

**Template for the review of the draft standards and guidelines
associated with the Draft regulations on exploitation of mineral resources in the Area**

I. Background

1. The Draft regulations on exploitation of mineral resources in the Area ([ISBA/25/C/WP.1](#)) require that certain issues are addressed in accordance with, or taking into account, standards and guidelines to be developed by the organs of the Authority. The standards will be adopted by the Council and will be legally binding on Contractors and the Authority, whereas the guidelines will be issued by the Legal and Technical Commission or the Secretary-General and will be recommendatory in nature.
2. Stakeholders consultations are an integral part of the process decided upon by the Commission for the development of the standards and guidelines ([ISBA/25/C/19/Add.1](#)).
3. The Legal and Technical Commission will consider the comments received through the stakeholders consultation at its next session.
4. The drafts include a cover page containing substantive background and contextual information on the approach taken by the Commission in developing each standard and guidelines. Review comments are not being sought on this background information.
5. Issues of format and consistency across the standards and guidelines will be reviewed by the secretariat and Commission once the content of the various standards and guidelines is finalized following stakeholders consultations.

II. Submitting Comments

6. To ensure that your comments are given due consideration, please send them by e-mail to ola@isa.org.jm, at your earliest convenience but **no later than the date announced on the ISA website for the relevant draft standards and guidelines**.
7. When submitting comments, please adhere to the following guidance as much as possible:
 - a. Please provide all comments in writing and in an MS Word .doc or .docx format using the table provided below.

- b. The table format allows for an unlimited number of comments to be added. To add more comments, you may add more rows.
 - c. Please provide full contact information for the individual/Government/organization submitting the comments.
 - d. Please avoid commenting on issues related to format, grammar, spelling or punctuation, unless it affects the overall meaning of the text, as the document will be formatted and edited when the final draft is prepared.
 - e. To facilitate the revision process please be as specific as possible in your comments. In areas where you feel additional or alternative text or information is required, please suggest what this text may look like or what information should be included.
 - f. Text may be copied from the draft into the table if stakeholders wish to use "track changes" in editing text (this is encouraged to ensure accuracy and avoid numbering errors).
 - g. If you refer to additional sources of information, please include these with your comments when possible or provide a complete reference or hyperlink.
 - h. All review comments will be posted on the ISA website, unless otherwise requested by the submitting entity.
8. Should you have any questions regarding the review process, please contact ola@isa.org.jm.

III. Template for Comments

- 9. Please use the review template below when providing comments.
- 10. Line and page numbers have been provided in the drafts. Please use these as a reference as illustrated in the table below.

TEMPLATE FOR COMMENTS

<i>Document reviewed</i>	
Title of the draft being reviewed:	Draft standard and guidelines on the development and application of Environmental Management Systems developed by the Legal and Technical Commission
<i>Contact information</i>	
Surname:	Amon/Gollner
Given Name:	Diva/Sabine
Government (if applicable):	
Organization (if applicable):	Deep-Ocean Stewardship Initiative
Country:	Great Britain / The Netherlands
E-mail:	divaamon@gmail.com/sabine.gollner@nioz.nl
<i>General Comments</i>	
Contributors to this document: Dr. Diva Amon, Natural History Museum, London, UK Dr. Sabine Gollner, Royal Netherlands Institute for Sea Research (NIOZ), The Netherlands Ms. Maila Guilhon, University of Sao Paulo, Brazil Dr. Beth Orcutt, Bigelow Laboratory for Ocean Sciences, USA Dr. Ellen Pape, Ghent University, Belgium Dr. Eva Ramirez-Llodra, Norwegian Institute for Water Research (NIVA), Oslo, Norway Dr. Samantha Smith, Blueglobesolutions, Canada Mr. Pradeep Singh, University of Bremen, Germany	
Enhance transparency:	

In the draft document, it is not specified to whom the content of the contractors Environmental Management System should be communicated to and if stakeholders, other than those identified by the contractor, will be informed and invited to provide comments on the Environmental Management System. This raises the following questions: How transparent are the processes involved? Will the results of the monitoring be available for all stakeholders? Is there an obligation to upload all environmental data to DeepData and at what time intervals? Who will be responsible for the communication to (all) stakeholders? Who will review the EMS? Is reviewing the EMS the responsibility of the contractor, the LTC, or a dedicated group identified by the LTC/Council?

Link to Regional Environmental Management Plan:

In the draft document, there is no mention of a link to a Regional Environmental Management Plan. A link should be established, with examples given below in the specific comments. Related questions to the lack of a link to the Regional Environmental Management Plan include, for example: Will the environmental objectives of the EMS be aligned with objectives set in the Regional Environmental Management Plan? Will contractors be aware of the activities of other contractors, especially those operating nearby? If other contractors for instance have an oil spill, effects may be noticeable in nearby contract areas? How will the ISA ensure this is properly and timely communicated?

Adaptive management:

The draft document focuses on maintaining environmental performance. One goal of the EMS shall be to ensure continual environmental improvement, and should be indicated as such clearly in the EMS.

Definition of pollution and hazards, harmful effects, and serious harm:

In the draft document, in several instances, pollution and hazards are mentioned, but it is not clear how these are defined and who defines them. There is no mention of harmful effects and serious harm, which should be included. A clear reference should be given to exact definitions of pollution and hazards, harmful effects, and serious harm. These should be clearly determined by the ISA in collaboration with relevant experts. Thresholds should be set.

Environmental acceptance criteria:

In the draft document, environmental acceptance criteria are mentioned. It is not clear if these already exist, or are in development. A clear reference to these should be given.

Nonconformities:

In the draft document, only nonconformities during mining are considered. However, nonconformities related to the mining-activity can also occur after mining has stopped. Reference to these should be included.

ISO standards:

In the draft document, only ISO standards are mentioned. We recommend that standards should be in alignment with recognized standards, including ISA standards, or equivalents (e.g. ISO).

Contractor’s responsibilities and resources:

In the draft document, the contractor is responsible for developing an EMS. How will it be guaranteed that a contractor has enough resources (e.g., financial, technical, specialized personnel, knowledge) to develop a sound EMS, and enforce a good EMMP? In case a nonconformity occurs, how will it be guaranteed that any (difficult and/or costly) action needed can be implemented?

Learn from EMS from other sectors:

EMS is a well-established process in the oil and gas industry. Looking at existing EMS from these industries may help to establish clearer and more detailed instructions for ISA’s EMS.

Timing of documents:

It is not clear whether the EMS needs to be in place at the exploration phase or at the exploitation phase. The draft mentions in Annex II (p.3, line 53) that requirements for baseline data on the seabed, EIA, and EIS shall be identified. This implies that an EMS shall be in place during exploration?

Specific Comments

Page	Line	Comment
2	7	Suggest addition: “adapting” The Environmental Management System is that part of the overall management system applied by a Contractor that includes organizational structure, planning activities, responsibilities, practices, procedures, processes and resources for developing, implementing, achieving, reviewing, maintaining, and <u>adapting</u> environmental policy, goals and environmental performance.
2	15-16	Suggested addition:

	delivers site-specific environmental outcomes consistent with the environmental management and monitoring plan <u>and the regional environmental management plan.</u>
2	18	Suggested addition: (b) allows for the prevention and control of pollution, <u>harmful effects, and avoidance of serious harm to the marine environment from mining operations in alignment with ISA standards and guidelines on X</u> ("X" should be added with to-be-developed standard or guideline e.g., on topics on prevention and control of pollution)
2	21-24	Suggested rewording: (c) is developed <u>in alignment with recognized standards such as the ISA standards or equivalents such as....(Insert name here e.g., ISO....)</u>
2	35	Suggested addition: (b) ensure that its operations are planned and carried out in a systematic and controlled manner, <u>in accordance with the Regional Environmental Management Plan, to minimise or eliminate harmful effects on the marine environment</u>
2	37-38	Suggested addition: (c) establish monitoring activities <u>that enable the quantification of harmful effects and serious harm,</u> to follow up and be able to check and evaluate whether the results achieved are as planned
2	39	Suggested addition: (an additional point to be placed between c and d) <u>if monitoring reveals that an unpredicted impact has occurred, ensure that remediation actions are undertaken and reporting to this effect is completed</u>
2	40	Suggested addition: (an additional point on adaptive management) <u>(e) adapt the environmental management and monitoring system when necessary</u>
3	55	Suggested addition: B. baseline data on the seabed <u>and water column</u>

3-4	86-88	Add an additional point: - <u>regional environmental management plan</u>
4	107	The numbers in the figure should be formatted roman numerals (I, II, III, IV,...) so they match formatting used in the guidelines.
4	107	The figure has no feedback loop indicative that the document currently lacks mechanisms that the EMS can be improved. We suggest adding a feedback loop to ensure continual improvement of the environmental performance (instead of only maintenance).
5	121	Communicating to whom? Please specify (see also lines 133, 144).
5	129	Suggested addition: (an additional point) <u>(h) planning and establishing a communication mechanism to inform stakeholders and the lay public regarding activities related to Contractor's environmental management system</u>
5	133	Communicating to whom? Please specify.
5	132-133	Suggested addition: The senior management of the Contractor should, <u>by an iterative process with the ISA and according to environmental policies in the Regional Environmental Management Plan</u> , establish, implement, maintain and communicate an environmental policy.
5	135-139	Suggested addition: The senior management of the Contractor should establish environmental objectives at relevant functions and levels in the organization, <u>in accordance with the Regional Environmental Management Plan</u> . The objectives are to be adapted to the seabed mining operation and take into account the identified environmental issues and the Contractor's obligations (see section IV), as well as any environmental rules, regulations and procedures of the Authority.
5	142	Please specify "whenever practicable", e.g. give an example of when something is not "practicable".
5	144	Communicating to whom? Please specify.

5	148	<p>Rephrase and replace the word “or” with “and” to be clear that both long term and short objectives are to be considered. Also, 3-5 years given as an example of long-term is relatively short. The full length of the contract duration should be given.</p> <p>Suggested rewording:</p> <p>13. The environmental objectives <u>are long term</u> (e.g., <u>15 years</u>) <u>and short term</u> (e.g., annual objectives).</p>
5	159	<p>Suggested additions:</p> <p>(e) how the results will be evaluated, <u>including a timescale</u></p> <p>Add additional item:</p> <p><u>(f) which actions are undertaken in case results are evaluated as not sufficient</u></p>
6	182	<p>Suggested addition:</p> <p>18. The contractor should identify activities and/or installations of <u>other actors in the Area</u> which may be affected by the Contractor’s seabed mining activities.</p>
7	207-210	<p>Suggested addition of the following sentence after line 210 to account for potential restoration actions:</p> <p><u>The contractor shall apply the mitigation hierarchy of (1) avoidance, (2) minimization, and (3) restoration.</u></p>
7	243-244	<p>Nonconformities can also occur after mining has stopped. Nonconformities are a deviation from a specification, a standard, or an expectation. Nonconformities may include e.g., a sediment slump from slope failure. Recovery rate after mining impact may deviate from expectations. Associated with this may be a loss of ecosystems functions and services that persist for very long timescales (>decennia, centuries, millennia). We suggest the addition of a point on conformities that are identified after seabed mining operations have stopped:</p> <p>28. A nonconformity can be identified during seabed mining operations, during an internal or external audit (subsection VII.A), <u>or after operations have ceased but monitoring remains ongoing.</u></p>
7	246-247	<p>We suggest the addition of examples of nonconformity.</p>

		29. A nonconformity can, for example, <u>be a sediment slump from slope failure, a deviation from expected recovery rate after mining impact, or consist of.....</u>
7	247	We suggest the provision of a reference to the environmental acceptance criteria.
8	263-264	Please add information on the follow-up audit.
8	258	Please add an additional point: <u>(d) report nonconformity to the Authority</u>
9	324-331	In the current document, contractors should determine their own evaluations based on the environmental objectives that they themselves have set. Suggested addition: The results from the monitoring activities should be evaluated according to the criteria, method, and frequency <u>set by the ISA</u> (add reference to document)
10	336	"on a regular basis" is not specific enough. We suggest the addition of a time-frame (e.g. yearly)
11	393	The role of third-party audits is not mentioned, although given in line 389. Are there plans to include third-party audits and to make results of audits publicly available?
11	402	The procedures described within the item 54 should be planned and discussed together with the ISA. Suggested addition: The Contractor should establish <u>with the LTC</u> a procedure for how to plan and carry out the different types of audits. The procedure should address the following (including, but not limited to):
11	411	The management review should be carried in conjunction with the LTC or a group of specialists/experts designated by the LTC.
12	441	If Annex II is not legally binding, how will it be ensured that action is taken in the case of the EMMP being inadequate?
13	475	Training should also include capacity-building programs established by Contractors as part of their contract obligations to the ISA.

13	477	Based on the above mentioned, the personnel should also include trainees.
14	509	Information should also be available in a format accessible by the general public. Suggested addition: -Include relevant information, <u>in a format accessible by the general public</u>
14	508-513	Suggested additional point: <u>-be timely</u>

Comments should be sent by e-mail to ola@isa.org.jm