



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 on tools and techniques for hazard identification and risk assessments
<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 on tools and techniques for hazard identification and risk assessments, it is of concern that it states in terms of risk assessment reporting that the length of the report will depend on the objectives and scope of the assessment, except in the case of "very simple" assessments. In other words, activities could be left out if they are considered simple at the discretion of the contractor. More specificity is required.

It is considered that, for the elaboration or identification of risks, the results of baselines, EIAs, among others, should be taken into account, and not only of management plans.

Specific Comments

Page	Line	Comment
1	33	This content should also be applied to the exploration regulations. This paragraph has the idea that this guide is only to support but not prescriptive.
1	51	-Again the same language used in Guide No. 4. Draft Guidelines for the preparation of environmental management and monitoring plans. -The content of these guidelines should be prescriptive. -This guide has a mandatory character
2	95-97	Because of this paragraph the guide is prescriptive.
3	115-118	This paragraph indicates that the contents of this guide are derived from the operating regulations. Therefore, it is understood that it is mandatory. For this reason, the definition of what is understood as the purpose of this guide, as well as the language used, is very relevant.
3	139-140	We suggest adding what measures will be taken to avoid damages.
4	182	Given that living marine resources could be at great risk from mining activities in the Area and that their impact could generate negative effects, it is requested that coastal States and organizations such as IMO and RFMOs, especially those that exist in the region, coastal States, and distant water fishing States be expressly added, and distant water fishing States could also be consulted.
5	194	This table mentions again the Closure Plan but it is not available in the Guidelines. It is suggested in this type of matters to consult with countries with a history of land-based mining, Chile has closure plans that could eventually serve as a model.
6	224	We suggest covering the answers to the following questions: about the

		<p>acceptable or tolerable risk, what is its scope, will it be discretionary for each contractor?</p> <p>We consider that these criteria should be defined by the Legal and Technical Commission.</p>
7	229	This is an extremely important point and should always be remembered that it is in the Regulation, as indicated therein, and therefore should not be understood as voluntary to follow.
7	245	This sentence is not understood, as we understood from the previous tables, in all phases subsequent risks could be analysed.
7	253	It should be based on the contents of the Draft Guidelines for the establishment of baseline environmental data. It should ensure that its content is mandatory.
7	262	Changing climate, increasing risks in magnitude and frequency. Ocean currents should be analysed, it could be at this point or at the first one, since the effects could be directed towards other areas and impact them as well.
9	321	Does this mean that in cases where there is a lack of information, it will be considered low risk?
11	368-370	Same comment as in previous guides, through which mechanism this consultation will be made.
11	392	Who will ensure that all the data available to the contractor is used? Returning to the issue of confidentiality.
11	394	Who will determine the experts to be consulted?
13	459	Low risk: chronic effects does this refer to cumulative effects? As recovery of carbon sequestration in marine sediment is expected.
14	498-500	If the risk is related to the ecosystem, the evaluation should consider the baseline. Experts must evaluate this process.
15	520	Is the matrix suggested? If only the contractors decides, a lot of matrix can be produced each one with different visions
16	589	There can be no unplanned activities in this area. It is suggested to eliminate
17	611-617	A resolution must have established this Requirements given by the authorities must be considered
18	627-628	Who will check this?
18	631	What will be the implications for the contractor if it authorizes mining discharges that were not considered?
18	643-644	Which team are we talking about. We suggest that these internal audits carried out by the party involved should not imply the lack of audits by the ISA.
19	681	Fundamental element to legitimize the processes.
19	698	While the contractor will describe it, the decision should be made by the Commission.

19	714-715	It is of concern that it states with regard to the risk assessment report that the length of the report will depend on the objectives and scope of the assessment, except in the case of very simple assessments. In other words, activities that are considered simple at the discretion of the contractor could be left out. More specificity is required.
<i>Additional rows can be added to this table by selecting "Table" followed by "insert" and "rows below"</i>		

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