

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 53 bis**  
**Pollution control**

A Contractor shall take ~~[all the]~~ necessary ~~[and appropriate]~~ measures to protect and preserve the Marine Environment, ~~[including the coastline]~~ ~~[from harmful effects, in accordance with Article 145 of the Convention,]~~ ~~[including]~~ by preventing, reducing and controlling pollution ~~[and other hazards, [including marine litter and underwater noise,] [directly or indirectly]]~~ resulting from its activities in the Area. This is to be done ~~[in accordance with the Standards]~~, [pursuant to] its Environmental Management and Monitoring Plan, and all relevant rules, regulations and procedures of the Authority, ~~[and taking into account]~~ ~~the relevant~~ Regional Environmental Management Plans, and ~~taking [into] account~~ the applicable Guidelines.

**Comments**

- Several delegations have supported the placement of draft regulation 53 bis. in Section 3.
- Divergent views have been put forward in respect of the “*including the coastline*”. Some delegations have suggested to omit it since it is already covered by the definition of Marine Environment.
- It has been put forward that the reference to “*marine litter*” and “*underwater noise*” could be omitted since these are sources of pollution, and therefore there is no specific need for referencing them here.

It remains unclear to us how DR53(bis) on pollution control inter-relates with the pollution regime that covers usual shipping operations, rather than mining activities. For the avoidance of doubt, we would recommend that DR53(bis) includes wording to require a Contractor only to use vessels that are registered with States who have ratified the ‘MARPOL’ IMO Convention (on prevention of marine pollution from ships) and the ‘London Convention and London Protocol’ (on the prevention of dumping of waste from ships). Otherwise there may be a loophole where waste and pollution from the mining activity is prohibited in the ISA’s regulations, but waste and pollution from the shipping operation is not.

Insofar as DR53(bis) relates to pollution caused by the Contractor’s Exploitation, we would expect such matters to be covered by the environmental parts of the Regulations (and the EMMP). For us, this standalone regulation with little operational content seems superfluous, and can be deleted.

We recall that Article 145 is not solely focused on pollution, but also ‘*other hazards*’, ‘*interference with the ecological balance of the marine environment*’, ‘*protection and conservation of the natural resources of the Area*’, and ‘*prevention of damage to the flora and fauna of the marine environment*’. We are not sure why pollution would be selected for special treatment out of that array of issues that require RRs.

If specific aspects of pollution such as litter and noise (which may otherwise fall outside of attention) are to be listed here, we would also like to see greenhouse gas emissions included, noting the recent ITLOS advisory opinion.