

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 VIII

Annual, administrative and other applicable fees

Section 1

Annual fees

Regulation 84

Annual reporting fee

1. A Contractor shall pay to the Authority, from the ~~[effective date]~~[date of the signature] of an Exploitation Contract [by all parties] and for the term of the Exploitation Contract and any [extension]~~[renewal]~~ thereof, an annual reporting fee as determined by a decision of the Council from time to time, based on the recommendation of the Finance Committee.

2. The annual reporting fee is due and payable to the Authority at the time of submission of the Contractor's annual report under Regulation 38.

~~{3. Where the effective date is part way through a Calendar Year, the first payment shall be pro-rated and made within 30 Days after the effective date of an Exploitation Contract.}~~

4. Where an annual reporting fee remains unpaid after the date it becomes due and payable:

~~(a) This constitutes a violation of the fundamental terms of the contract for the purposes of Regulation 103, and~~

~~(b)~~ A Contractor shall, in addition to the amount due and payable, pay interest on the amount outstanding, beginning on the date the amount became due and payable, at an annual rate calculated by adding 5 per cent to the special drawing rights interest rate prevailing on the date the amount became due and payable.

Comment

A number of delegations suggested the removal of paragraph 3 and paragraph 4(a). In respect of the latter point, it has been suggested that qualifying any delay as the violation of fundamental terms may be excessive; and that draft regulation 103 in any event incorporates a detailed mechanism to deal with the violations of contract terms.

As noted below, consideration should be given to deleting this DR84, and including the anticipated administrative costs of reviewing annual reports in the fixed annual fee required under DR85). It would seem easier to administer a single fee. With regards to **sub-paragraph (4)(a)**, we noted that the United Kingdom had proposed an alternate, which we believe may address the concerns raised, but which we do not see reflected in this text. We would support that, slightly edited, as follows: *"the Authority shall follow the process set out in Regulation 103 t, and"*