

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 92

Seabed Mining Register

1. The Secretary-General shall establish, maintain and publish a Seabed Mining Register in accordance with the applicable Standards and taking into consideration Guidelines. Such register shall contain the following information ~~except to the extent it is Confidential Information~~:

(a) The names of the Contractors and the names and addresses of their Designated Representatives;

(b) The applications made by ~~each~~ ~~the various~~ Contractors and the accompanying documents submitted in accordance with Regulation 7 including any revisions, ~~during the term of a contract~~;

(c) A copy of each Council decision to award, extend, suspend or terminate, ~~an~~ Exploitation Cecontract including the rationale, and the terms of the various Exploitation Contracts in accordance with Regulation 1, ~~including copies of the approved Plans of Works, and any substantial modifications to the plans of work~~;

[(c) bis The Exploitation Contract and its schedules in accordance with Regulation 17;]

(d) The geographical extent of Contract Areas and Mining Areas to which each relate;

(e) The category of Mineral Resources to which each relate;

~~[(e) bis~~ Annual reports, including the amount of Mineral Resources mined, and details of any Incidents, Notifiable Events, Compliance Notices or other compliance related interventions taken by the Authority;

(e) quat. Inspection reports;

(f) All payments made by Contractors to the Authority under these Regulations ~~and~~ copies of royalty returns submitted in accordance with Regulation 71;

(g) Any encumbrances regarding the Exploitation Contract made in accordance with Regulation 22;

(h) [Instruments of Transfer or Assignment]~~[Any instruments of transfer]~~;

(h) bis All other documents required by these Regulations relating to Contract Areas, including documents required before, during or after application for a Plan of Work, documents required during the term of the Exploitation Cecontract, and revised documents, except for Confidential Information which shall be redacted;

(h) ter Copies of all reports, recommendations and decisions of the Authority relating to each Contract Area, before, during or after application for a Plan of Work and throughout the term of the Exploitation Contract, except for Confidential Information which shall be redacted;

(i) All reports submitted to the Authority by the Contractor, including annual reports submitted under Regulation 38, Incident reports submitted under Regulation 33(2)(f), environmental monitoring reports submitted under Regulation 39bis(3) and (4), and performance assessment reports submitted under Regulation 52;

(j) copies of notifications made under Regulation 34 of Notifiable Events;

(k) Reports of reviews of activities under plans of works under Regulation 58;

(l) A copy of inspection reports prepared under Regulation 100;

(m) A copy of the compliance record for every Contractor, prepared under Regulation 100bis;

(n) A copy of every Compliance Notice issued under Regulation 103 and, where applicable, the corresponding improvement plan;

(o) copies of each Contractor's documents validating, declaring, and confirming the Environmental Performance Guarantee;

~~[(p) Any other details which the Secretary General considers appropriate save for Confidential Information;]~~

~~[(q) The documents in the Beneficial Ownership Registry;]~~

~~[(r) Any other details as may be directed by the organs of the Authority from time to time.]~~

2. The Seabed Mining Register shall be publicly available ~~[free of charge]~~ onat the Authority's website.

3. ~~[Following receipts of information comma, the Secretary-General shall publish it in the Seabed Mining Register within seven days][The Secretary General shall publish the information in the Seabed Mining Register as soon as practicable following its receipt by the Secretary General.]~~

Comments

- It has been suggested to remove paragraph 1(e)ter., as its contents are already captured by paragraph 1(i).
- A new paragraph 1(r) has been proposed which captures also paragraph 1(p).
- Proposed revisions to paragraph 3 have been implemented.

In general, we welcome DR92 as a positive stride towards transparency and access to information of significant public interest. We would like to see similar publication requirements being applied to exploration contracts.

We have the following comments in relation to specific paragraphs of DR92:

- In **sub-paragraph (1)(c)** we would like to delete the term “*substantial*”, since the term is vague, does not cross-relate to the terminology used elsewhere in the Regulations with regards to Material Change to a plan of work, and the Seabed Mining Register should make publicly available an accurate and up-to-date copy of each Plan of Work, even if updates are minor.
- We support the retention of **paragraph 92(1)(c)(bis)** which requires a copy of the Exploitation Contract and its Schedules.
- Regarding **sub-paragraph (1)(e)(bis)**, we understand that “Compliance notices” may now be referred to in the Regulations as “non-compliance notices” (though this is not implemented consistently through the text).

- We believe **sub-paragraph (e)(quat)** duplicates subparagraph (l) –(i.e. lower -case L not 1), which requires inspection reports.
- We recall that France had suggested a new **sub=paragraph (1)(f)(bis)** requiring a financial Incentives Registry, which we do not see included in this text. We would support the idea of such a registry to ensure that any incentives provided under Regulation 63 are transparent..
- We support the addition of instruments of assignment or transfer in sub-paragraph (1)(h).
- Paragraph (3 Alt) appears to contain a typo. We believe it should read (as per the United Kingdom’s submission: *"Following receipt of information, the Secretary-General shall publish it in the Seabed Mining Register within seven days"*