

# Market Entry Standard Committee meeting

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September 11<sup>th</sup>, 2017 first call

## Next Steps:

- **The members** were invited to address further comments on the [Terms of Reference for the Standard](#) to Natalia Uribe, writing to [nataliauribe@responsiblemines.org](mailto:nataliauribe@responsiblemines.org).
- **Miner participants** are encouraged to contact Natalia Uribe ([nataliauribe@responsiblemines.org](mailto:nataliauribe@responsiblemines.org)) with nominations for a miner to serve as co-vicechair of the Standard Committee. Nimer Rivera, Peruvian miner indicated his availability to serve as Vice-chair. Comments about this nomination will be also received.
- A suggestion was received to have a session with miners to explain the details of the Market Entry Standard.

## 1. Introductions

On September 11th, 2017, the Market Entry Standard (MES) Committee met for the first time.

The participants agreed on the following ground rules for the meeting:

- Meetings are recorded to facilitate taking minutes.
- Chatham House rules: opinions are not attributed to specific people or organizations.
- Three languages in the Committee: English as the primary language, with simultaneous translations to Spanish and French provided by Alliance for Responsible Mining (ARM) staff.
- RESOLVE's team and ARM's team and Board members participate as observers without a vote to have an opportunity to provide responsive feedback on standard setting progress and alignment with the promotion of responsible Artisanal and Small-Scale Mining (ASM).

The objectives of the first call were presented: the establishment of the Committee and the agreement on the procedures and the respective ToRs, including the election of the chair and vice-chair, as well as the first discussion about the MES concept.

It was clarified that once the Committee is established, the future agenda will be approved by the chair before the meeting, and members will be able to propose topics for discussion. A round of introductions by committee members and other participants followed.

## 2. Market Entry Standard (MES) Terms of Reference – Presentation and discussion of the conceptual outline.

Felix Hruschka, Standards Director for ARM introduced the supporting documents: the [MES ToR](#) (public document announcing the development of the Standard), and the MES research paper, following with a [conceptual outline presentation](#). The slideshow described the scope and functions of the standard and outlined the context, the need for the standard and potential risks that the standard design must consider and mitigate.

The highlighted items were:

- “Market Entry Standard” is a working name which may change depending on the decision of the Committee.
- The MES is developed under “**Open Source**” to overcome the limitations of proprietary standards schemes. The Standard will not be “owned” by any particular organization and is proposed to operate under the Attribution-ShareAlike 4.0 International Creative Commons license.
- The main organization scope is “production based groups” as per OECD ASM definition. The extended organizational scope includes “supply chain based groups”, such as local traders.

- The geographic scope is global, including conflict-affected and high risks areas.
- The core of the Standard is focusing on the OCDE Due Diligence (DD) Guidance and Annex II risks, proposing the categories of Immediate Risks, OECD DD Guidance Mitigable Risks, and Other Risks.
- Based on the open source concept it will be possible to create localized versions adapted to national or regional cultural and legal context, and customized versions, for example focusing more in-depth on a specific issue of concern, e.g. the Minamata compliance.
- To make the Standard affordable for the miners, it is suggested that a mix of first, second and third party verification is carried out, with the buyer responsible for an independent third party verification that satisfies their sourcing requirements.
- The OECD proposed five-step framework is proposed to be used in the MES application to facilitate the alignment with the due-diligence guidance
- A “3C Score” key performance indicator was proposed for ASM mineral producers based on Commitment, Conformity, and Credibility, promoting progressive improvement.
- The MES will guide miners on how to be conformant with the OECD Guidance giving them a roadmap for continuous improvement. With this information the buyers can be more confident that their supply chain is conformant with the due diligence guidance, making the due diligence with miners who use MES much more straightforward and efficient.
- The MES should be complementary to the existing supply chain schemes.

In response to the presentation and review of the ToR, MES Standard Committee members shared the following reactions and suggestions:

- **The term “OECD compliant”** is suggested not to be used in the context of the Standard, the term “conformity” is suggested instead.
- With the Standard open for **customization depending on local context**, a concern was raised that the concept of “legitimate ASM” might be replaced by “legal ASM”. The term “legitimate” was included in the OECD DD Guidance precisely to avoid barriers in a context where the ASM is not legally recognized. The project team responded that while the generic MES will use the broader OECD concept of legitimacy, in many places (such as Colombia) that clearly define the conditions of legality for the ASM, ignoring the legal situation of the ASM is equal to breaking the law. In such a situation, independent of how legitimate the ASM group can be, no legitimate refiner would be able to legally buy gold that doesn’t comply with the minimum of “legality”. In other countries, where the legal situation of ASM is more flexible or not well defined, the minimum threshold will always be the generic, OECD conformant. A participant commented that a possibility under “open source” to adapt to the particularities of each country while maintaining the core structure of the Standard was to be useful.
- **What happens if an Artisanal and Small Scale Mineral Producer is integrated into the MES scheme and then, the Annex 2 risk arises?** Would the community be banned or suspended from the MES? Under what conditions? It was made clear that the OECD DD promotes responsible engagement with the communities at risk, recommending to support the mitigation of risks rather than disengagement (suspension). The importance of risk mitigation was further highlighted, for example, a site where child presence is identified shouldn’t be automatically suspended, but rather given support to mitigate this risk, without discontinuing the commercial engagement. The team clarified that the motivation behind the MES was exactly this - to promote an early commercial engagement by the industry with the groups of miners, where OECD Annex II risks have been identified and have a clear mitigation strategy. Such groups should be able to participate in the markets on a temporary basis, while they work on reducing these risks. It was proposed to clarify the MES scheme graphic to better reflect this. It was also suggested that the MES reference the OECD ASM Gold FAQ.
- A suggestion was made to have the **reports of the miners on a platform** to be accessible for buyers and institutions.
- A comment was made that more work is needed on how to communicate the **OECD five-step framework as it applies to ASM**. All companies, including legitimate ASM, are encouraged to

implement the OECD Five-Step framework, but the slides as presented are not fully equivalent.

**The members were invited to address further comments to** Natalia Uribe, writing on [nataliauribe@responsiblemines.org](mailto:nataliauribe@responsiblemines.org)

### **3. Overview of the MES process and timeline.**

Subsequently, an overview of the MES process and the timeline was provided.

A beta version of the Standard is expected to be available to be discussed in ordinary Committee meetings between October and December 2017 in conference calls. The first draft is planned to be put under public consultation from January to March 2018 (60 days' period). With the results of the consultation to be revised between March and April 2018, the first working version of the Standard is estimated to be available at the end of April 2018.

The project team clarified that the Market Entry Standard development is funded by the European Partnership for Responsible Minerals (EPRM) as a part of the CAPAZ (Supply Chains for Peace) program. Due to the timeline of the grant, the team has decided to release the first working version after the first round of consultation for wider testing purposes. Subject to availability of funds, a second consultation of the MES version including the lessons learnt from the testing round is planned to take place in 2019, in line with the ISEAL Code of Good Practice for Standards Setting that requires two rounds of consultations.

### **4. Governance Bodies: MES Advisory Group and MES Standard Committee roles.**

Additionally, the governance structure of the MES was presented, with the following two governance bodies:

- Advisory Group (AG): led by RESOLVE
- Market Entry Standard Committee (MES SC): led by ARM.

The MES Standard Committee is a technical committee established for the governance and the development of the MES. [The Specific ToR](#) follows the same principles as the [General ToR of ARM Standards Committees](#), with the total of members made up of odd numbers where neither stakeholder group shall have a majority in the SC.

Main roles of members are to contribute to the Standard development, represent their stakeholders' group, regularly participate, and declare any conflict of interest before taking part of decision making processes, amongst others.

The minutes of the meeting are distributed to all Standard Committee members within approximately 10 working days of the meeting.

RESOLVE outlined the main roles of the [Advisory Group](#), which discusses and advises on strategic level issues, such as the alignment of the MES with other schemes, standards, and initiatives. AG summaries will be shared with the Standard Committee and also made public.

The AG ToR and the list of members are available on [the website of the Standard](#). By design, there are overlaps in institutions who are on both committees to provide alignment.

After the approval of the draft Standard by the Market Entry Standard Committee, the Advisory Group shall review it and recommend it to the ARM Board of Directors for formal adoption.

### **5. Feedback from the first Advisory Group meeting.**

Jennifer Peyser from RESOLVE summarized the main outputs of the first Advisory Group (AG) meeting which was held in July. The full minutes of the meeting are available [here](#).

The AG members highlighted the importance of giving incentives for artisanal miners, rather than adding burdens for miners to get access to the market. A discussion ensued on the name to ensure that it reflects the intention of being a tool for progressive improvement. Some stakeholders expressed that a “standard” might give the impression of a burden since it is usually (although not necessarily justifiably) associated with formal certification systems.

Another important issue was distinguishing between the different types of OECD Annex II risks. Questions were also raised about the grievance mechanism for the standard. The next call of the Advisory Group is planned in October.

## **6. Approval of Standards procedures and Specific MES Standard Committee Terms of Reference.**

Key points of the procedures that guide this committee were listed. [The Specific MES Standard Committee ToR](#) are designed based on [ARM Standards-Setting Procedures](#) and [Generic ToR Standards Committee](#). This document seeks to ensure credibility and incorporates the values of transparency, participation, and fairness into the process, aligning with international best practices for standard development. The procedures aim for compatibility with the ISEAL Code of Good Practice for Setting Social and Environmental Standards.

ARM Standards Setting Procedures have evolved from previous experiences of the development of the Standard Zero and Fairmined Standard. They define the general roles and responsibilities of Standard Committees for each Standard.

ToR of MES SC adopts the principles and conditions of the Generic ToR of ARM Standards Committee, with some main differences being:

- A broader composition of the Committee, with more diverse categories.
- The MES SC recommends on potential ways of verification of the Standard.
- The special role of the Advisory Group: SC receives recommendations from the MES AG and evaluates its incorporation in the MES development. The AG recommends the adoption of the Standard by the Board of Directors of ARM (the standard setting body).

The quorum for decisions exists if more than a half (50% +1) of the members participate in the meeting. Every member has one vote, and proxy votes (delegated in the writing by the chair) are possible.

The SC shall seek to achieve unanimous decisions (with the highest level of consensus) wherever possible, defined as decisions taken with no votes against.

No objection to these procedures was expressed, **and they were approved, formally establishing the Market Entry Standard Committee.**

Additional commentaries or change requests are encouraged in the future.

## **7. Election of Chair and Vice Chair.**

With no voluntary nominations, two members were postulated for the Chair and Vice-chair of the Committee: **Simone Knobloch** from Valcambi as Chair and **Yaw Opoku**, from Solidaridad as the Vicechair.

Both organizations are part of the EPRM, a funder and important stakeholder in the MES process, and they represent two stakeholder categories that are key to for the MES take up: refiners and support organizations working with miners.

**Simone Knobloch and Yaw Opoku accepted the nomination.**

**Simone Knobloch**, Chief Operating Officer of Valcambi, introduced himself and explained why his company was supporting this initiative. Valcambi is highly committed in ASM sourcing and it is part of EPRM. Two years ago they started the development of an ASM sourcing procedure, and having visited the ASM producers, felt alignment with the Standard's objectives. He offered to bring the industry perspective to the Committee and support the adoption and implementation of the Standard by the industry.

**Yaw Opoku** mentioned that Solidaridad was promoting and implementing responsible practices globally, and the Standards was needed to facilitate this. He described the challenges of using best practices standards and certification systems in difficult environments and stated that the MES was a good way to start recognizing and appropriately value the commitment of the miners to progressively implement responsible practices.

Additionally, it was recommended to include a miner in the Committee leadership, to ensure a just representation of the miners' viewpoints. It was proposed to have one Chair and two Vicechairs positions, and miners were encouraged to give their nomination from the miners after the call. Nimer Rivera from Peru indicated that he is available to assume the role to be Vicechair from miners side.

Members were encouraged to offer their comments on the nominations directly to the Standards Coordinator for the sake of privacy.

## 8. Final Comments

Miners emphasized that for future meetings more miners representatives were needed to balance the opinions between stakeholders. Five miners were confirmed as members, from Guyana, Colombia, Peru, Burkina Faso and Senegal, and their active participation will be promoted.

Finally, a query was received regarding the "unanimity" in decision-making. The team clarified that while unanimity (all votes in favor) will be promoted, there a formal voting procedure is described in the Terms of Reference for cases where consensus is not achieved.

### **Present:**

#### **Artisanal and Small-scale Miners**

- **Nimer Rivera**- Miner representative (Peru).
- **Romain Kani**- Miners representative spokesman (Burkina Faso).
- **Tabara Cissokho** –miners representative spokeswoman (Senegal).
- **Urica Primus**- Guyana Women Miners Organization (GWMO) president.

#### **Standards systems or guidance bodies representing one or more industrial sectors**

- **Anne-Marie Fleury**-RJC Standards and Impact Director.
- **Lisa Sumi**-IRMA Standard Coordinator.
- **Michele Bruehart**-EICC Technical Director.

#### **Gold refiners or associations**

- **Simone Knobloch**-Valcambi COO.

#### **Downstream companies or associations**

- **Mariana Smirnova**-CFSI Project Manager.

#### **Non-governmental organizations (especially, working with ASM)**

- **Yaw Britwum**-Solidaridad Ghana Programme Manager, Gold.

#### **Technical consultants and experts**

- **Cesar Ipenza**-Peruvian and environmental mining expert.
- **Fabiana Di Lorenzo**-Estelle Levin Limited Due Diligence Manager.

#### **Observer**

- **Louis Marechal**- OECD observer.

#### **Other participants**

- **Cecilia Julcarima**-woman miner from the region Huancayo-Peru.
- **Manuel Reinoso**-ARM's Board of Directors Vice President-peruvian miner.
- **Patrick Schein**-ARM's Board of Director, refiner.
- **Jennifer Peyser**-RESOLVE Senior Mediator.
- **Taylor Kennedy**-RESOLVE Program Manager.
- **Marcin Piersiak**-ARM's Deputy Director.
- **Felix Hruschka**-ARM' Standards Director.
- **Baptiste Coue**- ARM's Monitoring Especialist-translator French-English.
- **Jose Santana**- ARM' Standards and Certification Analysit-translator Spanish-English.
- **Natalia Uribe**-ARM' Standards and Certification Coordinator.

#### **Apologies:**

- **Neil Harby**-LBMA Head of Good Delivery.
- **Renzo Mori Junior**-Researcher at Centre for Mining Sustainable Minerals Institute, University of Queensland.
- **Mauricio Cabrera**-WWF Mining Policy Coordinator.
- **Assheton Carter**-The Dragonfly Initiative Director.
- **Daniel M Riascos**-Colombia Coodmilla coop representative.