



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 the safe management and operation of mining vessels and installations
<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 the safe management and operation of mining vessels and installations, audit procedures should be established and agreed upon at the Assembly meetings where States adopt procedures and schedules. This would be independent of the internal audits that the contractor may wish to carry out in view of the ISA audit. As for external audits, the current draft of the mining code only mentions in Article 46 that within the environmental management system it will be possible for independent and cost-effective audits to be carried out by recognized and accredited international or national organizations.

In the background of this guidance, being consistent with Article 30 of the draft Mining Code, a final sentence could be added: "and other international related regulations, such as MARPOL and SOLAS".

Specific Comments

Page	Line	Comment
1	Paragraph 3	We suggest that the MARPOL/SOLAS Convention be considered here.
2	10-12	This is defined with the vessel certificates delivered by the inspectors, if it is planned to do otherwise, it is required to be specified in deta
2	14	This must be related with the vessels plans (emergency)
2	19-21	It may be necessary for this preparation to include the express designation of the ships, companies or means that will actually be available should an emergency occur. This should include all the necessary information, not just a mention of a type of vessel to be used.
2	28	In the absence of operations, there is little to regulate how the operation should be carried out. Along these lines, the guide recommends following some standards, but does not include ISO 14001 on environmental management. It should be included in the list indicated in point 3 of Appendix I.
2	30	Consistent with Article 30 of the draft Mining Code, a final sentence could be added: ", and other international related regulations, such as MARPOL and SOLAS".
4	48-53	This paragraph only defines vessels and installations. This paragraph must contain an explanation of how the vessels operations and installations can affect the human life at sea, marine environment and the property. Must be related with the definitions given by IMO, MARPOL and SOLAS
4	52-53	It is suggested to consider the coherence between the different UNCLOS implementation agreements, including some aspects of the ongoing BBNJ negotiation.
4	63	We suggest change to must
4	66-68	This guide doesn't explain how this factors can be affected.
4	67	A fishery mortality could affect the disposition of the fishery resource, affecting food security. In addition, toxicity could negatively impact human health through bioaccumulation. There is an evident interconnection of variables.

4	70-72	It seems prudent to make explicit in the Guideline that the ISA will work in coordination with other international organizations related to these matters, such as the IMO.
4	73-75	This paragraph must go at the beginning of this guide.
2	96	<p>Table, Part 5 Emergency Response: In addition to describing, you should demonstrate that you have the capability to perform what you indicate. In other words, it is not enough that you indicate a series of actions, if you are not able to demonstrate that you have either the expert personnel or the necessary equipment to execute those actions.</p> <p>Same comment as line 19.</p> <p>It may be necessary for this preparation to include the express designation of the ships, companies or means that will actually be available in the event of an emergency. This should include all the necessary information, not just a mention of a type of ship that will be used.</p> <p>Tolerable levels" is ambiguous, we suggest specifying its scope and by whom it will be determined.</p>
3	98	This point must go at the beginning of this guide. Its crucial, the regulatory framework is fundamental for these cases, and the existing and the States must take precedence.
3	133-135	<p>A compliance review may be required every few years. Otherwise, there is a risk of not being able to remedy non-compliances that lead to unforeseen or uninformed impacts or accidents.</p> <p>The problem in such cases is that, however much the responsibility lies with the Contractor, this would be insufficient if it is a major damage and an irreparable effect is produced.</p>
4	148	We suggest change "recommended" for should.
4	162-163	For this reason, it is necessary to evaluate compliance on a regular basis.
<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