

PART I, REGULATION 1

| State/ Organization | Source | REGULATION | Subsection | OBS. | COMMENT OR PROPOSAL |
|------------------------|----------|------------|------------|------|---|
| Regulation 1.1 | | | | | |
| Italy | TEMPLATE | 1 | 1 | | Italy prefers existing para 1, as we consider the reference to relevant applicable international agreements too generic. However, as far as the original wording is concerned, and in the light of the content of alt 1, we reiterate the necessity to discuss what is meant with the expression "Rules of the Authority" and whether we agree with the content of the definition contained in the Schedule. In particular, it is urgent to understand whether the Convention, the Agreement and Standards are parts to such Rules. Indeed, in some Regulations, it appears not appropriate to refer to all legal instruments contained in the definition, as some could be applicable while others could not. Generally speaking, we do not see it appropriate to include in the DR 1 (1) also the Convention and the Agreement together with the Rules of the Authority. At the same time we see merit in having the decisions of the Council included among the Rules of the Authority, to the extent that, pursuant to section 3.3 (a) of the Standard clauses for exploitation contracts, they are binding for contractors and contribute to the definition of the legal framework within which exploitation operations take place. In any case, whatever the decision taken by the Council in this regard, we call for having a consistent use of the wording throughout the text for legal certainty. Instances in the draft text, where regulations and Rules of the Authority are mentioned together do not seem to go in this direction (see, for instance, in the standard clauses). |
| Regulation 1.3 | | | | | |
| Italy | TEMPLATE | 1 | 3 | | If the Schedule is included within the Draft Regulations, then this paragraph becomes redundant. |
| Regulation 1.4 | | | | | |
| Germany | TEMPLATE | 1 | 4 | | 4. Alt 1. Nothing in these Regulations shall affect the rights, jurisdiction and duties of States under the Convention, including the right to conduct scientific research pursuant to articles 143 and 256 of the Convention, and the exercise by States of the freedom of the high seas, as reflected in article 87 of the Convention. These Regulations shall be interpreted and applied in the context of and in a manner consistent with the Convention. |
| Spain | TEMPLATE | 1 | 1 | | Alt 1. Nothing in these Regulations shall affect the rights, jurisdiction and duties of States under the Convention, including the right to conduct <u>marine</u> scientific research pursuant to articles 143 and 256 of the Convention, and the exercise by States of the freedom of the high seas, as reflected in article 87 of the Convention. These Regulations shall be interpreted and applied in the context of and in a manner consistent with the Convention. |
| Italy | TEMPLATE | 1 | 4 | | Italy believes that an analysis by the LTC of the interaction between Marine Scientific Research and exploration regulations could have been helpful. We support alt 1, but we propose to change "as reflected" with "in accordance with", as this would also include reference to para 2 on the balance between freedoms of the high seas and other uses of the sea. Italy would like to move the last sentence to para 2. |
| Regulation 1.5 | | | | | |
| Italy | TEMPLATE | 1 | 5 | | While Italy recognizes the need of a higher level of detail, it does not support alt. 1 and does not agree on the term "accompany". Italy nonetheless concurs on the fact that the existence of REMPs should be a precondition for licensing. In any case, in this provision, reference to REMP only is limitative, as other management tools could be used in the future. Italy does not support the last sentence of alt. 1. |
| Spain | TEMPLATE | 1 | 5 | | 5. These regulations are supplemented <u>complemented</u> by Standards and Guidelines, as referred to in these regulations and the annexes thereto, as well as by further rules, regulations and procedures of the Authority, in particular on the protection and preservation of the Marine Environment. |
| Germany | TEMPLATE | 1 | 5 | | 5. These regulations are supplemented by Standards and Guidelines, as referred to in these regulations and the annexes thereto, as well as by further rules, regulations and procedures of the Authority, in particular on the protection and preservation of the Marine Environment. <u>Regulations and Standards are equally binding and any reference to the regulations includes the Standards.</u> |

Regulation 1.7

Italy

TEMPLATE

1

The new paragraph is not necessary

PART I, REGULATION 2

| Name | Page N° in its document | REGULATION | number or letter | OBS. | COMENTARY OR PROPOSAL |
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| Comments about Fudamental policies and principles and parr 1 | | | | | |
| China | TEMPLATE | 2 | | | <p>*Note: China generally agreed with the proposal of Spain that entire regulation 2 should be streamlined and replaced by the following two paragraphs with additions (Spain’s proposal is in red; China’s additions are in blue)</p> <p>1. These regulations, and any decision-making thereunder, shall be applied in conformity with the principles governing the Area embodied in Section 2 of the Part XI of the Convention. In particular, the exploitation activities in the Area shall be carried out for the benefit of mankind as a whole, for peaceful purposes and ensuring the effective protection of marine environment in accordance with the principles and approaches set out in Part IV of these Regulations. <u>Ensure that a reasonable balance between exploration for and exploitation of the resources in the Area and protection and preservation of the marine environment.</u></p> <p>2. These regulations shall be also applied in conformity with the <u>polices</u> relating to activities in the Area established in article 150 of the Convention and the principles contained in sections 2, 5, 6, 7 and 8 of the Annex of the Agreement.</p> |
| Spain | TEMPLATE | 2 | | Replace all the 2 | <p>1. These regulations, and any decision-making thereunder, shall be applied in conformity with the principles governing the Area embodied in Section 2 of the Part XI of the Convention. 2. In particular, the exploitation activities in the Area shall be carried out for the benefit of mankind as a whole, <u>taking into particular consideration the interests and needs of developing States</u>, for peaceful purposes and ensuring the effective protection of marine environment, <u>including biological diversity and ecological integrity.</u> 3. Pursuant to article 145 of the Convention, the effective protection of the marine environment from the harmful effects which may arise from activities of exploitation, in accordance with the Authority’s environmental policy, <u>including regional environmental management plans, is based inter alia on the following principles and approaches: (i) The application of the principle of intergenerational equity. (ii) The application of the precautionary approach. (iii) The application of an ecosystem approach. (iv) The application of “the polluter pays” principle through market-based instruments, mechanisms and other relevant measures. (v) Access to data and information relating to the protection and preservation of the Marine Environment. (vi) Accountability and transparency in decision-making; and (vii) Encouragement of effective public participation.</u> 4. These regulations shall be also applied in conformity with the policies relating to activities in the Area established in article 150 of the Convention and the principles contained in sections 2, 5, 6, 7 and 8 of the Annex of the Agreement.</p> |

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| Mexico | TEMPLATE | 2 | 1 | | These Regulations and any decisions or activities undertaken thereby under them , shall must be consistent with and be implemented in conformity with the Convention, the Agreement and applicable international public law other relevant international agreements , and taking into consideration the Rules of the Authority and its and in pursuance of the Authority's production policy, environmental policy, sustainability policy, accountability policy and the Authority strategic objectives. |
| Italy | TEMPLATE | 2 | | | About the title: Support. About the box, Italy does not support the proposed addition. Do not support alt. 1, Italy prefers the original wording |
| Regulation 2.b | | | | | |
| Italy | TEMPLATE | 2 | | b | While supporting the ratio, Italy believes that the scope of the new (b) is not coherent with the general purpose of the provision. We see this provision more as a description of the main principles to be applied. The evaluations about the effectiveness of the protection of the marine environment are for the LTC to be made and not a general principle. |
| Mexico | TEMPLATE | 2 | | b | propose new b b. Exploitation activities in the Area shall not commence until the legal framework intended for the effective protection and preservation of the Marine Environment is adopted and scientific evidence demonstrates that the Exploitation activities are conducted in such a manner as not to cause significant and harmful changes to the Marine Environment and its resources and to effectively protect and preserve the Marine Environment pursuant to Part XII of UNCLOS. |
| Regulation 2. c | | | | | |
| Italy | TEMPLATE | 2 | | c | new c to c (iv) Italy prefers to stick to the original wording |
| Italy | TEMPLATE | 2 | | c | (v) Italy supports alt. 1, which better exemplifies the need for transparency. The term "conservation" may be redundant in this context. |
| Italy | TEMPLATE | 2 | | c | (vii) Italy suggests modifying literal as follows: "Encouraging effective public participation, including of indigenous people" |
| Italy | TEMPLATE | 2 | | c | (viii) Italy does not support the addition. The wording is limited to APEI, while other ABMT are under consideration. This is a matter for REMPs to deal with. Italy considers that the prohibition of exploitation in certain areas is already sufficiently covered under the Convention |
| Mexico | TEMPLATE | 2 | | c | new c A fundamental condition for Exploitation the approval of a plan of work shall be that the plan of work is sufficient to ensure the effective protection and preservation-conservation of the Marine Environment and its resources , including its ecological balance, biological diversity and ecological integrity; |
| Regulation 2. d | | | | | |
| Italy | TEMPLATE | 2 | | d | new D Italy supports alt 1., but limited to "Provide for the prevention, reduction and control of pollution and other hazards to the Marine Environment, including the coastline, an of interference with the ecological balance of the marine environment". |
| Regulation 2. d proposal 2 bis | | | | | |

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| Germany | TEMPLATE | 2 | d | | (d bis) Ensure that Regional Environmental Management Plans are adopted by the Authority before exploitation activities are permitted in the respective areas, while preventing any misuse of Regional Environmental Management Plans to block Plans of Work; |
| Regulation 2. e | | | | | |
| Italy | TEMPLATE | 2 | e | new e | Prefer original wording. Best Available Techniques and Good Industry Practices are operative and not directly related to decision-making as it is the case for Best Available Scientific Evidence. |
| Regulation 2. g | | | | | |
| Italy | TEMPLATE | 2 | g | new g | Italy supports original wording |
| Regulation 2. h | | | | | |
| Germany | TEMPLATE | 2 | h | new h | Italy supports original wording |
| Regulation 2. i | | | | | |
| Italy | TEMPLATE | 2 | i | new i | Italy believes that further consideration should be given to this issue within the negotiation process. DR 4 also deals with this topic. |
| Italy | TEMPLATE | 2 | j | new j | Support alt. 1 |
| Italy | TEMPLATE | 2 | k | new k | Literal to be further discussed. Italy does not support the phrase “or that could be perceived as such”. |

PART I, REGULATION 3

| NAME | Page N° in its document | REGULATION | number or letter | OBS. | COMENTARY OR PROPOSAL |
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| Regulation 3. a | | | | | |
| Germany | TEMPLATE | 3 | a | | (a) Alt 1. Members of the Authority, the Enterprise, the Applicant and Contractors shall cooperate with the Authority to provide such data and information necessary for the Authority to discharge its duties and responsibilities under the Convention; |
| Italy | TEMPLATE | 3 | a | | Italy supports alt. 1, but questions if mentioning the Enterprise is appropriate here. The Enterprise is a body of the Authority and it already has a duty to cooperate with its other bodies. Italy suggests not mentioning it in this context |
| PEW | TEMPLATE | 3 | a | | Regarding paragraph a, we support alt 1 language as inclusion of 'best endeavours' and 'reasonably' would unnecessarily reduce the standard of cooperation required from States and Contractors from the previous absolute duty to cooperate. Concerning alt. 2, as regulations are likely to impose recurring data requirements made in the ordinary course of business, a general requirement that the duty to cooperate in exchanging data is only triggered on a written request from the Secretariat as proposed could be problematic. We recommend this not be adopted |
| Regulation 3. b | | | | | |
| PEW | TEMPLATE | 3 | B | | In paragraph b, we presume that these Regulations would not bind a flag State that is not a member State of the ISA. This could cause an issue for inspections or information-gathering, given a flag State's exclusive jurisdiction over vessels on the high seas. Consideration may be given to inserting a requirement in the Regulations for all vessels used in Exploitation activities to be registered with a flag State that is a member of the ISA (and preferably the sponsoring State, to enable the most streamlined approach to regulation and enforcement). Alternatively, the ISA and/or the sponsoring State may need to explore bilateral agreements with non-ISA member flag States for the facilitation of DSM-related investigations into and on-board vessels used for activities in the Area, which may be cumbersome or ineffective. Regardless, careful crafting of regulations will be needed to ensure the ISA can carry out its duties without exceeding powers given to it by UNCLOS and avoid giving rise to regulatory gaps, ambiguity, or conflict. We would welcome a study that has previously been requested, to consider some of the jurisdictional issues arising between States and the ISA, and would suggest an inter-sessional event on these complex issues may also be helpful. |
| Regulation 3.c | | | | | |
| Italy | TEMPLATE | 3 | c | | Italy supports alt.1 |

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| PEW | TEMPLATE | 3 | c | Regarding paragraph c, we prefer alt 1. While responsibility for stakeholder consultation around the ISA's decision-making must rest with the ISA itself, sponsoring States also have a similar obligation in their own right. Also, the ISA Secretariat's ongoing work on the Authority's 'Communications and Stakeholder Engagement' strategy should be aligned to support this provision, presuming they both are intended to address the same matters. For the avoidance of doubt, the draft Communications and Stakeholder Engagement Strategy shared by the Secretariat for public consultation in December 2020 is not sufficient in its current form to support this DR3(c) requirement. Stakeholder comments on this strategy have yet to be posted online, and nor has the 'zero draft' document been revised or re-circulated since 2020; we can supply our comments on that draft upon request. We urge further action on this item, we consider the development of a robust stakeholder engagement strategy a priority for the ISA. |
| Regulation 3.d | | | | |
| Italy | TEMPLATE | 3 | d | Italy does not support alt.1. We do not see the role of adjacent coastal states in facilitating compliance with rules and standards. |
| Italy | TEMPLATE | 3 | d | (i) Italy supports alt. 1 |
| Spain | TEMPLATE | 3 | d | Alt. 1. The Authority shall consult and cooperate with sponsoring States, affected coastal states, flag States, competent international organizations and other relevant bodies as appropriate, to develop measures to implement these regulations, including to: |
| PEW | TEMPLATE | 3 | d | Regarding paragraph d, we support alt 1 and the inclusion of adjacent coastal States in this study, and the drafting clarity provided by the alternative language. We would propose to add port States, given subparagraph (ii)'s reference to compliance and enforcement. It seems possible that a port State of disembarkation of a vessel involved in activities in the Area may not necessarily be an adjacent coastal State, but may be required to cooperate to enable effective compliance or enforcement action (e.g. verifying the amount of mineral ore off-loaded, or even detention of goods or personnel suspected of involvement in an offense). |
| Regulation 3.e | | | | |
| Italy | TEMPLATE | 3 | e | Italy does not support alt. 1: adjacent coastal States are themselves members of the ISA. DR 4 guarantees the rights and legitimate interests of coastal States |

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| PEW | TEMPLATE | 3 | e | Regarding paragraph e, we support the alternative language proposed as these changes will assist the ISA in encouraging and, as needed, requiring targeted collaborative studies aimed at important areas of uncertainty over environmental impacts that are common to all Contractors within a region and/or resource type. Regarding f, we support the proposed alternative, as the addition of 'sponsoring States' and deletion of 'best endeavours' would make the provision consistent with edits proposed to paragraphs a and e. For subparagraph i, we support the alternative language proposed here by the Deep Ocean Stewardship Initiative ('DOSI'), a network of scientists who bring first-hand knowledge of challenges and opportunities associated with data sharing and use. For subparagraph vi, we support the proposed amendment. Transfer of technology and capacity enhancement of developing States are cornerstones of Part XI of UNCLOS, and represent important non-monetary benefits that the ISA's wider membership may obtain from activities in the Area. We would also suggest consideration of whether additional provisions may be required to secure States' an optimal level of transfer of technology, capacity-building initiatives, joint scientific research, and other such types of non-monetary benefits from activities in the Area. |
| Regulation 3.f | | | | |
| Italy | TEMPLATE | 3 | f | Italy supports original text |
| Regulation 3. g | | | | |
| Germany | TEMPLATE | 3 | g | (g) 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 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. |
| Italy | TEMPLATE | 3 | g | Italy supports alt. 1. However, we suggest avoiding reference only to the Economic Planning Commission: the work of all institutions of the Authority needs to be facilitated. |
| Regulation 3 proposal add h | | | | |
| ALEMANIA | TEMPLATE | 3 | h | (h) The Council shall, taking into account recommendations by the Commission, adopt Guidelines or Standards concerning the duties mentioned in paras. (c) to (f) which establish requirements, obligations and procedural arrangements within three years after the adoption of these regulations. |

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| PEW | TEMPLATE | 3 | h | | We support the proposed paragraph h, however we recommend a further contingency: that these Standards and Guidelines must be in place before any mineral production commences - Data and methodology standards across contracts are an important means of the ISA discharging its UNCLOS duties to promote, and coordinate and disseminate the results of, marine scientific research with respect to activities in the Area, and to ensure effective protection for the marine environment from activities within the Area. Standardized data templates and methodology will help provide clear expectations for Contractors, reassurance to stakeholders about levels of scientific rigour, and comparable data, usable not only for individual project management but also for regional environmental assessments. These data-sharing protocols should be in place before mineral production occurs to ensure that monitoring data is recorded and used appropriately. Finally, as the ISA is untested as a regulator, and there are no well-established practices for performance and monitoring of deep-sea mining world-wide, we recommended that the ISA should establish compliance monitoring practices in provisional form and then test and refine them in detail during a pioneer phase of, for example, an early Contractor test-mine in a joint venture with the Enterprise (see proposed paragraphs i and j). |
| Regulation 3 proposal i | | | | | |
| PEW | TEMPLATE | 3 | i | | (i) The Authority may issue reasonable requests to Contractors, the Enterprise, and member States to participate in joint research or test activities in accordance with directions issued by, and under the control of, the Authority, in order for the Authority to test proposed or adopted rules, regulations and procedures, as well as monitoring practices, and other institutional functioning. |
| Regulation 3 proposal j | | | | | |
| PEW | TEMPLATE | 3 | j | | (j) Contractors, the Enterprise, and member States shall cooperate with requests under paragraph (i). |

PART I, REGULATION 4

| NAME | Page N° in its document | Regulation | number or letter | OBS. | COMENTARY OR PROPOSAL |
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| General comments or title | | | | | |
| Italy | TEMPLATE | 4 | | | Italy supports alt. 1, but only in the following terms: "Rights and legitimate interests of coastal States" |
| Regulation 4. 1 | | | | | |
| Italy | TEMPLATE | 4 | | 1 | Italy supports the original wording |
| Regulation 4.1. proposal 1 bis | | | | | |
| Germany | TEMPLATE | 4 | | 1 | 1.bis The Secretary-General shall inform potentially affected coastal States, as identified in the applicable Regional Environmental Management Plan, upon the submission of an application for exploitation. Appropriate consultation and notification protocols will be developed. |
| Regulation 4.2 | | | | | |
| Germany | TEMPLATE | 4 | | 2 | 2. Contractors shall take all measures necessary to ensure that their activities are conducted so as not to cause Significant or Harmful Effects to the Marine Environment, including, but not restricted to, pollution, under the jurisdiction or sovereignty of coastal States, and that such Significant or Harmful Effects or pollution arising from Incidents in their Contract Area does not spread into areas under the jurisdiction or sovereignty of a coastal State. |
| Regulation 4. 3 | | | | | |
| Italy | TEMPLATE | 4 | | 3 | new 3 The new para 3 is linked to the issue of normative threshold. Italy reserves its position on this issue and will consider it more in deep during the negotiations. |
| Regulation 4.5 | | | | | |
| Italy | TEMPLATE | 4 | | 5 | new 5 Italy does not support the new para 5. We believe it is not appropriate in this context, limited to coastal States |
| Regulation 4,proposal for a 4.6 | | | | | |
| Italy | TEMPLATE | 4 | | 6 | Italy supports the original wording. |

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| UK | TEMPLATE | 4 | 6 | new 6 | In New 6, we do not support the proposal for a 72 hour limit in Alt 1 as this appears somewhat arbitrary and it may not ensure that a full and proper response is provided. We could support “as soon as practicable” or some such language to reflect the desired urgency. In new 10 and New 11, we do not disagree with the intention behind these paragraphs, however these are issues that should be addressed in the Regulations on compliance and enforcement not in this Regulation. There is a risk of a lack of consistency between the procedures being proposed here and those under the Regulations on compliance and enforcement. |
| regulation 5.7, 5.8, 5.9. | | | | | |
| Italy | TEMPLATE | 4 | 7 | new 7, new 8 y new 9 | Italy does not support the new paragraphs as they seem out of the scope of the provision. This is particularly true for new paragraph 7, which creates new rights that are not foreseen by the Convention. New paragraph 8 seems unclear to us in its formulation. It should be regulation 96 to establish the procedures described in new paragraphs 8 and 9, which in their current form Italy does not support. |
| Regulation 5.12 | | | | | |
| Italy | TEMPLATE | 4 | 12 | | This paragraph would need further discussion by the Council |