

Review of the draft standards and guidelines
associated with the draft regulations on exploitation of mineral resources in the Area

- ITALY -

<i>Document reviewed</i>	
Title of the draft being reviewed:	Draft standard and guidelines for environmental impact assessments
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<i>General Comments</i>	
<p>As a general remark, Italy wishes to reiterate that it is not persuaded with the <i>modus operandi</i> for the analysis of and the comments to this and other standards and guidelines.</p> <p>In particular, Italy is of the view that it is impossible to come up with a meaningful analysis of standards and guidelines until an agreement is reached on the final text of the provisions of the Draft regulations on which they depend.</p> <p>By way of example, the content and the degree of accuracy of the standard and guidelines on environmental impact assessment inherently depend on the text of draft regulation 47. While, as it stands today, it does not make reference to the various stages in which the assessment should articulate, proposals in this respect have been voiced and should be duly considered before dealing with the content of these standard and guidelines.</p> <p>It is self-evident that the more the process of environmental impact assessment is accurately prescribed in the Draft regulations, the less additional standards are needed. Italy, for instance, has long promoted an environmental impact assessment provision in the Draft regulations, which - if accepted - would already incorporate many of these standards.</p> <p>For this reason, we believe that not only these stakeholders' consultations on standards and guidelines, but also any further review process by the Legal and Technical Commission and approval by the Council and/or Assembly - as appropriate - should be postponed to ensure that there is no inconsistency between the texts.</p>	

This does not mean to indefinitely delay the whole process. Italy is aware that the unforeseen circumstances led to postponements to the negotiations of the Draft regulations. Nonetheless, the unpredictable duration of the health emergency would require appropriate solutions not to lose the momentum and to advance mutual understanding on the most sensitive provisions of the Mining code. This would also make these consultations on the standard and guidelines more meaningful.

As a final general remark, Italy believes that it would be appropriate, for the sake of transparency, that the Secretariat makes information regarding the process of development of these standards and guidelines - including on any consultant hired for their draft and their Terms of reference - freely available to ISA members. More detailed information on how the Commission reviewed the documents drafted with the support of consultants would also be expected in the Report of its Chair to the Council.

With respect to the draft standard and guidelines for environmental impact assessment, Italy would like to point out that public consultations on any project for exploitation in the Area, which is the common heritage of mankind, should be wide, continuous and mandatory and - in any case - not limited to when the environmental impact statement has been compiled. As we already stated in our comments to the Draft Regulations, the latter is a closed document, which does not really allow for insightful revisions and does not take the view of the public into account throughout its development.

As the consultations, particularly at the scoping stage, are accepted as a critical component for the environmental impact assessment in many legal instruments, like the Espoo Convention, the Directive 2011/92/EU and UNEP Goals and Principles of Environmental Impact Assessment, Italy would like to have them included in the standards. In particular, the whole section E at page 19 could be moved - *mutatis mutandis* - to page 4, when outlining the standard steps of the environmental impact assessment process. This is a further example of how crucial is agreeing and finalizing the main body of regulations before working on the attached guidelines.

Specific Comments

Page	Line	Comment
1	20	Replace: This standard is adopted pursuant to Regulation 94 of the Exploitation Regulations and is legally binding. It sets out....
1	40	Remove: Principles and
1	43	Replace 'conserve' with 'preserve'
1	49	Add: 5) Implement the precautionary approach required for by the Exploitation regulations; 6) Involve the public into the decision-making process
2	59	Add: The EIS is prepared in accordance with Annex IV to the Exploitation Regulations
2	Flowchart	Consultation is missing. Italy would prefer a written summary of the process, rather than a flowchart
3	88-91	Replace the sentence with: All applicants are required to undertake an EIA for the approval of a plan of work. There could also be situations such as when...
3	106	Add: baseline studies, Regional environmental management plans , and the project
3	125	Add:• takes into account the views expressed during the consultations by the stakeholders

4	131	Please, clarify what is meant by ‘enhanced ERA’
4	138	Add: • to which extent available alternatives change the extent, duration, frequency, and severity of the impact.
4	164	More prescriptive standards would be needed with respect to reporting, to ensure that relevant information are provided
4	168	Consultations are not referred before. Their conduct should be appropriately considered
5	177	Replace: Applicants and Contractors are required to monitor the project in accordance with the relevant Exploitation regulations.
8	322	Add: • operationalize the precautionary approach required for by the Exploitation regulations
8	329	Replace: The process of amendments to the proposed plan of work is regulated under regulation 14 of the Exploitation regulations.
9	333-357	Italy would like to see this paragraph moved to the standard.
10	406	Reference to expert judgment seems a rather vague expression. It should be better considered and explained
10	408	Add: Uncertainties should however be reported in the EIS
11	427	Remove: from and to risk.
19	592-621	Italy would like to see this paragraph moved to the standard.
19	630	Add: Including the existence of other sites in which exploitation activities are being considered by the Authority
19	632	Replace: ‘regulator’ with ‘Authority’.
32	1084-1088	Delete the entire paragraph, which does not seem to fit with the offset section.
35	1199-1228	Italy would like to see this paragraph moved to the standard.
<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