

Italy

Considerations on Part 2 of the Draft Regulation on exploitation of mineral resources in the Area.

In respect to **Draft Regulation 5**, which concerns qualified applicants, Italy would like to raise the point that criteria leading to qualification of applicants (States enterprises and natural or juridical persons) should include also their economic capacity since the very beginning of the assessment process and without waiting the consideration of applications by the Commission, under regulation 13. In many national legislations, including for instance the Italian law, a minimum economic capacity is required to apply for a license of exploitation of marine abiotic resources under their jurisdiction. This minimum guarantee would mitigate the issues relating to change of control of the ownership of a Contractor, or of the membership of a joint venture or consortium (draft regulation 24), and transfer of rights of a contract of exploitation (draft regulation 23). In fact Offshore Incident Statistics provide evidence that there is a relation between the size of enterprises and the repetitive occurrence of small-scale accidents. These accidents are often related to deficiencies in safety measures, design requirements and design methodologies, operations planning and component reliability. Furthermore, it must be taken into account that there are not only accidents caused by the negligence of an offshore operator but there are also risks of "natural-hazard triggered technological accidents (Natech)" for offshore industrial installations and the ability to recover from those accidents is proportional to the economic capacity of the operator.

Allow me also some considerations on **Regulation 11** relating to the publication of Environmental Plans, including the Environmental Impact Statement, the Environmental Management and Monitoring Plan and the Closure Plan. According to the current Draft, these plans will be open for public consultation for a period of 60 days before the plan of work is considered by the Commission.

This mechanism is very useful for a thorough assessment of the Environmental Plans and Italy is of the opinion that it should be made even more transparent by following the model of scientific electronic journals where the reviewing process is open to anybody who registered in the system and provides public comments on the website without necessarily been moderated by the Authority.

Belgium's proposal of three independent reviewers does resemble the traditional mechanism of peer-review which is well established in the scientific community. In analogy to such system, we suggest that the Commission, only when it is unable to provide an in-depth evaluation of a specific Environmental Plan, shall seek independent comments from experts chosen because of their significant experience or record of publications in a particular deep sea environment.

At the same time, point b) of paragraph 1 of Draft Regulation 11 indicates that the Commission should elaborate their own comments on the plan during the same commenting period of 60 days. Thus, the independent reviews will provide additional assessment of the plans to the Commission, which will remain the only authoritative organ, as under the provisions of the Convention, that can make a decision and asking for minor or major revision or rejection of the environmental plans.

This process of reviewing makes the selection of the future compositions of the Commission of crucial importance. In order to effectively pursue the objectives of the Authority in the phase of exploitation, the Commission, in its future arrangements, will have to be comprised itself by committed and independent experts on prioritized fields, such as those concerning the marine environment in its broader context.

Regarding the timeline of the reviewing process, we have to express some concerns. Basically, the Commission in merely 60 days should identify and appoint reviewers, provide comments on the plan, gather together the stakeholders' comments, ponder and evaluate all of them and make a decision.

First of all, it is not clear how the Commission would accomplish this task other than working remotely and intersessionally, because a plan of work could be submitted at any time of the year independently of the scheduled meetings of the LTC, if specific deadlines during the year are not envisaged in the regulations.

Secondly, 60 days is not a long period of time, especially in case of complex plans of works. In Italy's view, the period of 60 days seems too short to accomplish all the tasks that are envisaged in the draft regulations and those that have been proposed in addition to them. We thus encourage to increase the period of consultation to at least 90 days.

These considerations also apply to the timing provided for by Paragraph 2 of DR 11 which allows only 30 days from the close date of the commenting period, including 7 days allocated to the Authority to provide the Applicant with the comments, which reduce to 21 days the ability for an applicant not only to reply but also possibly to revise completely the environmental plan.

We understand that this regulation has been written to strike a balance between the time needed by the Authority to review an environmental plan and the certainty needed by an applicant of the approval process. However, the environmental plans will represent the more challenging part to assess in a plan of work for deep seabed mining, and a sustainable and equitable process for their evaluation has to be pursued for the sake of all the parties involved: the regulator, the applicant and the stakeholders' community as a whole.