



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. Stakeholder consultation is 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 stakeholder consultation during its current session.
4. The drafts include a cover page containing background and contextual information on the approach taken by the Legal and Technical Commission in developing each standard and guidelines. Please note that stakeholder comments are not sought on this cover note.
5. Issues of format and consistency across the standards and guidelines will be reviewed by the secretariat and the Legal and Technical Commission once the content of the various standards and guidelines is finalized following stakeholder consultation.

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 by the Legal and Technical Commission.
 - 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 Guidelines for the establishment of baseline environmental data
<i>Contact information</i>	
Surname:	McLachlan
Given Name:	Corey
Government (if applicable):	
Organization (if applicable):	Tonga Offshore Mining Ltd (TOML)
Country:	Tonga
E-mail:	corey@metals.co
<i>General Comments</i>	

TOML appreciates the opportunity to comment on the draft guideline and thanks the Legal and Technical Commission for their efforts in drafting the guideline.

TOML notes that there is a lack of consistency with the level of detail within guideline. Some processes and procedures are very prescriptive and others are less so. These Guidelines provide guidance based on knowledge available today and to ensure applicants and contractors incorporate best available techniques they must have the ability to adapt. Too much prescription will reduce innovation and has the potential to delay the incorporation of new knowledge.

Given the prescriptive nature of the Guidelines, TOML is concerned that even with the very best of intentions, the full achievement of the described studies and techniques will be difficult due to them being overly complex and prescriptive.

TOML fully supports the primary goal as outlined within paragraph 5 (line 82-86) but would note that some of the of the studies and processes appear to exceed what is required to acquire the environmental baseline data required for an assessment and the development of monitoring and management plans.

TOML suggest that it would be more appropriate for a contractor or applicant to develop a scoping report and TOR based on the Guidelines in collaboration with the Legal and Technical Commission. Once approved and agreed to, this TOR and scoping report would form the basis of the environmental baselines studies that need to be completed for the review of an application. This process is typically used in national jurisdictions and avoids the uncertainty about content during the progression of the studies.

TOML notes the Guidelines are recommendatory in nature and would like to seek clarity on the role of the Recommendations (ISBA/25/LTC/6/Rev.1) once this Guideline is adopted.

Many contractors have already developed scopes of work based on the existing Recommendations (ISBA/25/LTC/6/Rev.1.) and there are inconsistencies between the existing Recommendations and the proposed Guidelines which will cause confusion.

The Recommendations that were just adopted in 2020 and are being used by contractors and applicants today are more concise, with fewer inconsistencies in the outline of the baseline data required to be collected.

TOML believes that adopting Guidelines that have significant variance from the existing Recommendations will cause confusion and believes it is unfair to ask contractors and applicants who have designed plans of work and have begun collecting baseline data based on the Recommendations to adapt their programs to align with the new Guidelines barely one year after they were adopted. TOML strongly recommends that where possible, the Guidelines are aligned with the existing Recommendations.

TOML also recommends that the Guidelines acknowledges that programs of work designed based on the Recommendations will be accepted if contractors have already begun collecting their baseline data.

Specific Comments

Page	Line	Comment
1	69	TOML recommends adding the following sentences to paragraph 3: “An applicant or contractor can choose to acquire its environmental baseline data in ways other than is listed within these Guidelines. An applicant or contractor is encouraged to provide a rationale and explanation in these instances.”
1	71	TOML notes that Guidelines are said to “build” on the recommendations of ISBA/25/LTC/6/Rev.1 and Corr.1, but they differ significantly in detail and content

		<p>making it difficult to reconcile.</p> <p>TOML recommends that there needs to be greater alignment with the Recommendations and ideally the wording from the Recommendations could adopted into the Guidelines.</p>
7	167	<p>There is no scientific reference cited, as to why the Guidelines suggest that observations should be carried over at least in three different years.</p> <p>TOML recommends that without a scientific basis for suggesting three years, that the baseline data at EIS submission should not be based on a seemingly arbitrary timeline but rather should ensure that there is sufficient characterization and quantification to inform decision-making.</p> <p>TOML recommends the following sentence replace line 167: <i>“Observations in similar seasons or environmental conditions should be conducted to assess interannual variability and increase the chance to capture periodic events.”</i></p>
7	179-194	<p>TOML believes that this section is overly prescriptive and the level of detail is not consistent with rest of the guidelines.</p> <p>TOML recommends the removal this section. The sampling details provided in the subsequent sections of the Guidelines provide relevant detail and this section is not required.</p>
8	208	<p>TOML would like to reiterate its recommendation that these Guidelines be aligned with ISBA/25/LTC/6/Rev.1 and Corr.1 to avoid confusion or gaps as noted in this line.</p>
9	281-284	<p>TOML recommends adding the following sentence to the end of paragraph 33: <i>The sampling effort and levels of detection of statistical change should be focused on those environmental values for which the magnitude and extent of impacts predicted from the risk assessment process are indicative of serious harm.</i></p>
11	335	<p>There is overlap, duplication and inconsistency between the Physical Oceanography Section IV (from line 335) and the Chemical Oceanography and Bio geochemistry section V, (starting Line 671), particularly in relation to the types and usages of CTD and ADCP equipment, and parameters.</p> <p>TOML would recommend using language from Recommendations - ISBA/25/LTC/6/Rev.1 and Corr.1.</p>
12	376 - 381	<p>The proposed 50 km grid pattern (and 10-30 km in some areas) provides no scientific evidence for this suggested distance.</p> <p>TOML suggests that the spatial array of moorings should be determined primarily by the data required for modeling, rather than seemingly arbitrary distances.</p>
12	395-404	<p>TOML believes that this section is unnecessarily prescriptive. The focus should be on what is required versus being so prescriptive.</p>
13	410-420	<p>This section appears to be repetitive and not consistent. Please see comment for lines 376-381</p>
17	577-587	<p>Th purpose of measuring noise is not just to measure natural background noise but also sources of project-related noise (e.g., such as the riser) and potential impacts, e.g., on cetaceans.</p>
17-18	595-	<p>There are inconsistencies between the data quality section (P30 to 38), and for</p>

	636	data quality (P92-103).
26-27	984-1085	As noted previously, overly prescriptive guidance will require regular revision of the guidelines whenever revisions to best practices arise and makes adapting to changes in best practices more difficult.
32	1246	P179 Introduces new studies that were not part of the ISBA/25/LTC/6/Rev.1 and Corr.1. recommendations. TOML would reiterate the points above about changes from the Recommendations and request consistency.
40	1576	This appears to contradict the guidance provided in Fig.1 .
44	1755	<p>ISBA/25/LTC/6/Rev.1 and Corr.1. recommendations depths: 0–1, 1–5, 5–10 cm for Macrofauna.</p> <p>L1755: Recommends 0-3cm, 3-5cm and 5-10cm horizons for macrofauna</p> <p>Such variation and inconsistency within and between guidelines and recommendations will inevitably lead to confusion for contractors and will cause issues with comparable datasets from REMPS.</p> <p>There should be consistency between the Recommendations and the Guidelines.</p> <p>Another example of the lack of consistency between the Recommendations and the Guideline is that there is no mention of the use of eDNA to assist in establishing a baseline for any of the eukaryote groups – these were suggested as an option in the ISBA/25/LTC/6/Rev.1 and Corr.1. recommendations and as a recognized tool for biodiversity monitoring through use of metagenomic or amplicon sequencing approaches.</p>
55	2208	The introduction of dedicated ship-borne marine mammal, shark and turtle surveys should be based on a risk assessment informed by all the observational data from campaigns completed to date, supplemented by PAM.
55	2216 - 2270	Introduction of dedicated ship-borne bird surveys should be based on a risk assessment informed by all the observational data from campaigns completed to date,
<i>Additional rows can be added to this table by selecting “Table” followed by “insert” and “rows below”</i>		

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