Comment No.	Part No./ Section No./ Draft Reg. No.	Comment description	Proposal for Draft Regulation text editing (in red)	Rationale
	Part I /Introduction /DR1 (5)	Use accompanied instead of supplemented to reinforce that standards and guidelines are binding documents of the regulations. In Schedule 1, add to the definition of guidelines and standards an explicit reference to their being, respectively, recommendatory and mandatory.		
	Schedule 1 Use of terms and scope		"Guidelines" means documents that provide guidance on technical and administrative matters, issued by the Authority pursuant to regulation 95. Guidelines have to be considered as recommendatory.	
	Schedule 1 Use of terms and scope		"Standards" means such technical and other standards and protocols, including performance and process requirements, adopted pursuant to regulation 94. Standards have to be considered as mandatory.	
	DR2 (b) (ii)		Orderly, safe and rational management of the Resources of the Area, including the efficient conduct of activities in the Area and, in accordance with sound principles of precaution and conservation, the avoidance of unnecessary waste;	
	DR2 (d)		Provide for the protection of human and non-human life and safety;	
	DR2 (e) (iv)	Must reflect Rio Declaration as for DR2 (e) (ii)	The application of the polluter pays principle , as reflected in principle 16 of the Rio Declaration on Environment and Development, through ~~market-based instruments,~~ compensation and incentive mechanisms and other relevant measures; ~~and~~	Italy believes that the "polluter pays" principle should not be founded only on market-based instruments. We believe indeed that it would be non-effective or insufficient in an environment where the assessment of direct losses or damages would be very difficult. Therefore it is our opinion that it would be critical to introduce the concept of compensation of damages to the so called "ecosystem services" independently from their economic or non-economic relevance. Such principle is effectively and successfully implemented throughout the European Union since 2004 with the "Directive on Environmental Liability" with regard to the prevention and remedy of environmental damage. The principle deals with the pure ecological damage as distinct from traditional damage, including to property, economic goods or
	DR3 (a)	The description of the DR is "Duty to Cooperate", while the use of "their best endeavours" and "reasonably" dilute its essence.	Members of the Authority and Contractors shall ~~use their best endeavours to~~ cooperate with the Authority to provide such data and information ~~as is reasonably~~ necessary for the Authority to discharge its duties and responsibilities under the Convention; [...]	
	DR3 (g)	The wording of the regulation appears too loose and convoluted, reducing significantly its effectiveness.	In order to assist the Authority in carrying out its policy and duties under section 7 of the annex to the Agreement, Contractors shall ~~use their best endeavours~~, upon the request of the Secretary-General, ~~to~~ provide or facilitate access to ~~such~~ information ~~as is reasonably required by the Secretary -General~~ necessary to prepare studies of the potential impact of Exploitation in the Area on the economies of developing land-based producers of those Minerals which are likely to be most seriously affected. The content of any such studies shall take account of the relevant Guidelines.	
	DR4 (3-5)	It is a very slow process to address potential emergency situations and it is not clear by which measures a Coastal State may become aware of the content of a Plan of Work, which is examined in detail only by the Commission. There should be criteria in the guidelines by which a Coastal State is directly entitled to be provided with relevant information contained in the Plan of Work (e.g. minimum distance from jurisdictional waters) in order to make considerations on their own. The boundaries of the area of application should be known and made public (refer also to DR 8).		
	DR5	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).		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.
	DR11 (a)	We propose to increase to 90 days the process.		Regarding the timeline of the reviewing process, there are 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.

	DR11 (a)	An effort should be made to build the reviewing process as much open and transparent as possible to anybody. One way would be to have an open system, where the Environmental Plans are immediately published in an open access discussion forum on the Authority's website, where users shall register and provide public comments. They would be then subject to interactive public discussion, during which the applicants may also have the opportunity to reply to comments.		
	DR11 (b)	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 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.	[Addendum] In the case the Commission evaluates that there are aspects of the Envrionmental Plans that are not covered entirely by its own internal expertise, should nominate within 7 days from the publication of the Environmental Plans on the Authority's website at least three independent experts selected on the basis of their significant experience or record of publications in a particular deep sea environment or technology sector.	
	DR13 (1) (e)	This request is related to the initial assessment of the economic capacity of an applicant. The applicant should be able to demonstrate the ability to remediate eventual harms caused to the Environment during the operations and having financial means sufficient to sustain the entire life-cycle of the activities, including the closure plan. Thought reasonable the condition in which potential applicants may be in the necessity of raising capitals and building their financial framework, at the beginning of the seabed mining venture, it cannot become common practice for the long-term and comprised in the final regulations.	Has~~, or can demonstrate it will have,~~ the financial and technical capability to carry out the Plan of Work and to meet all obligations under an exploitation contract; and	
	DR13 (2) (b)	Ibidem	The applicant ~~will be~~ is capable [...]	
	DR13 (3)	Ibidem	[...] the applicant has ~~or will~~ have:	
	DR15 (2) (a)	Why this is not part of the first assessment by Secretary General? This appears to be a very important prerequisite and should not be in the discretion of the Commission not to recommend the approval of a Plan of Work if there are overlapping areas with activities of exploration of another applicant. **There should not be exploitation where exploration is still in the undertaking**.	Move to DR 10	
	DR17 (3)	It is considered useful to indicate where the Seabed Mining Register will be published. Furthermore, it is important to define which information is confidential or where it is possible to find the definition, on the contrary indicate the minimum data to be published.		
	DR20 (2)	The initial renewal period is not determined. Suggest to indicate a period limited to 5 years for assessing the feasibility of the renewal.		
	DR20 (7)	This sets the possibility to prolong an exploitation contract for an undetermined amount of time.	Each renewal period shall be a maximum of 10 years for a maximum overall duration of the exploitation contract of 60 years.	
	DR24 (4)	Also The Commission should be able to rise questions if, following a change of control, a Contractor may not be able to prove to have the financial capability to meet its obligations.	Where the Secretary-General determines that following a change of control, a Contractor may not have the financial capability to meet its obligations under its exploitation contract, the Secretary-General shall inform the Commission accordingly. The Commission itself shall inquire the Secretary-General about the financial capability of a Contractor, following a change of control. The Commission shall make a report of its findings and recommendations to the Council.	
	DR26 (7)	Unclear wording, either delete or explain. Uniform among Contractors and contracts? Equality of treatment as in DR 62?		
	DR27	The wording opens to the possibility that a Contractor, after having a Plan of Work for exploitation approved, may have the liberty not to commence production citing commercial-scale obstacles.	[...] shall make ~~commercially reasonable~~ all efforts to bring the Mining Area into Commercial Production in accordance with the Plan of Work.	A Contractor shall have implemented a business plan before applying for a Plan of Work for exploitation, in case of prevailing economic circumstances, all Contractors should be treated the same and should suspend or not start commercial exploitation based on a similar scenario.

	DR29 (1)	The decision to suspend the production in this case is unilateral, we believe it would require a formal authorizatoin by the Secretary-General, once a Contractor has provided sufficient reasoning and explanation on cases of force majeure that prevent from continuing the commercial phase.		
	DR29 (3)	Considering the pattern of meetings of the Council, the decision could apply well after the end of the fifth year of suspension.	Where the Contractor suspends all production for ~~more than~~ 5-years or more, the Council may terminate the exploitation contract and the Contractor shall be required to implement the final Closure Plan.	
	DR31 (2)	A prioritizazion of common-benefit interests should be foreseen in the regulations, international telecommunication cables should have a high-rank priority and no exploitation area should prevent them to be laid down in the Area. There is a risk that exploitation areas may become a tool to monopolize or influence future strategic direction in submarine communications, thus representing a menace on a security issue.		
	DR38 (3)	See DR 17 (3)		
	DR39 (2)	At the end of the exploitation phase, geological data shall be transferred to the Authority and after a period, e.g. one year, the data should be made public.		
	DR39 (5)	Not enough distinction is provided in this regulation between geological samples that have relevance for the resource estimate and the biological/environmental information that should be made readily available to anybody and not only to the Secretary-General.		
	DR39 (3)	Samples shall be kept at least also during the closure monitoring.	To the extent practical, a Contractor shall keep, in good condition, a representative portion of samples or cores, as the case may be, of the Resource category together with biological samples obtained in the course of Exploitation until the termination of the ~~exploitation contract~~ Closure Plan.	
	DR45	Environmental Standards: consider what is contained in the rationale for guiding and assisting the Commission and the working group in the development of initial standards.		i) Collect data and comprehend metric of deepsea ecosystem and environmental components; ii) set objectives for the protection of the environment (ecosystem services - biodiversity, physicochemical conditions, socioeconomic components -); iii) assess the environmental risks and relevant protection strategies; iv) set reference norms and standards (e.g. ISO, EIA, and parametric concentrations of pollutants + target environmental concentrations); v) Set monitoring standards. Standards are the tool to support assessors and decisors to make their informed decision. Would the set of standards be sufficient? Involve key stakeholders such as organizations from and outside of ISA in the process of establishing the reference standards.
	DR45 (2)(a)	It is ineffective to attempt listing relevant environmental parameters before priority environmental standards are in place. The list must be revised once standards will be formulated. Consider including ecological health indexes. See also comment above (rationale).		

	DR47	For the nature of the deep sea exploitation mining activities and the high degree of scientific uncertainties on the effects of such activities on the deep sea natural environment, we strongly believe that Environmental Impact Statement (EIS) is not the most appropriate tool to effectively manage the environmental issues and risks associated to the development of deep sea mining operations. Instead we consider the Environmental Impact Assessment (EIA) process as regulated under the *Directive 2014/52/EU of 16 April 2014 on the assessment of the effects of certain public and private projects on the environment* a more appropriate decision making tool to ensure that an effective high level of protection of the environment and human health is maintained. Compared to EIS, EIA is a more comprehensive and participated assessment process compared to a document (EIS) describing the environmental residual effects after mitigations. In particular, EIA requires that public and private projects that are likely to have significant effects on the environment be made subject to an assessment prior to Development Consent being given. Development Consent means the decision by the Competent Authority or authorities that entitles the Developer to proceed with the Project. In terms of the effectiveness of the approval process, the Commission would also benefit a lot of the EIA approach since it will allow the Commission to closely and effectively follow all the process steps and to contribute to the assessment process in a proactive manner, while the EIS would charge the Commission	Amend DR 47 in order to replace EIS with the concept of EIA, as described, for istance in EU Directive 2014/52/EU. Implementation of revised Regulation 47 may affect also regulations of section 3 and 4 (DR 10 to 14) as well as DR 48 which should be amended accordingly, where required.	**Fundamental differences between Environmental Impact Statement (EIS) and Environmental Impact assessment (EIA) process are summarised hereafter.** The (Environmental Impact Statement) EIS is a report mandated by the US National Environmental Policy Act of 1969 (NEPA), to assess the potential impact of actions "significantly affecting the quality of the human environment." The NEPA mandate includes the assessment of impacts on the physical, cultural, and human environments. Nevertheless, this requirement under NEPA does not prohibit harm to the environment, but rather requires advanced identification and disclosure of harm. • EIS is meant to be a comprehensive decision-making tool for federal, state, and local policy makers, and to inform the public about proposed projects that could affect the environment. • EIS is a closed package document the proponent submits to the competent authority describing the effects for proposed activities on the environment. The EIS mandate includes the assessment of impacts on the biological, physical, cultural, and human environments, nevertheless, in the way how EIS is conceived this requirement does not prohibit harm to the environment, but rather requires advanced identification and disclosure of harm. In other words, EIS is a regulatory requirement which cannot influence the decision on the project. • EIS does not include a scoping phase participated with the key stakeholders • EIS includes results of public consultation with stakeholders conducted to inform the public about proposed projects that could affect the
	DR54 (2)		The rules and procedures of the Fund will be established by the Council on the recommendation of the Finance Committee , in accordance with article 140 (2) of the UNCLOS.	
	DR55	The purpose of the Fund should also include a point addressing the logic that rectification of the harm deriving from seabed mining activities should be to ensure that the parties conducting the seabed mining activities (Contractors) address the injustice caused to those who undeservedly suffered it. Contractors should generally be understood as 'voluntary beneficiaries', since they know of the wrongdoing, could have avoided it without incurring unreasonable costs, but instead have sought and welcome it. As 'voluntary beneficiaries', contractors must rectify the harm done by supporting those affected by it. Identification of the recipient of such duty is highly problematic considering the complex nature of seabed mining. For instance, given the potentially global scope of the harm caused by seabed mining, it is virtually impossible to identify the rightful duty-recipient or a legitimate successor with certainty.	The Fund should include a financial mechanism for governing compensation for harm arising from seabed mining activities carried out beyond national jurisdiction. Contractors should replenish such mechanism through financial compensations proportional to the harm they brought about. The revenues (or proceeds) raised should be distributed to victims of harm deriving from mining activities proportionally to their social vulnerability to such harm. After point (b) you may add 'The promotion of the participation of vulnerable communities and relevant stakeholders in decisions about disbursment of funds'	
	DR55 [c]		Education and training programmes in relation to the protection of the Marine Environment , with particular regards to vulnerable communities and relevant stakeholders;	
	DR60 (2)	Considering the sensitivity of the matter and the unlikely condition that the end of the commercial production, other than emergencial, is decided in short times, it is necessary that the final and updated Closure Plan is circulated more than 30 Days in advance of the next meeting of the Commission.	The Commission shall examine the final Closure Plan at its next meeting, provided that it has been circulated at least ~~3~~60 Days in advance of the meeting.	
	DR61 (2)	There is a discretional component regarding the duration of the post-closure monitoring plan which is unacceptable.	The Contractor shall continue to monitor the Marine Environment for such period after the cessation of activities as is set out in the final Closure Plan for the duration provided by the relevant Guidelines.	
	DR63	This regulation does not provide any further guidance in respect to what is already contained in the Convention.		
	DR92	The Seabed Mining Register should contain also the information of the approved Environmental Plans or a link to the Authority's website where this information will remain accessible for the entire duration of the exploitation contract and updated accordingly to any material changes applied to the Plans.		
	DR94 (4)	Review of standards before the 5 years period shall also be considered for environmental reasons based on e.g. new monitoring evidence, as corrective actions to remove/mitigate unpredicted effects resulting from monitoring of the activities.		Reasons for reviewing the adopted standard should include environmental reasons in addition to 5 years period of time and improvements in knowledge and technology. Review of standards before the 5 years period shall also be considered for environmental reasons based on e.g. on monitoring evidences an/or as corrective actions to remove/mitigate unforeseen effects resulting from monitoring evidences

	DR95	It is unclear if this regulation applies to administrative matters only and to what extent relates to technical aspects. Are for example environmental matters considered as issues of technical nature? It would be preferable to make a distinction between matters of administrative nature that have to be addressed preferentially by the Secretary-General, from matters of technical nature that are prerogative of the Commission.		
	DR103 (4)	Indicate a timeline, a reasonable opportunity to reply must non exceed a reasonable time.	The Contractor shall be given a reasonable opportunity , not exceeding 30 Days, to make representations [...]	
	DR103 (5)	This paragraph leaves uncertainty on how many warnings a Contractor can receive before action is taken.	If a Contractor, in spite of a warning~~s~~ raised by the Authority, fails to implement the measures as set out in a compliance notice [...]	
	DR103 (7)	Suspension measures should be used as a precautionary approach. In general, the code lacks a specific regulation dealing with emergency response from the point of view of the Authority and its powers and command chain. In DR 4 (4), the Commission shall recommend that the Council issue an emergency order [article 162, paragraph 2(w) of the Covention] pursuant to article 165(2)(k) of the Convention, in the case has reasonable grounds to believe that serious harm is occurring to the environment. The clear ground is not specified and this dispositive may be very slow in responding to emergency situations. The only regulation dealing with emergency situations is DR 33, in which is upon the sole Contractor's judgment to implement the Emergency Response and Contingency Plan. In the case of emergencies, the capacity of the Authority to react		
	Annex I Section IV 21	The use of "will have" is surpassed by the sub-paragraphs were the financial requirements have to be present at the time of the application.	Attach such information, in accordance with the Guidelines, to enable the Council to determine whether the applicant has ~~or will have~~ access to the financial resources to carry out the proposed Plan of Work	
	Anne IV 2	Thought the document is a template, it would be ideal that Contractors follow the same structure, this will ease the assessment and will ensure uniformity, the suggestion is to change into a wording that solicits the Contractors to adhere to this format.	The document is a template ~~only,~~ and is ~~not~~ intended ~~to be prescriptive in the structure but rather~~ to guide the format and structure by which the general content of an Environmental Impact Statement is addressed.	
	Annex IV Executive Summary 4.5		Describe the nature and extent of the mineral resource and bedrock within a broader geological context. Describe the ~~general geological landscape and topographic features~~ geological, petrographical and geomorphological setting of the site, including high resolution bathymetric maps.	
	Annex IV Executive Summary 4.8	We suggest to include a paragraph on the mineralogical/petrographical/physical characteristics of the ore, which determines the mining strategies, together with the geological/geomorphological setting, and therefore the types of impacts to be expected.		
	Annex IV Executive Summary 7.4		Provide a description of impacts the mining operation may have on the ~~topography~~ geomorphology of the site or its ~~geological/geophysical composition~~ sedimentary and geological characteristics	
	Annex VII 1 (n)	Compensatory measures are not addressed elsewhere in the document.	Details of any ~~compensatory~~ measures agreed or proposed to achieve the agreed closure objectives; and	