



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 guideline on the preparation and assessment of an application for the approval of a Plan of Work for exploitation
<i>Contact information</i>	
Surname:	Bosio
Given Name:	Daniele
Government (if applicable):	Italy
Organization (if applicable):	
Country:	Italy

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General Comments		
<p>As a general remark, Italy is not satisfied with the <i>modus operandi</i> for the analysis and comments of this and other standards and guidelines. Indeed, many elements which would be contingent to a proper evaluation of the documents are still lacking. In particular, Italy is of the view that it is impossible to come up with a complete evaluation of this document unless final determinations on the content of some provisions of the Draft regulations are made. Italy noted, for instance, that no reference to EMS (Environmental Management System) is included in the Material accompanying the application, as recalled in row 4 of Annex 1 to this document. However, it remains to be discussed whether, as reported in ISBA/26/C/CRP.1, draft regulation 3 (h)bis, the EMS is among the documents to be submitted together with the application for a Plan of Work (PoW). If so, the present document should be modified accordingly. In this respect, Italy reserves the chance to make further comments when general agreement is found on the content of some provisions of the Draft.</p>		
<p>In addition, Italy also notes that under Annex to ISBA/25/C/3 it was stated that ‘These guidelines should include an outline of how a Plan of Work will be evaluated by the Legal and Technical Commission against the criteria set out in DR13, in particular the financial and technical capability of the applicant, as well as criteria for the evaluation of the environmental plans. In addition, the guidelines should include standard application forms and details on the lodgment of the application and information on supporting documentation to be submitted’. However, the present version of the guideline does not clarify, as expected, how ‘proof of technical capability’ to the LTC can be given or which data should be submitted to the Authority to this end. This seems pivotal in ensuring the degree of transparency to which the ISA committed through its Strategic Plan. By the same token, no standard application form nor details on the lodgment of application is provided.</p>		
<p>Finally, Annex 2 sheds lights on some other issues which need consideration and determination before the approval of the Draft regulations and the relative standards and guidelines. In particular, with reference to issues like the determination of Material change to plan of work, the Council should discuss the issue of delegation of powers to the Secretary-General, under article 166 UNCLOS, and address it through a policy document. Same considerations apply to the topic of monopolization, which is not given any regard in the flowchart when dealing with the approval of a Plan of Work.</p>		
Specific Comments		
Page	Line	Comment
2	33-35	<p>What is it meant by ‘Existing bodies of practice and international standards from other similar industries provide valuable information in preparing the components that comprise an application under the Exploitation Regulations’?</p> <p>Does it mean that the standards of similar industries would apply <i>mutatis mutandis</i> to the evaluation of the PoW? Or, would compliance with such standard be a guarantee of completeness of the provided information? If so, it would be advisable to clarify which standards should be taken into account.</p>
4	Table, row 1	Please add after ‘the written undertakings required under the draft regulation 7’ also ‘and draft regulation 2 (a) (b) (c) (d)’.
6	Table, row 3	The first ‘if clause’ should be complemented to the effect that the abovementioned information and documents related to sponsorship apply to each Sponsoring State.

6	Table, row 3	As for the last ‘if clause’ Italy is of the opinion that the issue of effective control and nationality should be carefully addressed in line with the findings of the LTC as reported in ISBA/20/C/20, paragraphs 25-29. This is a matter to consider within the Draft regulations, but which also has impact on the checklist. Italy considers the nationality as critical for the determination of the effective control and distinctions, as the one at stake, between nationality and control should be carefully studied and discussed well before any application of a plan of work.
6	Table, row 4	Please add after ‘Accept as enforceable and comply with the applicable obligations created by the provisions of Part XI of the Convention’ also ‘Part XI Agreement’.
7	Table, row 5	Please delete any occurrence of the adjective ‘these’ as associated to ‘regulations’.
7	Table, row 5	No Training Plans’ guideline is currently available: this could result in the risk for a plan of work not to be considered as complete. It should be developed as a matter of priority to ensure that necessary standards and guidelines are in place at the earlier stage.

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