



## **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.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 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](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>Document reviewed</i>	
<b>Title of the draft being reviewed:</b>	Draft Guidelines for the establishment of baseline environmental data
<i>Contact information</i>	
<b>Surname:</b>	Pohl
<b>Given Name:</b>	Vanessa
<b>Government (if applicable):</b>	Chile
<b>Organization (if applicable):</b>	
<b>Country:</b>	Chile

<b>E-mail:</b>	vpohl@minrel.gob.cl
<b>General Comments</b>	
<p>Chile is concerned about the fact that the guidelines are voluntary and of a recommendatory nature. We are emphatic in pointing out that the <b>obligatory nature of these guidelines must be ensured</b>, even more so if their content is concerned with the use of an area designated as a Common Heritage of Mankind. In order to ensure the proper use of this heritage, the following aspects should be addressed:</p> <ul style="list-style-type: none"> <li>❖ The Guidelines should have a mandatory character and not a guiding character.</li> <li>❖ They should be compatible with each other and with other international regulations and requirements.</li> <li>❖ They should have standardised procedures. They should not be left to the discretion of the contractor.</li> <li>❖ Consider that the review and analysis processes be carried out by multidisciplinary teams of scientists, elected for a fixed period of time and representing each of the regions of the planet.</li> </ul> <p>The content of the Draft Guidelines for the establishment of baseline environmental data seems to us to cut across all the documents. However, we see an incoherence if it is proposed that a "mandatory" standard should base its content on a "recommendatory" guideline.</p>	
<p>We suggest raising the need for consistency and <b>linkage between the standards and guidelines</b> developed by the Authority, since this objective is not met as they are currently drafted. At the very least, efforts should be made to maintain the same language between the guidelines. With this comment, we do not only refer to the documents issued by the Authority, but also to other legal instruments, especially we consider it transcendental that there is coherence between the different implementation agreements of UNCLOS and other international regulations issued by the IMO or regional fisheries organisations, among others.</p>	
<p>We consider it pertinent that each guide has at the beginning an <b>item of definitions, abbreviations and acronyms used</b>, in order to facilitate the understanding of its content.</p>	
<p>Chile is aware that there are many long-standing studies that remain valid for years and are frequently used as a basis, however, older <b>references must be supported</b> and their use justified if we want to ensure the use of the best available scientific evidence, and the substantial advances in science in recent decades must be taken into account.</p>	
<p>It is required, by virtue of the importance of the content, that <b>these standards and guidelines be made available in all official languages</b>: Arabic, Chinese, English, French, Russian and Spanish, so as to facilitate the interaction and active participation of stakeholders.</p>	
<p>There is a need for <b>external audits</b> that safeguard the <b>principles of independence and impartiality</b>. Mention is made in the current draft of the mining code only in Article 46, which mentions that within the Environmental Management System it will be possible for independent and cost-effective audits to be carried out by recognised and accredited international or national organisations. Likewise, in the documents analysed, its content is only developed in greater detail in the Draft standard and guidelines for the preparation and implementation of emergency response and contingency plans. In this regard, it is worrying that three types of interconnected audits are proposed, since this would be biasing the following one, and as for the external audit, it is even mentioned that it contemplates the active participation of all parties, without detailing which parties are referred to, by means of which mechanism it intends to do so, and the periodicity is not specified. The discussion must necessarily look at the meaning of the term independent, e.g. will it be independent if it is paid for by the Contractor? This needs to be discussed, perhaps the values should be deposited in the name of the Secretariat and the Secretariat should pay the auditors directly from some payroll that should exist. Otherwise, the auditor's impartiality could be affected.</p>	
<p>Regarding the <b>consultation process</b> with relevant stakeholders, the guidelines specify that it is the Contractor himself who should describe the proposed consultation methods and timelines, as well as the stakeholders to be contacted. We consider that the consultation process is fundamental to this process,</p>	

and therefore, we enquired about the need for a guide that fully compiles all aspects related to this process, and that its content should be cross-cutting to all standards and guidelines.

We were struck by the mention of "**positive effects**", it is suggested to exemplify. It would be worrying if it refers to the discharge of certain nutrients into the ocean. It should be kept in mind that the unpredictable consequences of geoengineering with respect to ocean fertilisation cannot be categorised as positive.

**These comments do not imply that our country accepts the current draft regulations** on the exploitation of mineral resources in the area. We consider that there is much more to analyse and work on, and we find it worrying that work is being done on the draft rules and guidelines of another draft. This means that if the current draft is amended, it will require a thorough revision of all the documents analysed.

About Draft Guidelines for the establishment of baseline environmental data, it is a very complete and technical work, but it is worrying that they are only "recommendations" despite the fact that in several parts it points out the obligatory nature associated with the use of the word "should"

The document is very extensive and detailed, describing each of the components that a baseline study should have. It is suggested to simplify it, without losing the essential elements. It is recommended that it be broken down into annexes. If it could be implemented, the guidelines would be very ambitious and with an associated cost, which is probably one of the justifications for not applying them. If part of the Authority's objectives is to ensure the preservation of the marine environment, perhaps this could be contained within the expenditure of the organisation. Ideally, this content should be incorporated into the annexes of the draft mining code, and its enforceability should be reiterated.

The content of the guide should be clear, as the references to multiple documents and guidelines give the impression that it is a bibliographic reference, which is too broad for contractors to implement. One of the main observations is the suggestion that this document should be reviewed and evaluated by our scientific community, calling on experts or specialists in each area mentioned.

Currently, the Guideline is focused on providing support to the proponent, lacking requirements for this process, despite being the most relevant, from the point of view of protection, preservation and conservation of marine ecosystems in general. The document merely suggests or recommends, leaving it up to the proponent to decide whether to use them or not. Such a situation is risky for the impact on marine ecosystems.

***Specific Comments***

<b>Page</b>	<b>Line</b>	<b>Comment</b>
4	59-63	From our perspective, this paragraph points out the importance of the mandatory nature of this guide.
4	82-84	Exploration activities are already taking place, it would be important that the content of this guideline be required to be included as part of new exploration plans of work, as well as in the extension of existing and future plans of work.
4	87- 89	A reason that proves that it should be compulsory, since otherwise work, plans can be authorized without adequate information and in an area that is a common heritage of humankind.
5	99	We suggest that the baseline data to be collected should be analyzed in an integrated manner and not viewed from an individual perspective.
5	109	We suggest "and/or result of climate change". In our view these trends can occur naturally or due to anthropogenic climate change, we suggest adding this point.
5	119	Emphasize the relevance and necessity of the process of drawing up regional environmental management plans (EMPs). It is a process, which is

		being carried out by the ISA, but we believe that there should be coherence between all the working tools developed by the Authority, including standards and guidelines.
5	122-123	Does this depend only on the willingness of the proponents? Any reference to the zones number?
5	127	They will be only references and not the studies?
7	159	We suggest "Observations should be carried out at different and pre-determined times of the year to cover seasonal"
8	229-234	We suggest removing "if necessary, to ensure that the baseline data focuses on areas where mining is expected to take place and where any impact is likely to be observed". This is because it is not known with certainty in which areas any impacts may eventually occur, therefore a wide range of samples at various locations is required.
9	273-274	We suggest that an comparative analysis is needed. This must be standardized
11	362-364	Chile considers this issue to be relevant and it has been highlighted in multiple forums. (OMI, CBD, CBI, CMS) We suggest increasing the hierarchy
16	556-560	This paragraph seems similar to a literature review. We suggest that if a guide is mentioned, its contents should be added as annexes.
17	577	Increase the relevance of this point We ask ourselves if it exists a process able to simulate the exploitations effects?
20	697-731	Suggested specification in an annex.
25	953	We suggest keeping in mind and including that among the essential ecosystem services provided by the ocean is its role as a carbon sink, especially the seabed. These points to the need for more science to help account for this service so that it can be included in the variables to be considered by this guideline.
26	981	Along the same lines as in the general comments, we believe it is necessary to justify the use of references to long-standing studies. The rationale for this approach is that decisions should be made on the best available scientific evidence, and science has made substantial advances over the last decades.
44	1593	Will this data collected by contractors be available to all or will it be restricted to confidentiality rules?
47	1745	Is it part of the exploration work plans or a voluntary guideline, and if so, how many of the contractors make effective use of it?
47	1870	We suggest to add "and the functions or roles that they play on that habitat"
61	2150	This "should-be-collected-before-mining" requirement loses its relevance when it is stated in an advisory guideline.
62	2191	It should be noted and included that there is a risk that the toxicity of this plume may affect marine biodiversity, such as fish stocks, and then,

		through bioaccumulation, eventually affect human health.
<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)