period [unless the Contractor has sought the Council's consent to transfer its rights and obligations under the Exploitation Contract pursuant to Regulations 23].

3. bis In the event that the Contractor is able, within the relevant period, to obtain another Sponsoring State or States in accordance with paragraph 3, the Authority shall deal expeditiously with any consents that are required as a result under Regulations 23 or 24.

4. A Sponsoring State ~~or States~~ is not discharged from any obligations accrued while it was a Sponsoring State by reason of the termination of its sponsorship nor shall such termination affect any legal rights and obligations created during such sponsorship.
5. The Secretary-General shall ~~[promptly]~~ [within 7 Days] notify the members of the Authority of a termination or change of sponsorship.
6. After a Sponsoring State has given a written notice in accordance with paragraph 2 above, the Council, based on the recommendations of the Commission [and the Compliance Committee], which shall take account of the reasons for the termination of sponsorship, especially where the termination of sponsorship also equates to a material breach of the terms of the Exploitation Contract, ~~[may]~~ require the Contractor pursuant to Regulation 103 to take remedial action or other steps including to suspend its Exploitation activities. Such remedial action or suspension shall continue until such time as [the Contractor has proved to the satisfaction of the Council that the [material] breach of ~~compliance with~~ the Exploitation Contract has been addressed and a new certificate of sponsorship is submitted [and that the Contractor has proved that it is operating in compliance with the Exploitation Contract].
7. ~~[Nothing in this Regulation shall relieve a Contractor of any obligation or liability under its Exploitation Contract, and the Contractor shall remain responsible and liable to the Authority for the performance of its obligations under its Exploitation Contract in the event of any termination of sponsorship.]~~
8. [If a Sponsoring State terminates its sponsorship of a Contractor, this [is without prejudice too] ~~[has no impact on]~~ the sponsorship ~~of for~~ that Exploitation Contractor by any other Sponsoring State.]

#### Comments

- On a general note, it has been suggested to consider what constitutes “*the terms of sponsorship*”, and it has been suggested to clarify that here or in the Schedule. This should be considered and resolved.
- It has been suggested to delete sub-paragraphs (a) and (b) of paragraph 2. It has been put forward by some delegations that imposing specific time limits on the State’s termination of sponsorship will not be appropriate. For the time being, it has been placed in the revised suspense document.
- In paragraph 2 bis, it has been suggested by several delegations to reinsert the previous reference to “*immediately*” and delete the text in square brackets.
- It has been suggested to delete the final sentence of paragraph 3, as transfer of rights is not a figure intended to be used under failure of sponsorship requirement conditions.
- In paragraph 5, delegations have presented divergent views in respect of the timing and whether it should be “*promptly*” or “*as soon as practicable*”. Delegations are encouraged to agree on the period.

The latest amendments made to DR21 have improved it, but it still needs work. We believe DR21 should follow the following formulation. We note that only steps (a) and (g) are fully and clearly covered in the current draft. We suggest re-drafting to capture all elements.

- (a) A State may terminate its sponsorship at will, but should notify the ISA immediately the decision is taken clarifying the date on which the sponsorship ceases. The ISA requests the State also to explain the reasons for the termination in the notification.
- (b) If this leaves the Contractor without a sponsoring State, the Contractor is allowed a specific time (we suggest 6 or 12 months from the ISA receiving the sponsoring State’s notification of termination) in which to inform the ISA of a new sponsoring State.
- (c) If the date of cessation of the original sponsorship occurs before the Contractor has arranged a new sponsoring State, the Contractor’s Exploitation activities shall be suspended with immediate effect following the DR29 bis procedure, pending new sponsorship.

- (d) The sponsoring State's reasons for terminating sponsorship shall be reviewed by the [Inspectorate / Compliance Commission] who shall consider whether they give rise to a need for further inspection or compliance action by the ISA.
- (e) The Contractor shall notify the ISA as soon as a new sponsoring State is arranged.
- (f) The Council, on the recommendation of the LTC, shall determine whether the sponsorship arrangements in place satisfy the relevant requirements of DR5 (qualified applicants), DR6 (sponsorship certificate), and DR13 (assessment of applicants). This includes the relationship of nationality or effective control, and the State having relevant domestic legal and administrative measures in place to regulate contractor compliance with the ISA Contract and Regulations.
- (g) If the Council is so satisfied, then any procedures and consents required under DR23 and 24 shall be progressed, and the suspension on Exploitation activities can be lifted.
- (h) If the Council is not satisfied, or if no new sponsoring State is arranged within the specified timeframe, then the Exploitation contract shall be terminated following the DR18ter procedure.