

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 82**

**Review of rates of payments**

1. The rates of payments under an existing system of payments shall be reviewed by the Council five years from the first date of commencement of Commercial Production in the Area and at intervals thereafter in accordance with applicable standards.
2. The Council, based on the recommendations of the Commission, may decide to adjust the rates of payments [taking into account the Resource Category and the level of maturity and development of Exploitation activities in the Area, as well as the principles under Article 13 of Annex III to the Convention and Section 8 of the Agreement].
3. A review of the rates of payments shall consider all Resource Categories unless otherwise decided by the Council.
4. An adjustment to the rates of payments shall ~~[apply to all Contract Areas, but shall only apply by agreement between the Authority and the Contractor for Contract Areas where both of the following conditions are met:~~
  - ~~(a) The first five years of Commercial Production in the Contract Area have not elapsed; and~~
  - ~~(b) The Contractor does not hold rights to another Contract Area of the same Resource Category for which the first five years of Commercial Production has elapsed.~~
5. Without limiting the scope of any review by the Council, a review under this Regulation may include an adjustment to the [rate associated with any payment mechanism adopted under the [rules, regulations, and procedures of the Authority,] [including any applicable Standards and taking into account any applicable Guidelines] including the manner and basis of their calculation, as well as the establishment of rates of payments for new relevant metals or Minerals that are likely to be commercially exploited during the next review cycle.]

**Comment**

Valuable intersessional work has been carried out on providing one suggested proposal for draft regulation 82. It has been suggested that paragraph 4 should be simplified, which suggestion has been implemented in the text.

We suggest that **paragraph (2)** should reflect that the Council's decision to adjust the rates of payment can take into account any other changing circumstances that the Council reasonably deems relevant and not be limited only to the maturity of Exploitation activities.

We do not oppose **paragraph (3)** but wonder if it is necessary.

We strongly support the deletions in **paragraph (4)**. There is no requirement in UNCLOS that a change to the regulations, or a change to the payment rate must be agreed by a Contractor to be effective. The ISA should be able to

adjust the rate of payments to existing Contracts, with equal application across all Contractors (current and future) and without giving any contractor an effective right to veto that adjustment in relation to their individual contract.