

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 44 ter~~

**~~Environmental Goals and Objectives~~**

- ~~1. In performing their roles and obligations under the Convention, the Agreement, and all relevant rules, regulations and procedures of the Authority, Contractors, the Enterprise, the Authority and its organs, and Sponsoring States shall be guided by the Strategic Environmental Goals and Objectives, set out in paragraphs 6 and 7.~~
- ~~2. The Council shall ensure that the Strategic Environmental Goals and Objectives pursuant to paragraphs 6 and 7 are operationalized through regionally and Mineral specific environmental objectives in Regional Environmental Management Plans.~~
- ~~3. The Council shall ensure that the Strategic Environmental Goals and Objectives pursuant to paragraphs 6 and 7 and the regionally and Mineral specific environmental objectives in Regional Environmental Management Plans pursuant to paragraph 2 are further operationalised through environmental thresholds, developed pursuant to Regulations 45(2) and 94, prior to the assessment of the first application for a Plan of Work for exploitation.~~
- ~~4. Contractors, [the Enterprise, Sponsoring States]applicants, the Council and the Commission shall ensure that a proposed Plan of Work reflects and contributes to the achievement of the Authority's Strategic Environmental Goals and Objectives pursuant to paragraphs 6 and 7 as well as the relevant regionally and Mineral specific environmental objectives pursuant to paragraph 2.~~
- ~~5. The Authority shall keep its Strategic Environmental Goals and Objectives under periodic review and ensure amendments to reflect advances in scientific research and knowledge. Where the Authority's Environmental Objectives are revised, the Commission shall:~~
  - ~~(a) inform Contractors and Sponsoring States and discuss whether any modification of a Plan of Work is required pursuant to Regulation 57; and~~
  - ~~(b) recommend to the Council any necessary amendments to other relevant instruments, including Standards, Guidelines, and Regional Environmental Management Plans.~~
- ~~6. The strategic Environmental Goals are to sustain marine (benthic and pelagic) ecosystem integrity, including the physical, chemical, geological and biological environment, and contributing to restoring ecosystem integrity.~~
- ~~7. The Authority's strategic Environmental Objectives are to:~~
  - ~~(a) Prevent loss of genetic diversity, species richness, habitat or community types, and structural complexity;~~

- ~~(b) — Maintain the ability of populations to replace themselves, including ensuring population connectivity and the preservation of suitable habitat;~~
- ~~(c) — Prevent significant changes in the distribution, abundance or productivity of species of flora and fauna;~~
- ~~(d) — Prevent further jeopardy to endangered or threatened species or populations of said species;~~
- ~~(e) — Prevent the degradation of ecosystem functions (e.g. the long-term natural productivity of habitats, elemental cycling, trophic relationships);~~
- ~~(f) — Prevent non-negligible risks of Contamination by pollutants, damage to flora and fauna, or other harmful effects to ecosystem integrity during any phase of the mining process;~~
- ~~(g) — Prevent significant changes in the atmosphere, climate and weather patterns, the terrestrial environment, or the Marine Environment;~~
- ~~(j) Prevent significant adverse effect on [air] and water quality;~~
- ~~(h) — Maintain resilience to prevent regime shift, and to support recovery from cumulative impacts, including mining, that can affect source populations and communities, connectivity corridors, life history patterns and species distributions;~~
- ~~(i) — Sustain ecosystem services, including carbon sequestration, recognizing that many are yet to be discovered;~~
- ~~(k) — Prevent non-negligible risks that will undermine the protection and conservation of the natural resources of the Area and the prevention of damage to the flora and fauna of the Marine Environment;~~
- ~~(l) — Prevent degradation, or risk of degradation to special biological, scientific, archaeological, or historical significance of the Area or the Marine Environment; and~~
- ~~(m) — Preserve vulnerable and unique marine ecosystems.}~~

#### **Comment**

The content of draft regulation 44 ter. was welcomed by many delegations. However, many delegations suggested that this content would be better handled within a policy framework that would apply to the Authority as a whole and not just for Exploitation Contracts. The content has for the time being been placed in the Revised Suspense Document for further consideration and further work on the general policy on environmental matters.

We strongly support DR44 ter. We consider the agreement of environmental objectives at the institutional level an important step to assist the ISA meet its obligations under Article 145 of UNCLOS and give effect to the precautionary principle. While we understand why its content might be better suited for a policy document that applies to all of the ISA's work, we prefer retaining the text here for now, until there are plans for the development of an environmental policy. In this regard, we note the extensive discussions of the same matter at the Assembly in both July 2023 and July 2024 that led only to an inconclusive deferral of discussions for a further 12 months. "Overlap" with these Regulations was actually cited as one reason for not progressing a general policy at Assembly last year.<sup>1</sup> It is hard to see how this essential part of the ISA's regime will be progressed, if it is both blocked at the Assembly and removed from the Regulations.

<sup>1</sup> Paragraph 47 of the Statement by the President on the work of the Assembly of the International Seabed Authority at its twenty-ninth session (4 August 2024) <https://www.isa.org.jm/wp-content/uploads/2024/08/2414468E.pdf>