



## **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 preparation of an environmental impact statement
<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 the Draft Guidelines for the preparation of an environmental impact statement, the consolidated comments will lead to changes in the present guidance in Appendix 1 and we suggest to keep in mind the need to adjust the content in both.

Regarding the stakeholder consultation and engagement process, given that the scoping process "helps the applicant or contractor to guide their future studies towards the development of an EIS for the operation", it is imperative that stakeholder identification and engagement is initiated at this level, not as a possibility, but as an obligation. Indeed, the proposed plan and methodology for consultation should also be subject to the scrutiny of potential stakeholders. This is the way to allow for an effective, good faith and timely consultation process. It is also consistent with the Guidelines themselves, as they repeatedly mention and even presuppose prior participation in consultations and the submission of a consultation plan for the EIA.

The Guidelines repeatedly mention the potential socio-economic impacts of a project, but do not adequately set out the extent to which these impacts are characterised. As a result, projects may approach the whole EIA process with a wrong perspective of what their expectations are, in relation to prevention, mitigation and generally offsetting the taxing effect that seabed activity may have on research, economic activity, coastal jurisdictions (species migration can be dramatic for coastal states and is barely mentioned in the Guidelines), etc.

The environmental record of the contractor is requested, however, it is not clear whether the record of the main shareholders should be provided. For transparency reasons, the record of the financiers should also be provided, not only of the executor. This could make the issue more cumbersome, but it would avoid later problems where the shareholder was related to environmental disasters, but not who actually did the work. Along the same lines, what is a major shareholder (>5% ownership, >10%?) should be defined.

We believe that the process for preparing an EIA and EIS could be merged into one.

***Specific Comments***

<b>Page</b>	<b>Line</b>	<b>Comment</b>
1	41-42	We suggest specifying what is meant or what aspects are involved in an effect of acceptable levels.
1	49	This indicates the mandatory character of the guide
2	93	The template must established minimal demands
2	106	The variables analysed should be the same as those contained in the N°1 Draft Guidelines for the establishment of baseline environmental data guide to give coherence between standards and guidelines.
3	110-111	We suggest adding a non-technical, but technically and scientifically based summary.
4	132-133	From our perspective, environmental impacts in the Zone are difficult to prioritize, since more scientific evidence is required to determine damages, which can be minimized.
4	156	It must indicate if its an update or an improvement

4	166-172	This part talks about the economic need and benefits of the Project. We suggest deleting or placing as additional B) bis  This section refers to feasibility.
5	185	Including data with confidentiality clause? Must attach the approval document
5	190	We suggest considering mentioning data on contractors as well as shareholders, in order to achieve greater transparency.
5	217-219	We do not agree to survey and focus the EIA on those risks that are considered high.  Same comment as above (paragraph 16) It is not possible to prioritize, to determine damages there is a lack of scientific evidence, and these can be minimized.
6	229-233	Must consider international instruments.
6	244	Including other UNCLOS implementation agreements. Consider elements of the current ongoing bbnj negotiation.
7	281	And what happens to that sediment, where does it stay or is it disposed of?  This issue needs to be addressed in depth, given the environmental damage it can cause.  The current draft of the mining code only broadly mentions that plans should include a description of how such on-site treatment will be done (3.3.4).
7	287	should there be appropriate infrastructure in the ports?
7	302	If the technology is new, accidents and usage are hardly predictable.
8	326	What do you mean by demonstrating stakeholder support, not financial support from the shareholder? There is little clarity on what is being asked and should be done with potential stakeholders.
8	346-356	It is stated that you should analyze the relevant subregion. There is no mention throughout any of the guidelines as to the geographic scope that the contractor should have. Will it be 10 miles outside the prospect area, 100? This generates important background, by covering more potential impacts, but so far there is no definition of how far it can go. This would be a potential discretion of ISA to try to delay or rush projects by being unclear in that definition.
8	356	Same comment as paragraph 23, will data with confidentiality clause be included?
10	435	No one has better data than that collected by the contractors themselves in exploration work. However, the analysis of this data may be biased.
11	482	In general, for each of the impacts on all 3 fronts there is a detailed description of what needs to be presented, except for the socio-economic environment. This is the only case where the guidance mentions "including, but not limited to". This raises some suspicion - is there a desire to leave more room for discretion?
11	489-490	If you consider ecosystem services as a socio-economic impact and you are saying that they are not directly expected, you can alter the outcome of the EIS by minimizing this impact.
12	527-532	What about potential impacts that may occur at the data collection, sampling stage?
12	541-542	Same comment as above (paragraph 16 and 26) We do not agree to survey and focus the EIA on those risks that are considered to be high.

		It is not possible to prioritize, as there is a lack of scientific evidence to determine damages, which can be minimized.
13	569	Same comment paragraph 12.  The variables analyzed should be the same as those contained in the N°1 Draft Guidelines for the establishment of baseline environmental data guide to give coherence between standards and guidelines.
13	582	It is suggested to add CO2 sequestration capacity as a carbon sink.
14	626	Discharging such compounds into the ocean causes ecological disruption. Similar to the unpredictable consequences of geoengineering with respect to ocean fertilization.
14	637	It is suggested to clarify that this bioaccumulation may eventually affect human health.
15	663	It is suggested to specify in this item the human consumption of fish protein, which is relevant to ensure food security.
15	668	We suggest adding: - Carbon sink - Oxygen production - Absorbing excess greenhouse gas emissions - Climate regulator
15	682	Specify the abbreviation used and the definition of the concept. This point highlights the need for definitions and abbreviations used at the beginning of the guide.
<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)*