



**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, 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 Standard and Guidelines for environmental impact assessment process
<i>Contact information</i>	
Surname:	Pohl
Given Name:	Vanessa
Government (if applicable):	Chile
Organization (if applicable):	
Country:	Chile

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General Comments	
<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 obligatory nature of these guidelines must be ensured, 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"> ❖ The Guidelines should have a mandatory character and not a guiding character. ❖ They should be compatible with each other and with other international regulations and requirements. ❖ They should have standardised procedures. They should not be left to the discretion of the contractor. ❖ 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. <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 linkage between the standards and guidelines 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 item of definitions, abbreviations and acronyms used, 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 references must be supported 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 these standards and guidelines be made available in all official languages: 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 external audits that safeguard the principles of independence and impartiality. 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 consultation process 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 the Draft Standard and Guidelines for environmental impact assessment process, we disagree with the possibility that certain exceptions are considered for not carrying out an EIA process, in case of amendments to approved exploitation work plans.

Regarding the location of the relevant impact zones of reference, it should be noted that the scoping process should help the applicant to direct its further studies, it follows that it is mandatory to clearly mark the relevant impact zone prior to the EIA. Otherwise, it is likely that the investigation will not be targeted in a way that addresses the effects of the project in question.

The approach to the mandatory nature of these guidelines is reinforced by identifying the demands and requirements of the Member States and with which the contractor must comply.

Specific Comments

Page	Line	Comment
1	44	<p>In the current draft of the mining code, serious harm is defined as effects caused by activities in the Area on the marine environment that constitute a significant adverse change to the marine environment as determined in accordance with rules, regulations and procedures adopted by the Authority on the basis of internationally recognized standards and practices and the best available scientific knowledge.</p> <p>However, will these parameters be defined in a forthcoming revision of the draft or will they be decided on a case by case basis by the Commission alone?</p>
2	59	<p>This statement reflects the current impossibility of carrying out underwater mining activities without causing a collateral environmental impact.</p> <p>We suggest keeping the language used in Draft Guidelines for the preparation of an environmental impact statement: to avoid, remedy or minimise environmental impacts.</p>
3	92	<p>We don't agree the use of that word, there will always be an environmental effect</p>
3	101	<p>Is the EIS format a recommendation or an obligation? Often there can be ambiguity and a common administrative act is to reject for non-compliance with the format.</p> <p>According to the objectives presented, and in particular number 3, formats should be available and developed by the ISA Secretariat or one of its Committees for submission to the Commission.</p>
3	106	<p>We consider that it should be based on the content of the Draft Guidelines for the establishment of baseline environmental data. However, it is being proposed that a "mandatory" standard should be based on a "recommendatory" guideline. This point reaffirms the necessity and importance of mandatory guidelines, and</p>

		demonstrates the lack of coherence and linkage between the standards and guidelines developed.
3	117	There is a need to clarify the content and scope of "the most significant risks". Consider that the importance of cumulative and transboundary effects may be underestimated.
3	128	Same comment as paragraph 106. We consider that it should be based on the content of the Draft Guidelines for the establishment of baseline environmental data. However, it is being suggested that a "mandatory" standard should be based on a "recommendatory" guideline. This point reaffirms the necessity and importance of mandatory guidelines, and demonstrates the lack of coherence and linkage between the standards and guidelines developed.
4	131	How is the expected response of the environment to the impacts? The predictability of this type of evolution is very difficult to estimate, it is multifactorial information and the real impact on the marine environment could be underestimated. Define whether or not this evidence base is linked to that proposed by the Draft Guidelines for the establishment of baseline environmental.
4	137	What positive impacts are there likely to be with respect to such activities?
4	139	Include cross-zonal and transboundary impacts.
4	157	We consider that the main mitigation measure should be to stop activities immediately in case of an accident or unexpected damage. Such a mitigation measure is not included in this guidance.
4	163	You cannot define mitigation levels on a intervened ecosystem. (food chain, marine sediments, water columns. Mitigation must be seen in an integrated way
5	176	Why will this subjects will be seen together?
5	181-182	We are emphatic in pointing out the relevance of external audits, independently of internal audits. In the current draft of the Regulations on Exploitation of mineral resources the following regulation is mentioned: Regulation 46 Environmental management system. An environmental management system shall: (b) Be capable of cost-effective, independent auditing by recognized and accredited international or national organizations. However, in regulation 47 Environmental Impact Statement there is no mention of any type of auditing. We suggest incorporating the same language used in regulation 46. In other words, whenever mention is made of auditing, specify that it should be independent auditing by a recognized and accredited international or national organization.
6	228	As this is a guideline of a recommendatory nature, does it not detract from the mandatory nature of the EIA process?
6	245	We suggest adding in line 246 (e) Identify under what circumstances and within what timeframe a contractor should stop its extractive activities.

6	249	We believe that even if these guidelines exist, the ISA should develop templates, as is the case in other international organizations. It can be left to the Secretariat or a committee to develop them.
7	262	It should be mandatory. This guide indicates the terms that the proponent must comply.
7	266-267	The EIA process should be as complete as possible, and provide as much predictability as possible, therefore, it is suggested that the guidance should be comprehensive in nature. This content cannot be of a recommendatory nature.
7	284-285	It contradicts the idea that an EIA is always required for exploitation plans. In our opinion, the exploration process should also require a complete EIA process.
8	296	It is suggested to specify through which process these characteristics are defined. It is assumed that the local characteristics should be in accordance with the REMPS, is this item being considered in its development and is it in accordance with this guide?
8	310	It is not clear whether it includes the determination of mitigation mechanisms. It is suggested to clarify.
8	321	It is suggested to specify which mechanisms are available to the ISA for such purposes. Review if it is contemplated in the benefit sharing.
8	326-327	In the first part (appendix 1) it is pointed out that in some cases this step will determine when an EIS is necessary or not, not an EIA, for us both stages are part of one process and one of them cannot be dispensed with. We suggest that any amendment to an exploration and exploitation plan of work be resubmitted to the full process.
9	341	Do ISA bodies have or will they ever have access to data with confidentiality clause that contractors collect during the development of their exploratory work plans?
9	358	Is this part of the terms of reference
9	364	We suggest that this list should not be exhaustive.
9	365	It is suggested to specify how this waste will be extracted?
11	427	Define the scope and interpretation of a small risk. Consider cumulative damages. In addition, the LTC should previously define the criteria to consider its classification. It cannot be left to the Contractor, because it could be presented in an inadequate way that does not deeply illustrate the level of a risk.
12	462-463	We suggest keeping the list of variables proposed by the guide n°1 Draft Guidelines for the establishment of baseline environmental data.
12	474	We suggest including which or what characteristics these recommended methods should have.
17	515-527	While the confidence/evidence matrix has applicability for analyzing planetary scale effects, there is not much evidence of its application at national or regional scales. Impacts in this case occur not in a closed system and one could argue that the level of knowledge and uncertainty is always high, or the effects unknown. It seems to me that requesting the analysis of impacts/probabilities and also adjusting for reliability could be outside the contractor's realm as it puts him in a position of requiring scientific consensus which is very unlikely in any science.
17	547	Shouldn't it be recommended that the most sophisticated methods always be used?
18	559-560	Considering the difficulties of access to the Area and the available scientific evidence, and that it is likely that activities categorized as low risk may be underestimated, this point cannot be raised. We suggest eliminating.

18	572	Independent of its severity.
18	581	Going back to previous comments, at least minimum criteria should be established for this classification.
18	587	We suggest specifying by whom they will be determined; what requirements they should have or if they should have a specific number. A system of information exchange and transparency must be ensured.
19	592	The topic of consultation is mentioned at the beginning, but half a page to define a standard is totally insufficient. If a consultation process is to be requested, then the guidelines should be much clearer. In Chile we have a special regulation only for consultation and citizen participation in the EIA, with defined deadlines and stages that must be met. Given the importance of that stage, if the ISA defines it as necessary, then it should clearly outline this process.
20	657	Same comment as line 572, regardless of the severity of the damage, its effects must be identified.
20	667	Chile considers that regardless of the time it takes, what should be ensured is the quality of the EIA process.
20	669-670	It is necessary that the report justifies when it does not consider any recommendation provided by stakeholders. We suggest the development of a mandatory standard covering the subject and mechanism by which stakeholder consultations will be carried out.
21	696	Same comment as above (line 196 and 128). We believe that it should be based on the content of the Draft Guidelines for the establishment of baseline environmental data. This point reaffirms the need and importance of the mandatory nature of the guidelines, and demonstrates the lack of coherence and linkage between the standards and guidelines elaborated.
22	751	The precautionary approach is suggested to be added.
23	795	This could be difficult to answer in the absence of adequate scientific information and the precautionary principle should prevail.
23	797	Extractive activities will always affect the carbon sequestration capacity of marine sediments.
24	806	Rather than potential conflicts, these are areas that require cooperative attention as with the future BBNJ agreement or the RFMOs.
24	818	This point highlights the importance of applying the precautionary approach.
25	853	It is also very important to consider how the waste will be extracted and where it will be deposited.
26	879	Considering an ecosystem approach, the importance of species cannot be weighted.
29	991	When scientific information is insufficient or the results are incomplete, the precautionary principle should prevail.
31	1055	Same comment line 246. Consideration should be given to curbing activities and re-evaluation. (e) Identify under what circumstances and in what timeframe, a contractor should curb its extractive activities.
31	1066	how is sediment restored at deep sea depths?
32	1079	The problem we see with this measure is that there is a risk that compensation will become the rule rather than the exception.

34	1187	Earlier it was mentioned that EMMPs could be incorporated if relevant, but here it is made mandatory that a monitoring section be included and that the plan be provided. There seems to be a contradiction
<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