



**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 standard and guidelines for the preparation and implementation of emergency response and contingency plans
<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 standard and guidelines for the preparation and implementation of emergency response and contingency plans, it is noted that the Commission noted that ships operating in the Area will be subject to the jurisdiction and control of the flag State, while installations will be subject to the jurisdiction of the sponsoring State or States, and therefore a number of international instruments will apply. Although specific suitability will depend on the types of ships and installations, much is already covered by such international instruments with regard to emergency and contingency planning, i.e. are separate emergency response plans for ships and installations required?

The Contractor shall update the environmental risk and emergency preparedness analyses in the event of significant changes affecting the environmental risk or emergency preparedness situation emergency preparedness situation. It cannot be discretionary. It must be predetermined that in the event of any change the risk analysis must be updated.

The Operating Regulations require that the Contractor shall not proceed or continue with the Operation if it is reasonably foreseeable that proceeding or continuing would cause or contribute to an Incident or impede the effective management of such Incident. It should be halted in the event of any perceived change, in many cases laboratory sampling will be required.

There is little clarity on whether the plans to be developed are ship-specific, facility-specific or activity-specific. It should be taken into consideration that ships already have their plans and that they should be in place and certified by the respective inspections. Special attention should also be paid not to duplicate or create new requirements, especially for ships.

The elements of communication in case of emergencies or accidents of any kind are confusing to read, leaving the choice to the contractor or proponent. Protocols should be clearly indicated in the plans and strictly enforced.

***Specific Comments***

<b>Page</b>	<b>Line</b>	<b>Comment</b>
3	47-48	Greater precision and scope is suggested. It is suggested that the same language be maintained in all the guidelines, which denotes coherence between these and the current draft of the operating regulations.
4	84	It is suggested to add the potential toxicity of the discharges.
5	108	We stress the importance that such procedures and specific solutions or measures to minimize negative effects on people or the environment be approved prior to the execution of activities for emergency events.
6	185-187	The Contractor shall update the environmental risk and emergency preparedness analyses in the event of significant changes that affect the environmental risk or emergency preparedness situation emergency preparedness situation. It cannot be discretionary. <b>It should be predetermined that in case of any change the risk analysis should be updated.</b> It is suggested that it be noted in the guideline dealing with risk and emergency assessment.

6	188	Very long period. It is suggested to define the criteria used to determine this period of time.
6	196	It should be consistent with the REMPs. It is suggested to add this interaction.
7	203-204	It is suggested to specify what is meant by historical incidents, does it refer to incidents that occurred in projects in areas where there was already exploitation in national jurisdiction by said contractor, or rather, does it refer to other events of a different nature that occurred in the same area?
7	225-226	The time period necessary to remedy in the event that these barriers are lost or damaged should also be established, as well as the effect in the event that they are not reestablished in an equivalent manner.
7	243	Response times should be included in the event that the mechanisms are grounded and analyze whether this proposal will be effective.
8	260-262	It is suggested to add the obligation to immediately stop any type of operation, in case of perception of any type of change. To determine the changes in the environment, laboratory samples will be required; it is not possible to wait for their analysis to stop the activity, since the damage may be significantly greater than expected.
8	279	Will the drills be developed in situ? If they are done in other types of facilities, even with similar processes, it could change the development at sea, in case of an emergency.
8	282	The only guide that makes this mention  By proposing 3 types of audits, connected, the following one is being biased and as for the external audit, it is even mentioned that it contemplates the active participation of all parties and does not specify the periodicity, which parties? how often?
8	298	The level of authority of who shall execute such audits shall be documented with the expectation that such personnel are competent in carrying out audits with a high-level of understanding of operations.
9	310	We suggest specifying who will be in charge of monitoring the measures. From Chile we consider that it should be the Authority itself.
9	320	Suggest that this point goes at the beginning of this guideline
12	421	This is considered an essential element. Coherence with other UNCLOS implementation agreements, including the current bbnj negotiation process, is required.
12	424	Should be based on REMPs and Guideline No. 1 Draft Guidelines for Establishing Environmental Baseline Data.
12	436-441	This should go hand in hand with the risk and baseline guidelines, in addition to the EIAs, it is suggested to incorporate.
13	508	Who will be in charge of the evaluation of the simulation?
14	529	Does the ISA have a mandatory review process for these audits?
<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)*