



## **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.im](mailto:ola@isa.org.im), 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](mailto: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><b>Document reviewed</b></i>		
<b>Title of the draft being reviewed:</b>	Draft standard and guidelines on the form and calculation of an environmental performance guarantee	
<i><b>Contact information</b></i>		
<b>Surname:</b>	Yong	Khng
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<b>General Comments</b>		
-		
<b>Specific Comments</b>		
<b>Page</b>	<b>Line</b>	<b>Comment</b>
3	55 – 57	In this paragraph, it is unclear which circumstances the clause is referring to. Hence, we suggest to specify “in some circumstances <b><u>as described in this document at VII</u></b> , at the sole discretion of the Authority, ...”.
5 - 6	129 - 137	These paragraphs should provide greater clarity on the method of calculation of the guarantee and implementation details, especially in defining the difference in scope of “greatest reasonably credible costs, expenses and liabilities” and “reasonably credible costs, expenses and liabilities”. The definition of “worst case scenario” should also be included.
7	172 - 184	These paragraphs require the applicant for a Plan of Work to include a completed Environmental Performance Guarantee Declaration (“ <b>EPG Declaration</b> ”) certifying that it “(a) is and will remain compliant for the duration of the Exploitation Contract with the Exploitation Regulations, including Regulation 26; and (b) formally acknowledges its legal duty to maintain and make accessible the approved Guarantee over the life of the Exploitation Contract.” We note that these obligations will exist independent of the EPG Declaration and it is unclear what value the EPG Declaration adds. It would be useful to explain the purpose of the EPG Declaration more explicitly.
8	217 – 219, 230 - 233	The following formulation is used to refer to when the Authority may access the guarantee: “where costs expenses and liabilities arise and are unable to be met under the Closure Plan”. It is not clear how this relates to the what is stated in the draft regulations on the scope of guarantee (draft regulation 26(2)). The formulation used in the Standard to refer to when the Authority may access the guarantee should track the scope of the guarantee as provided for in draft regulation 26(2).
13	364 - 365	As the chapeau of the paragraph addresses the form of the guarantee, it is not clear why the two sub-paragraphs, which are on issues related to quantum of the guarantee [i.e. (h) “cover 100% of the total estimated cost...” and (i) “calculated and independently verified on a third-party cost basis”], are needed. We recommend for the sub-paragraphs to be deleted.
14 - 15	409 - 413	This provides that the Commission “may engage its own expert to assess and validate the Guarantee proposed by the Applicant” and that the “costs incurred by the Commission in doing so would need to be included in the Plan of Work application fee payable by the Contractor”. We note that the Contractor is already required to have the form and calculation of the quantum of the proposed guarantee validated by an independent validator under paragraphs 25 – 28 of the Standard. It is not necessary for the Commission to engage its own expert to assess the Guarantee. We recommend for this section to be deleted.

15	422 - 433	This section provides guidance on the calculation of the quantum of the guarantee. It is not clear why this section is needed as the issue of the calculation of quantum of the guarantee is already adequately covered at paragraphs 20 – 24 of the Standard and this section does not add anything to that earlier coverage. We recommend for this section to be deleted.
15	434 - 438	This section is on also on the EPG Declaration (please see (a) above for our comments on this topic). It is not clear what this section adds, and we recommend for it to be deleted.
<i>Additional rows can be added to this table by selecting "Table" followed by "insert" and "rows below"</i>		

*Comments should be sent by e-mail to [ola@isa.org.im](mailto:ola@isa.org.im)*