



MINUTES of the Meeting of the FAIRMINED Standard Committee 7th November 2013

Documents circulated:

- Power Point Presentation with proposed changes to the standard

Duration:

3 hours

Members present: *Cristina Echavarría (chair), Felix Hruschka, Fiona Solomon, Federico Gamarra, Patrick Schein*

Members apologies: *Helcías Ayala, Manuel Reinoso, , Gommert Mes, Patience Singo (Patience sent his comments in writing)*

ARM team members: *Lina Villa, Marcin Piersiak, Yves Bertrán and María Villa*

1. Introduction and general remarks

- It was informed that the committee meeting would be in English and an ARM team member would be online translating for Spanish-speaking committee members.
- The meeting would pick up where the last committee left off and would then continue to review the changes proposed to the standard

2. Product Scope: continuation of mini dredges discussion

The first point on the agenda was to close the discussion on the use of mini dredges within the standard that had been initiated in the previous committee meeting. In the last meeting, the technical standard committee was asked to internally discuss the matter and bring a proposal to today's meeting. The proposal that was brought forward stated that the standard could include dredges under the following conditions:

The operation is strictly artisanal:

1. The maximum capacity of dredges is not exceeding a suction hose diameter of 4 inch.
2. The average number of all dredges operating in the mining area is not exceeding 1 dredge per km river-length or 1 ha lake and/or sea area.

The environmental impact is marginal:

3. The water turbidity (solids in gr/l) generated by the dredge (measured at 10 m downstream) is not exceeding the water turbidity registered at the highest natural seasonal turbidity level.

Emissions of toxic substances to the environment do not occur:

4. Fuel tanks, motor and pump are equipped with protective measures against spill of fuel residues. (Standard requirements regarding fuel residues apply on board of the dredge)

5. The dredge is considered a premise where use of toxic chemicals is not allowed. (Standard requirements equivalent to residential areas apply on board of the dredge)

It was commented that in many cases riverbanks are of free access to ASM and that it would be very difficult for certified ASMOs to have control over large expanses of riverbanks. Therefore it was suggested that the ASMOs be approached with a request for feedback on this issue. It was brought to the committee's attention that not all regions of the world have rainy or dry seasons and so the requirement to assure appropriate levels of turbidity is not applicable everywhere. In that sense, it was stated that that requirement had to be re formulated and an explanatory note had to be included stating a minimum and maximum of turbidity fluctuations allowed in water.

DECISIONS:

- To approve the proposal that limits the participation of dredges in the standard
- Revise and re formulate the point on minimum and maximum turbidity levels

3. Determination of Areas of Temporary Exclusion (ATEs)

The second issue that was discussed by the committee was if environmental NGOs should be more proactively involved in the determination of areas of temporary exclusion (ATEs). The text of the consulted proposal of the standard states that ARM has to maintain an updated list of the ATEs and that environmental NGOs are invited to provide input. It was stated that the intent of this requirement is to have a specific list that relates to the scope of the standard and therefore having a global list of critical ecosystems exceeds ARM's mandate.

It was mentioned that the current wording might lead people to believe that ARM is compiling a global list of critical ecosystems and a suggestion was made that standard clearly states that the process is triggered by specific cases and, that the list will be updated and the environmental NGOs consulted on a case-by-case basis. The committee opted for a narrow approach and to develop an in country due diligence process, rather than an open global consultation process.

It was agreed that ARM will invite ASMOs that are in an early stage of the certification process to consult on potential obstacles and then it will develop a due diligence process to determine the organization's legibility.

The determination of the requirement for ASMOs to have a 10-year trajectory working in the protected area was also brought up for discussion. During the consultation process, ARM received comments stating that this requirement should be modified because in some cases ASMOs had been present in the area before the region was declared an ATE and so they had an acquired previous right. It was also mentioned that this requirement could block the engagement of ASM in critical ecosystems and may hinder the role the standard could play in the management of these areas.

DECISIONS:

- To take out this requirement and establish a case-by-case mechanism at application, highlighting the prevalence of national legislation in the process

- To eliminate the 10 years rule in favor of a due diligence process at application, to avoid blocking the involvement of ASMOs in critical ecosystems where certified ASM can be a solution for livelihood in complex areas.

4. Compliance with OECD Guidelines on Conflict in High Risk areas

The third point on the agenda was the level of compliance of the standard with the OCED due diligence guidelines on conflict gold. Comments were made during the consultation process regarding gaps that had been identified between the standard and the OECD DDG. Among them were the issues of payments made by the mine site owners to illegal or criminal organizations, illegal payments made to political organizations or parties and extortion and illegal taxation at the points of access to the mines.

With regards to a specific concern put forward concerning Colombia's red flag situation it was clarified that the determination of whether a region is or not a conflict risk area is part of the due diligence process that will be developed, with responsibility shared between ARM, ASMO and the buyer/refiner. The FAIRMINED standard expects miners to have a robust control system, but even so, it is virtually impossible to verify payments that may have happened. It is impossible to ask the system to account for everything that happens in its area of influence. It was brought to the attention of the committee that there is already a requirement in the standard that accounts for the process that needs to be followed to determine whether an area is considered high risk and the measures that need to be put in place.

DECISIONS:

- No changes were proposed on this issue. It was agreed that the current text of the standard complies, to its fullest capacity, with the OECD DDG.

5. ICS requirements for industrial and domestic processing plants

The fourth point on the agenda touched on the 1.2.6. Requirement: "Internal Control System". The committee was asked if the standard should have different levels of minimum requirements in the internal control systems for domestic plants and for industrial plants, and if so, what should those minimum requirements be? The argument behind the question is that because of their nature, domestic plants should not be compelled to comply with requirements as stringent as those asked of industrial plants.

The text of the second consultation version of the Standard lists the following requirements that all plants must meet:

1. A list of all miners and processing units that deliver gold minerals, and tailings of them, signed by the responsible person with ID card number
2. Delivery date
3. Delivery amount
4. Area of origin assigned by the ASMO to the miners in the FAIRMINED system of production (name and description)
5. Gold content
6. Laboratory results (if applicable)
7. The payment (if applicable)

The standard wants to assure traceability in domestic plants without imposing entry barriers to the system.

The committee decided that the 7 requirements that already exist in the standard cover all concerns: they are not too stringent and the 6th and 7th requirements are only required if applicable which gives domestic plants some flexibility. Additionally no major risks to traceability were identified with having the 7th requirement as “only if applicable”.

DECISIONS:

- The 1.2.6 Requirement will stay the same as it already provides domestic plants with a flexible entry alternative

6. Employment Policy chapter

The fifth issue brought before the committee was whether the 3.4 requirement on employment policy should be eliminated from the standard. The argument behind this question is that employment policies can sometimes become a beurocratic and inefficient mechanism.

It was stated that the employment policy requirement was included in the first version of the standard because it was considered a tool to assist the development of contracts. In this new standard it does not have a real function as the approach of this revised version is focused on the system of production and seeks to provide more flexibility to all actors. It was commented that the updated standard is in a better place in pointing out more clearly what is required of the ASMO with regards to labor conditions and so an employment policy will only be additional work for the ASMO with very little real impact. It was suggested that rather than asking ASMOS to draft an employment policy, the standard should list the labor requirements that need to be met.

The argument in favor of keeping the employment policy requirement stated that this is a tool to build capacity and sensitize at the 2nd level responsibility of the ASMOS. It also forces the ASMOS to develop a more participatory assessment of the 2nd level responsibilities; it is more work, but since it is a progressive requirement it does not imply a great challenge and it also is in keeping with the intent of the standard of progressive improvement. It was clarified that the employment policy is a progressive requirement in year 3 and 6. In that sense, it was suggested that instead of having the employment policy the standard could focus more on the process the ASMOS have to go through to improve their labor conditions rather than on the policy document itself.

It was also mentioned that the sub-chapter should be moved to the beginning of the Labor Chapter and that the wording of the standard should be changed to frame the labor requirements that follow in a process based model, responding to an assessment of priorities. The ASMO would have to develop an assessment of its labor conditions and, with this information it would develop an improvement plan.

It was requested of the internal operation team to review if the progressive requirements in the standard reflect and provide enough bases for the transition and improvement in labor conditions that are expected in the ASMOS.

DECISION:

- To move the employment policy requirement to the beginning of chapter 3 of the standard on labor conditions and include the development of an improvement plan for labor conditions.
- The requirements will continue to be progressive.

7. Premium government structure

The last point on the agenda that was covered during the meeting touched on the scope of participation in the premium committee in reference to the relationship between the ASMO and its System of Production. The committee was asked if we should prioritize the participation of the members of the System of Production in the decision making process regarding the use of the premium. It was clarified that the proposed change highlighted the leading role of the members of the SOP in determining the use of the premium. The current text calls for a broad based assessment in the process of premium governance, where local organizations are part of the process and it was stated that this is not very realistic and diminishes the value of the premium as an incentive to join the system. The standard needs to be careful not to raise expectations about community participation in the premium governance process and it was suggested that the text be modified to state that representatives of all social groups of the System of Production must be part of the premium committee and they can, if they choose to, invite participants or observers from local communities and organizations.

It was commented that the standard is asking miners to be responsible business men and women and in that sense it needs to allow them to exercise governance processes on their own. The main contribution of the FAIRMINED miners to their communities is their example and so they should have a leading role in determining what to do with the Premium.

Another issue regarding the Premium that was raised had to do with the requirement of having a Premium investment plan. It was mentioned that this is not very practical since ASMOs don't have certainty of how much Premium they will get in a determined period. On the other hand, the importance of transparency in the premium allocation process was highlighted as well as the investment plan's role in communicating impact and as a negotiating tool for the miners. It was clarified that the FAIRMINED Development Plan has a role of outlining broader strategic and more long-term development objectives of the ASMO (even before the premium is received).

DECISIONS:

- To modify the text to highlight the role of the SOP members in the premium governance process
- To change the requirement so it clearly states that it is the prerogative of the miners of the SOP to invite or not observe to the Premium committees
- To clarify the difference between the FAIRMINED Development Priorities Plan (strategic guidelines on development priorities, elaborated even before the first Premium is received), and the Premium Investment Plan (which specifically states how the Premium money is invested, once received). The auditors would verify the coherence between the two plans, to avoid ad-hoc decisions being made once the premium money arrives.

