



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 Guidelines for the preparation of environmental management and monitoring plans
<i>Contact information</i>	
Surname:	Pohl
Given Name:	Vanessa
Government (if applicable):	Chile
Organization (if applicable):	
Country:	Chile

E-mail:	vpohl@minrel.gob.cl
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 Guidelines for the preparation of environmental management and monitoring plans, the background has an error when referring to relevant environmental management plans, since in regulation 48 it mentions regional environmental management plans REMPs.

The content of Appendix A concerning the example of the Environmental Management and Monitoring Plan (EMMP) performance assessment index/formula needs to be revised in view of the changes to be made to the guidance.

It is important to make it clear that this information is a support tool, and that all proposals should be governed by the provisions of the Regulation, should the Regulation be approved and in force. In case of future modifications or clarifications that may be made to this (the Regulation), these guidelines must necessarily be adjusted.

It is noted that the result of the application of these guidelines in the formulation of a management plan could result in a plan that responds to these requirements (check list). An integrated analysis of the activity to be carried out and its effects on the ecosystems would not be obtained (although it is understood that this integrated analysis should be considered in the preparation of the EIA - EIS), especially when it comes to the results of monitoring before, during and after (a fundamental element in the visualisation of the effects on marine ecosystems in general and specifically).

Specific Comments

Page	Line	Comment
1	44	This guide must be prescriptive, idea that its confirmed by the use of the phrase "these guidelines should be read in conjunction with the exploitation regulation"
1	46-49	This language denotes consistency, and we suggest that it should be maintained in all guides.
1	57	Add in definitions.
1	60	It is suggested to add that they may be the product of mineral exploration.
2	96-98	What happens if these laws or regulations are in conflict with each other, how can coherence be ensured?
2	118	We suggest adding the precautionary approach to this paragraph. Keep in mind that the effects on the marine environment are not instantaneous.
3	126	through what mechanism?
4	184	Who will define and what will be the scope of a significant change or not? It is suggested to eliminate. All changes should be considered.
4	217	It is suggested that this point be better defined, as it is very broad and at the contractor's discretion.
5	227	This is the basis of the precautionary principle.
6	275	Sampling frequency should be based on the contents of the Draft Guidelines for the establishment of baseline environmental data. It should be ensured that its content is mandatory.
6	289	Should be based on the contents of the N°1 Draft Guidelines for the establishment of baseline environmental data. It should be ensured that its content is

		mandatory.
7	317	How often? We suggest that this be predetermined.
7	327	Same comment as above, how often? We suggest that this be predetermined.
7	330-331	Is the Closure Plan Guide developed? It is mentioned in several of the Guidelines but is not included in the documents analysed.
7	334-336	The effort and resources allocated to monitoring the different parameters should be proportional to the significance of the impacts. Who determines that significance? May lead to underestimation of impacts not considered significant.
8	339-340	Definition and scope required. The objective would be to generate NO environmental impact.
11	471	what would be those notifiable events?
12	518-520	How and by whom are competent people qualified?
12	522	In relation to letter G on preservation zones and impact zones, special care and attention must be paid to the non-existence of limits in the ocean and therefore the proponent must not only position them, but, based on the studies to be carried out, must consider core, buffer and transition zones before defining an exploitation zone. The above, in addition to the indications and checklist in appendix B.
12	543	Include in the exceptions that allowed contractors to dump or discharge mining discharge the ones indicated in the international conventions or national law
12	547	This argument could be used to discharge or dump without notification
12	555	<p>Add in definitions.</p> <p>We are concerned about the indications on mining discharges, understanding that in case of risk to human life, it exceeds all environmental requirements. However, what is indicated in letter H point 65 of this guideline, referring to the definition, suggests that contractors may also carry out dumping, especially if there is processing on board or in the installation, arguing that due to episodes of risk to people's lives they have done so, or they do not notify the Authority at all. The plume (both surface and plume) that these discharges may generate are potential risks to ecosystems. Therefore, it is considered appropriate to amend the regulation, either by discarding the letter "o" in Annex VII, or by clearly stating that no processes should be carried out at sea. This is independent of what is indicated in points 66 and 67 respectively of these guidelines.</p>
13	567	<p>It's an important issue</p> <p>The protocol must be incorporated</p>
13	568-569	Include national law
13	571	<p>The waste assessment and prevention audit should be external, regardless of whether there are instances of internal audits. Principles: Independence and impartiality</p> <p>In addition to the previous point, as mentioned in point 3, it can be seen that these guidelines only aim to ensure that mining discharges are actually carried out, given that "if the proponent mentions that it will comply with the indications, it will have the authorisation to carry out the activities".</p>
<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