

Market Entry Standard Committee meeting

December 13th, 2017 third GoToMeeting call
10:00 EST/COL | 16:00 CET | 15:00 GMT | 7:00 PST | 1:00 AEST | 11:00 GYT
Duration: 1,5 hours

Next Steps

- **The members** were invited to review the “**Holiday version**” of **Market Entry Standard (MES) working draft document** and to send their feedback to nataliauribe@responsiblemines.org before the next meeting (in the week of January 15th, 2018) and **to vote in the Doodle poll to schedule the next meeting day**.

Development of the meeting

1. Opening remarks and roll call

Simone (the Chair) opened the meeting and confirmed the assistance of the Committee members in this call.

2. Previous meeting minutes

The Standard Committee was asked to approve by consensus the minutes of Committee Meetings from the first (**September 11th**) and second meeting (**November 16th**). No objections or comments were raised, and the minutes of both meetings were approved.

Natalia Uribe reminded that Chatham House rules were used, without attributing opinions to specific people in the notes/summary of the meetings.

3. Progress update

Jennifer from RESOLVE shared the feedback from the Advisory Group (AG) conference call on December 5th regarding the consultation outreach opportunities. The AG emphasized to develop specific, tailor made, messages and materials to reach different supply chain actors and stakeholders and receive meaningful feedback. Events like Mining INDABA, Jewelry Summit and OECD forum were mentioned as consultation opportunities. Additionally, particular groups of stakeholders, e.g. SBGA, LBMA, RMI could distribute the MES consultation invitation. ARM will design the materials for the consultation with the miners and will lead the consultation in Colombia, Peru, Honduras and Burkina Faso. PACT and Solidaridad will support the consultation in Tanzania, Ghana and Zimbabwe.

4. Discussion of MES working draft

Felix (ARM Standards Director) led this part of the call. He started by indicating that the first complete working draft was circulated with amendments to Modules 1 to 3 and new modules 4 and 5.

Amendments to Modules 1 to 3

- **Product scope:** the term “more than insignificant” was replaced with “gold in any tradeable form”.
- **Organizational scope:**
It was clarified that the Standard is for Artisanal and Small-scale mineral producers (AMP) operating in one single country because ASM operations are usually not multinational organizations.
The term “members” was defined for precision’s sake.
We included the potential role of international refiners in the extended scope.
- **“Internal supply chain”** and **“Point of Assurance”** headings were introduced for more clarity.

Based on the discussions of the last meeting, the following comments were addressed:

- **Module 1**
Affiliation categories allowing earlier engagement were redefined:
Applicant: AMP who followed the Module 1.
Candidate: up to Module 3 - no Annex 1 immediate disengagement risks.
Affiliate: up to Module 4 - all Annex II risks mitigated and controlled.
We added new chapters **MES reports** and **Performance Indicators 3C** (Commitment, Conformity, Credibility).
- **Module 2**
Changed guidance on **operational ASM legal framework**: a stronger focus on qualitative criteria and experts opinions, with simple guidance criteria added (none, very few, few, many) to help roughly assess the context. The percentage of formalized ASM is included only as a complementary guidance.
- **Modules 3-5**
The numbering of requirements is modified for better cross reference (Module number / Issue number / Requirement number).
- **Module 3**
In the criterion M.3/2.1.8/R.1 “War crimes”, “opinions or statements” replaced “assessment”, in response to a comment about a possible entry barrier.
2 new requirements (backlink to M1 and M2) added: the AMP must be legitimate and must nominate a responsible person for the Standard.

The members didn't raise any comments or questions until this part.

New Module 4

This module addresses Annex II risks for which OECD Due Diligence Guidance recommends to suspend or discontinue engagement with upstream suppliers (AMP) after failed attempts at mitigation.

The requirements follow a different approach to M3 and M4: Pass, Progress and Fail Criteria.

A requirement is complied with, if:

- **The pass criteria “mitigated”** are fulfilled, or
- **The progress criteria “mitigation progress satisfactory”**. That means to demonstrate progress in the past reporting period and contains a commitment to at least one mitigation measure for the next reporting period, and
- **No Fail criteria apply.**

There are 11 requirements in total in Module 4, additional to requirements of Module 3. An AMP can be assigned an “Affiliate” status when they comply with all requirements of Modules 3 and 4. The wording is similar to Module 3: “it is reasonable to believe” that the risk is absent or the mitigation is satisfactory” – capturing the due diligence spirit of a good faith effort to identify and assess the risks.

The risk mitigation timeline proposed in the OECD Due Diligence Guidance (DDG) is six months, after which the relationship would be discontinued for three months. However, we believe that if the mitigation measures are ongoing and proactively addressed, it is better to have a non-prescriptive time frame because some mitigation measures take more time until the risk is fully mitigated.

The MES report for progress criteria shall describe measures undertaken during the past reporting period and describe commitments to implementing the measures planned for the next reporting period.

Module 4: clarifications, questions and comments

Q: If at least one of the requirements of Module 4 remains under Fail criteria, will the buyers go to disengagement step with the AMP?

A: The AMP could remain with the Candidate status. If fail criteria apply for one requirement of Module 4, this means the Annex II risks which require Immediate disengagement are still mitigated, provided the AMP has passed all the Module 3 requirements. The MES schemes can still work with the AMP to start the mitigation of that risk.

Q: If we don't have a prescriptive time frame. How can we be sure there is an effective and continuous improvement to avoid never ending improvement period?

A: The idea is that the improvements are reflected in the MES report. We recommend one year for the reporting period but MES schemes could choose different time frames. The AMP describes the measures taken during the last period and the commitments for the next reporting period. This will be also reflected in the 3C scheme rating. The commitments for the next period should be compared with the achievements of the last period.

Questions from Standards team:

- Do you feel this approach of Pass, Progress and Fail Criteria is sufficiently aligned with OECD DDG?
- Can “implementing a risk management plan” be seen as satisfactory progress to justify “Affiliate” status?

The participants did not comment, and were invited to send their observations after the call.

New Module 5

This module addresses **high risks** not specifically covered by the Model Supply Chain Policy of the OECD DDG. The Affiliate status means that AMP is satisfactorily mitigating the risks of Annex II. Consequently, Module 5 is not any more focused on Pass/Fail criteria, but follows a different set of criteria.

- **Controlled:** the risk has been assessed and mitigation measures for improvement have been taken to an extent that it is considered good ASM practice.
- **Progressing:** the risk has been assessed and the AMP is implementing mitigation measures for improvement.
- **Unaddressed:** the risk has not yet been assessed or the AMP has not yet taken steps to implement mitigation measures for improvements.

We have 19 requirements in this module based on the initial conversations with some members regarding sustainability issues of the ASM, and discussions with other stakeholders.

For example, while Module 3 focused on the worst forms of Child labor in systemic employment by third parties, Module 5 assesses other high risks, such as child labor in the family context and child self-employment.

Questions from Standards team:

- Is this approach “Controlled/Progressing/Unaddressed” the right approach for non-Annex II High risks?
- Are some non-Annex II high risks missing?
- Are some of the risks listed not high risks, but rather medium or low?

Q: Regarding evaluating high risks. Water use is an issue but water contamination is not included, although this could be a really high risk. Could an analysis exist to define if this topic could be high risk in some situations?

A: It is true that depending on each context, communities may define special priorities in terms of risks. Since some kind of a grievance mechanism is one of the 19 requirements of Module 5, it could serve to prioritise other issue of importance (such as water contamination) as a high risk for the community.

Q: In some mining zones, one miner may have a large percentage of the mining title, which may be seen as a monopoly. Could be this considered as a high risk? Such a person could be a politician

or have a questionable background. How do the AMP address this situation? (Question asked by a miner)

A: Intentionally, the Standard is not prescriptive regarding organizational structures. However, such situation might affect the legitimacy of the AMP, and is covered under requirements in Module 4, regarding corruption, etc.

5. Timeline for Standard development and next meetings

Natalia shared the recently updated timeline for the Standard development:

Standard Committee members' comments will be incorporated into a "Holiday version" for revision and feedback of the Committee. In a January meeting this feedback will be discussed, following which the public consultation version will be prepared.

In the same month, the Advisory Group will be invited to provide feedback to the "Holiday version" and give their their green light to circulate the version for public consultation. Then, the first public consultation will be held for two months (60 days as ISEAL recommends): workshops with miners in Colombia, Honduras, Peru, Burkina Faso, and with the support of Solidaridad and Pact with miners in Ghana, Tanzania, Zimbabwe; webinars with other stakeholders; one to one conversations and direct comments in the Standard document.

After the public consultation, The Committee will meet in April to review and incorporate the Consultation feedback. Finally, working version 1 of the Standard is planned to be published in June.

6. MES " Holiday Version"

The team announced that based on the meeting's discussion and optional post-meeting written feedback, a "Holiday version" would be ready the following week.

The members were asked to review this version before the next meeting, to be held in the week of 15th January (date and time to be defined following a Doodle poll).

Present:

- **Simone Knobloch**-Valcambi COO
- **Andreina Rojas**- Intel Conflict Minerals Outreach Specialist
- **Assheton Carter**-The Dragonfly Initiative Director
- **Bryan Fiereck**- Intel Conflict Minerals Program Manager
- **Daniel M Riascos**-Colombia Coodmilla coop representative
- **Fabiana Di Lorenzo**-Estelle Levin Limited Due Diligence Manager
- **Lisa Sumi**-IRMA Standard Coordinator
- **Louis Marechal**- OECD observer
- **Mariana Smirnova**-CFSI Project Manager
- **Neil Harby**-LBMA Head of Good Delivery
- **Romain Kani**- miners representative spokesman (Burkina Faso)
- **Tabara Cissokho** –miners representative spokeswoman (Senegal)

Other participants

- **Laura Barreto**- ARM's President Board of Directors, a mining expert
- **Patrick Schein**-ARM's Board of Directors, refiner

Project team:

- **Felix Hruschka**-ARM's Standards Director
- **Jennifer Peyser**-RESOLVE Senior Mediator
- **Maureen Ducarouge**- Partnerships and New Initiatives Officer (French translation)
- **Ana Maria Orjuela**-Standards and Certification analyst (Spanish translation)
- **Marcin Piersiak**-ARM's Deputy Director
- **Natalia Uribe**-ARM Standards and Certification Coordinator

Apologies and absentees:

- **Anne-Marie Fleury**-RJC Standards and Impact Director
- **Cesar Ipenza**-Peruvian and environmental mining expert
- **Mauricio Cabrera**-WWF Mining Policy Coordinator
- **Michele Bruelhart**-EICC Technical Director
- **Phaedon Stamatopoulos**- Argor-Heraus Director Refining & Bank Products
- **Renzo Mori Junior**-Researcher at Centre for Mining Sustainable Minerals Institute, University of Queensland
- **Sveta Morris**- Apple Program Manager | Responsible Sourcing
- **Urica Primus**- Guyana Women Miners Organization (GWMO) president
- **Yaw Britwum**-Solidaridad Ghana Programme Manager, Gold.-Vice chair