



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

**TEMPLATE FOR COMMENTS**

<i>Document reviewed</i>	
<b>Title of the draft being reviewed:</b>	Draft standard and guidelines for the safe management and operation of mining vessels and installations
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<i>General Comments</i>	
<p>It would be helpful to clarify in the Standard (and in the Regulations) that ‘mining vessels and Installations’ includes all equipment used by a Contractor in the Area for the purposes of delivering the contract including machinery operating on the seafloor and in the water column e.g. autonomous or remotely-operated vehicles cutting or collecting seafloor material, riser pipes or other transport systems bringing that material to the ship, other sub-sea equipment that may be mobile or tethered and which is used to monitor the mining activity etc.</p>	
<p>The ISA’s recent Technical Study 25 (accessible here, <a href="https://www.isa.org.jm/index.php/node/20152">https://www.isa.org.jm/index.php/node/20152</a>) noted: “<i>There will also be a range of other technologies, not easily captured by the definition of ‘ship’ if at all, such as seabed excavators, collectors and pipelines. They are not addressed by IMO regulations and might raise new regulatory challenges for ISA.</i>” It is unclear whether this point may have been taken into account in the preparation of this Standard and Guideline. It would be helpful to understand how the ISA intends to address the potential regulatory gap around these types of machines, before finalizing this Standard and Guideline.</p>	
<p>It is difficult to comment on this Standard / Guideline before the draft Regulations are finalized. We note that the LTC had previously highlighted its intention to elaborate DR30 further, upon receipt of a report from the Secretariat [ISBA/25/C/18, July 2019]. It would be useful to have a status update with regard to this elaboration. And for these subsidiary instruments to be developed subsequent to production of the text of the Regulations.</p>	
<p>Indeed, in our view the draft Regulations themselves are currently deficient in covering the requirement for each contractor to implement an adequate safety management system. DR30 as</p>	

drafted requires a safety management system but does not provide details as to the required content of that system, or a role for the ISA in reviewing its adequacy. We recommend the following amendments to the draft Regulations, to remedy those gaps, and to bring the regulatory requirements regarding human health and safety into alignment with similar requirements applied towards, for example, environmental health in the Regulations:

- DR13(3) [Assessment of Applicants] - add a new sub-paragraph (f) so that, in considering the technical capability of an applicant, the LTC shall determine whether the applicant has provided sufficient information to demonstrate it has a safety management system that meets the requirements of the regulations [and specifically DR30 bis].
- Add a new ‘Regulation 30 bis. Human health and safety management system’, which should mirror DR46’s requirements for an Environmental Management System. Suggested wording, below.

**DR 30 bis Human health and safety management system:**

1. When conducting its operations, a Contractor shall develop, implement and maintain a safety management system, in accordance with Standards.
  1. and taking account of the relevant Guidelines.
  2. A Contractor’s safety management system shall:
    - a. Be capable of delivering site-specific safety objectives and meeting performance requirements specified in the Health and Safety Plan and Maritime Security Plan;
    - b. Cover occupational health and safety and process safety, including with regards the selection or design of assets, facilities, equipment and materials;
    - c. Permit effective reporting to the Authority in connection with safety performance;
    - d. Be independently verified annually by an internationally recognized provider of verification services acceptable to the Authority;
    - e. Promote inclusivity and gender equality; and
    - f. Be in accordance with Good Industry Practice and internationally recognized standards.
  3. A proposed change to a Contractor’s safety management system shall be treated the same as a modification of a Plan of Work, pursuant to regulation 57 *mutatis mutandi*.
  4. Compliance with this Regulation is a fundamental term of the contract, for the purposes of Regulation 103.

The draft Regulations also await content in ‘ANNEX VI: Health and Safety Plan and Maritime Security Plan’ - this part of the Regulations has currently left blank ‘*To be populated following discussion with the International Maritime Organization secretariat, members of the Authority and Stakeholders*’. It would be helpful to understand: Who is conducting this discussion, and when will a draft Annex VI be produced, for comments? It is challenging, until this part of the Regulations is completed, to attempt to develop the Standards and Guidelines that will necessarily relate to and implement that content of the Regulations.

The Standard and Guideline lack detail and are imprecisely drafted. There seem to be enormous differences between the substance and style of this Standard and Guideline, and that of others. In particular, one may expect a degree of similarity and overlap between these documents, and the Environmental Management System Standard and Guideline, which seems absent. It may be helpful for the LTC to consider comments upon and revisions of this Standard and Guideline together with those upon the EMS Standard and Guideline and aim for alignment and

complementarity between the two.

It does make sense for the ISA to rely upon existing (or future) international standards for the protection of human life adopted by other international organizations (IMO and ILO), rather than ISA developing its own. And this may explain to some extent the brevity and lack of substance in this draft Standard and Guideline. However, it would be helpful for this context to be properly explained in the documents, and for the ISA expressly to (a) signpost where it expects other regimes / documents / regulators to take a primary role, and (b) identify remaining regulatory gaps and seek to fill those. As currently drafted, the Standard and Guideline do not fulfil that function.

It would be welcomed if the Standard and Guideline were to address gender-related safety at-sea issues, and freedom from harassment in the workplace. We would welcome the express signal that the ISA places importance on such matters and requires appropriate conduct from Contractors and their staff at all times.

On behalf of the Contractors, the ISA should also explore with commercial providers the means of providing full and reliable internet connectivity for ships and installations operating in the Area. Connectivity should be considered a priority in terms of safety and crew welfare - as well as environmental monitoring reporting in real time.

<i>Specific Comments</i>		
<b>Page</b>	<b>Line</b>	<b>Comment</b>
2	4	Consider not capitalizing “Mining Vessels” which implies that it is a defined term (it has not been defined either in the Regulations, or in this Standard)
2	7	Regarding “mining vessels and installations” –  Installations' is a defined term in the Regulations, which "includes, insofar as they are used for carrying out activities in the Area, structures and platforms, whether stationary or mobile".  The Standard therefore introduces an inconsistent definition, which may give rise to ambiguity or dispute about what specifically is covered. E.g., 1 the Standard definition includes vehicles used in the 'support and conduct' of activities, whereas the Regulations' definition includes only those directly carrying out the activities. E.g., 2 the Standard definition includes vehicles used (only) for mining, whereas the Regulations' definition also includes vehicles used for other 'activities in the Area' (i.e., exploration, which may be conducted under an exploitation contract).
2	10	Suggest deleting paragraph 2. Para 2 appears to repeat some of the content of DR30, though in slightly different terms. This seems unnecessary and confusing. A direct quotation from and cross-reference to DR30 could be used in its place if it is considered helpful context for the Standard.
2	10	Add 2bis: For the purposes of this Standard and the Regulations, international maritime safety and navigational rules shall apply to all ships on all voyages engaged in activities in the Area.

		Rationale: It is noted in the ISA’s recent Technical Study 25 that there may be a loop-hole whereby ships that depart and return to the same port are classed as conducting domestic voyages, and thus evade coverage by international convention rules. Hence, we have included some placeholder language here as a proposed 2 bis. to cover this point. However, we consider it would be better for the point actually to be covered in the Regulations themselves, not in this subsidiary instrument.
2	14	Regarding para 3, as noted in general comments, above, we suggest the following should be the stated requirements of the safety management system: <ul style="list-style-type: none"> <li>• Be capable of delivering site-specific safety objectives and meeting performance requirements specified in the Health and Safety Plan and Maritime Security Plan;</li> <li>• Cover occupational health and safety and process safety, including with regards the selection or design of assets, facilities, equipment and materials;</li> <li>• Permit effective reporting to the Authority in connection with safety performance;</li> <li>• Be independently verified annually by an internationally recognized provider of verification services acceptable to the Authority;</li> <li>• Promote inclusivity and gender equality; and</li> <li>• Be in accordance with Good Industry Practice and internationally recognized standards."</li> </ul>
2	19	3 (b) Some more information about how this aligns with, and does not overlap with, the Emergency Response and Contingency Plan would be helpful. It is difficult to comment on this, while Annex VI [content of the Health and Safety Plan and Maritime Security Plan] remains uncompleted in the draft Regulations.
		3 © Would be helpful to clarify if the intention here to make compliance with these ISO Standards compulsory? If not, then 'or equivalent' wording may help clarify.
	20	Instead of the term “practical” use the term “possible” or “tolerable”.
	24	Please add the approaches adopted by ISO 45001: 2018 regarding Occupational health and safety management systems requirements with guidance for use.
4	48	Regarding para 1:  Including this definition here, in the Guidelines, does not apply the same definition to the Standard. Also, as noted above, 'Installations' already has a defined meaning in the Regulations, which differs from the definition here. This needs to be rectified. The drafting here also would benefit from polishing (e.g.,1 'By vessels is meant... By installations are meant...'; e.g., 2 use of 'mining' which is not a defined term for the purpose of the Regs and may be understood by different readers to include different activities. )

1	57	These Guidelines apply to Mining Vessels and Installations intended to be deployed for activities e-in the Area under an ISA exploitation contract.
1	64	The purpose of these Guidelines is to describe how a Contractor can achieve safe management and operation of Mining Vessels and Installations engaged in the Area by minimizing risk and prioritizing protection of –
1	70	Para 4 notes the role of national laws. These documents could be more helpful if they expanded on identifying what national rules / responsibilities lie with the sponsoring State, and which lie with the vessel flag State
1	85	Do not capitalize “Sub contractors” since it is not a defined term
1	89	<p>the Contractor should, in its application to the International Seabed Authority for approval of a plan of work, document operational intent and profile of its Mining Vessels and Installations following the topics set out in Figure 1 and providing relevant evidence as necessary.</p> <p>As a general comment, para 7 should note where in its application this should be documented. Clarification on whether it should be included in the Emergency Plan, part of the Mining Workplan, EIS or the EMMP, the Health and Safety Plan and Maritime Security Plan or some other standalone document would be helpful. It would also be beneficial if this requirement could cross-refer to the relevant Regulation(s) setting out the requirements for the application for a Plan of Work.</p> <p>Additionally, it is also worth noting that the content of this paragraph reads like a requirement. In which case it should be drafted as a 'shall' and should be moved into the Standard.</p>
2	93	<p>This figure's reference to 'management system' is confusing. Does it mean the 'safety management system' or the 'environmental management system' or both or something else?</p> <p>Similarly, clarify what the 'safety management and operation plan' is? This has not been mentioned at any point in the Regs, or in the Standard... Does it mean the safety management system? Or the 'Health and Safety Plan and Maritime Security Plan'?</p>
2	96	<p>Please provide source for the table and adapt to the ISA regime.</p> <p>Similar to above comment, it is confusing to know how these provisions would overlap with the Emergency Response and Contingency Plan, and parts of the regulations that deal with Incidents and Notifiable Events and responses to those.</p>
3	111	We note that these referenced guidelines are very Euro centric. Also, some of the guidelines have been withdrawn and are dated to almost 25 years back. Please provide rationale for inclusion.
3	130	Clarify what or who is meant by the term “operator”. The ISA has a contractual relationship with the contractor (only), and international rules bind States (only). So, it is unclear what the Guideline is trying to do here: address third parties who are not bound by ISA rules? We recommend that

		<p>the ISA instruments should focus on contractors and States (and require them to impose equivalent standards on third parties they may use e.g., to operate their machinery or crew their vessels).</p> <p>Para 11 requires more clarity. It is unclear who the ‘operator’ would be responsible to, what the “various requirements” being referred to are, and what is meant by “drawings”.</p>
3	133	Clarify what regulatory regime is being referred to
3	135	This para needs clarification – what is meant by ultimate responsibility
4	139	The meaning of this chart is not very clear. What is meant by the large 'verification' box at the top? Is this about ISA's verification of compliance, or the Contractor's own verification, or a third-party verification service?
4	142	Para 15 notes that the maritime system <i>should</i> comply with Classification Rules. Does ‘should comply with’ imply that certification of classification of the vessel is a requirement? Or is it optional? This should be clarified (and if it is a requirement, this point should be moved to the Standard or the Regs).
4	151	The Contractor should ensure that its safety management system adequately covers the interface between the maritime / shipping operations and the mining operations.
4	157	This section should provide specifics about how the Contractor can ensure compliance of its operations with health and safety, and maritime safety rules. What monitoring programmes should be implemented? What roles and responsibilities should be assigned within the Contractor? What audits should be carried out? Are third-party audits recommended? A plan-do-check-act / contingency / feedback loop / corrective actions approach, aiming for continual improvement, should be required.
4	161	Compliance with rules and regulations (also for those aspects covered in section IIIB Technical and operational safety regime) is key to maintaining a human safety both at the design stage as well as in operations
4	162	It is confusing to understand what “design system” is being referred to here - the safety management system or the mining system
4	165	Para 21 notes that there are “gaps when it comes to the operational side of mining systems”. In that case, clarify what the gaps are and what the ISA’s duties are to provide rules to fill those gaps
4	172	<p>The primary objectives of risk assessment in this context are to identify and rank the risks across the range of components covered under the design and operation of mining vessels and installations, so that they can be adequately managed through evaluation and implementation of appropriate risk reduction measures. Guidance on approaches to risk assessment and to what constitutes a suitable and sufficient risk assessment, for the purposes of a safety case demonstration, is provided in the Standard and &amp; Guideline on Hazard Identification and Risk Assessment.</p> <p>Suggest deleting line 172 because the programme of monitoring and demonstrating of compliance should be designed to ensure compliance with all rules and activities, not just the highest risk ones. The requirements for a Contractor to evidence compliance with ISA rules are a matter for the ISA to</p>

		set. These may require periodic reporting as a matter of course, and that reporting may be increased according to a number of factors. Magnitude of risk may be one, but there may well be others e.g., compliance track record of the contractor, particular sensitivities of the activities (e.g. proximity to another contractor / marine activity).
	191-192	Accepting risk is a concept where an individual or business identifies risk and renders it acceptable, thereby making no effort to reduce or mitigate it. The potential loss from the identified and accepted risk is considered bearable. In safety, we should always make an effort to reduce risk and even more in a marine area where the receptor is more sensitive, and workers (Humans) are more vulnerable.
5	193	The last sentence would be better served earlier in the document – prior to the paragraphs about risk assessment
<i>Additional rows can be added to this table by selecting “Table” followed by “insert” and “rows below”</i>		

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