

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 X

General procedures, Standards and Guidelines

Regulation 93

Notice and general procedures

1. ~~[Replaced to the Schedule]~~ [This regulation shall apply to all Communications by and with the Authority].

~~[2. Any Communication shall be made by the Secretary General or by the Designated Representative of the applicant or Contractor, as the case may be. [If the Communication is transmitted orally, it will be followed up by a written confirmation at the earliest time convenient].]~~

3. ~~[All]~~ ~~[Service of any]~~ Communication must be made [in writing and served]:

(a) By hand, fax, registered mail or email containing an authorized electronic signature; and

(b) To the Secretary-General at the headquarters of the Authority or to the Designated Representative at the address stated on the Seabed Mining Register, as the case may be.

4. The requirement to provide any information in writing under these Regulations is satisfied by the provision of the information in an electronic document containing a digital signature.
5. Delivery by hand is deemed to be effective when made [if a receipt is provided] ~~[accompanied with an acknowledgement copy]~~. Delivery by fax is deemed to be effective when the “transmit confirmation report” confirming the transmission to the recipient’s published fax number is received by the transmitter. Delivery by registered mail is deemed to be effective 21 Days after posting. Delivery by email is deemed to be effective when the email enters an information system designated or used by the addressee for the purpose of receiving documents of the type sent and is capable of being retrieved and processed by the addressee.
6. Notice to the Designated Representative of the applicant or Contractor constitutes effective notice to the applicant or Contractor for all purposes under these Regulations, and the Designated Representative is the agent of the applicant or Contractor for the service of process or notification in any proceeding of any court or tribunal having jurisdiction.
7. Notice to the Secretary-General constitutes effective notice to the Authority for all purposes under these Regulations, and the Secretary-General is the Authority’s agent

for the service of process or notification in any proceeding of any court or tribunal having jurisdiction.

We wonder if this DR93 could be deleted and moved into the Standard Contract Terms (Annex X). Both because of its more administrative and contractual nature, and also because communication methods may evolve over time, and it may be easier to amend individual Contract terms (with a Contractor's permission) than to amend the Regulations (via Council and Assembly).

We also query the scope of this regulation, as currently amended, which applies to all communications by and with the ISA, as opposed to specifying (per previous version) that the provision applies to all communications between a Contractor/Applicant and the Authority which seems more appropriate?