



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. Stakeholders consultations are 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 the stakeholders consultation at its next session.
4. The drafts include a cover page containing substantive background and contextual information on the approach taken by the Commission in developing each standard and guidelines. Review comments are not being sought on this background information.
5. Issues of format and consistency across the standards and guidelines will be reviewed by the secretariat and Commission once the content of the various standards and guidelines is finalized following stakeholders consultations.

II. Submitting Comments

6. To ensure that your comments are given due consideration, please send them by e-mail to ola@isa.org.jm, 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.
 - 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 on the form and calculation of an Environmental Performance Guarantee developed by the Legal and Technical Commission
<i>Contact information</i>	
Surname:	Van Nijen
Given Name:	Kris
Government (if applicable):	
Organization (if applicable):	Global Sea Mineral Resources
Country:	Belgium

E-mail:	Van.Nijen.Kris@deme-group.com
General Comments	
e.g. The draft should include...	
e.g. Term ... should be used consistently throughout the draft	
GSR is pleased to participate in this stakeholder consultation related to draft standards and guidelines.	
GSR respectfully notes the timing of the consultation of this particular body of work does not appear to align with the prioritization exercise that resulted from the Standards and Guidelines workshop held in Pretoria in May 2019. We are also not clear how this draft standard and guideline fits within the broader environmental liability regime and it is important to understand the entire regime as a whole.	
It should be made clear that this fund is meant to cover what is not already covered by any other fund, such as a liability fund or environmental trust fund or through insurance that can be obtained by the contractor - i.e. this guarantee should be calculated such that it covers the shortfall of all these other avenues combined, should a shortfall still remain to exist. Is this what is envisaged? Should these other mechanisms also have associated standards and guidelines, all of these drafts should be considered together and within the context of the overall fiscal regime.	
GSR is concerned about the terms “ greatest reasonably credible costs” and estimates based on “ worst case scenario ”, noting that these terms do not appear to be consistent with the requirements of the draft Regulations on Exploitation which involve providing sufficient Guarantee to meet “ likely costs, expenses and liabilities”. It would seem a worst-case scenario would be an <u>unlikely</u> scenario and we believe there may be a risk in overlap with other envisaged funds.	
GSR is pleased to see flexibility in the form of the Guarantee as established in the draft guideline.	
Will the amount required in the EPG be phased/staged? E.g. at the beginning of a mining operation, only a small area would be in need of closure in case of abandonment. As time goes on, the area in need of closure would likely grow (i.e. the cost of meeting closure obligations may increase with time) – is this factored into the calculation? (Perhaps it should be if it is not already)	
Related to the point immediately above, Contractors may also progressively “close” mined areas, while mining proceeds to subsequent areas (meaning it may be unlikely that there is ever an instance where a Guarantee needs to cover closure of the entire contract area).	

Specific Comments		
Page	Line	Comment
1	23	e.g. Please replace “xxx” with “xyz”
2	38	e.g. Please replace “abcd” with “pqrs”
4	Table, row 5	e.g. Please delete “rstu”
7	Flow chart	e.g. Please add a box indicating that...
1	Item 2	The term “production” should be defined, if it hasn’t been defined already (is it when steady-state operations have been reached, or sooner?)
1	Item 2	<p>Suggest the wording:</p> <p>“likely costs required for: (a) the premature closure of exploitation activities; (b) the decommissioning and final closure of exploitation activities, including the removal of any Installations and equipment; and (c) the post-closure monitoring and management of residual environmental effects. “</p> <p>Be changed to:</p> <p>"likely costs required in the event a contractor abandons the mine site prior to fulfilling its closure obligations, such as (a) the decommissioning and final closure of exploitation activities, including the removal of any Installations and equipment and (b) post-closure monitoring and management of residual environmental effects. “</p> <p>This suggestion is to make it clear the purpose of the EPG.</p>
1	Item 2	An alternative to the above suggestion (noting the above is the recommended/preferred option) is to add a sentence after the first sentence of this section such as: "The purpose of the EPG is to cover closure costs in the event a contractor abandons the site prior to fulfilling its [or their] closure obligations".
1	4	Agree with point 1) – good to see this inclusion
	Line 115	18 (a) - Is there a risk that this could potentially entice Contractors to ‘commit to less’ with respect to Closure Obligations? (i.e. to present lower costs?).
	Line 143	23 (a) – is “greatest reasonably credible costs” actually reasonable? Shouldn't it be <i>best estimate</i> reasonably credible costs?

	Line 144	23 (a) - What about if the mining areas are sequentially "closed" - i.e. closure obligations may have already been met in "Mining Area 1", for example. Is there a way to factor this variable into the calculation?
<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