

Market Entry Standard Committee meeting

January 17th, 2018 / Fourth 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

Support documents:

- Meeting presentation
- Draft standard document

Next Steps

- The Standard team will send the list of comments with the new Standard document for consultation at the end of the first week or beginning of the second week of February for revision of the members
- The team will share the complete consultation activities plan with the new Standard document
- Standard Committee members will have a week after the reception of the new Standard document to raise any concerns to schedule a meeting for discussion. Otherwise, they will send comments and approval by email

Development of the meeting

1. Opening remarks and roll call

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

2. Approval of the minutes of the last meeting

The Standard Committee was asked to approve the minutes of the last Committee Meeting (*December 13th*). No objections were raised and the minutes were approved.

3. Presentation of name change proposal

Natalia presented the proposal to change the name Market Entry Standard to CRAFT Code. Since some stakeholders were not comfortable with the term “standard”, evoking traditional centralized certification systems, a term “Code” was proposed which has a more open and less prescriptive meaning.

CRAFT will be an acronym, but also a self-standing name. “Craft” describes well what ASM is: a non-industrial, skill-based, mainly manual way of production minerals, a craft. The word has a positive connotation.

The acronym works in Spanish and English:

- **CRAFT** - Code of Risk-mitigation for ASM engaging in Formal Trade
- **CRAFT** - Código para la mitigación de Riesgos en la minería Artesanal y de pequeña escala, Formando cadenas Transparentes y legales

It sounds good with other combinations: CRAFT Code, CRAFT mine, CRAFT gold, CRAFT scheme.

Natalia stated that favorable written comments were received and invited the members to give last minute comments.

No substantial comments nor objections were received, which was taken by the Chair as an approval from the members.

4. Revision of the comments of the MES “Holiday version”

Apologies were received from Felix Hruschka (the author of the Standard) who was travelling without Internet access. In his absence, Marcin Piersiak led this part of the call.

Marcin indicated that comments kept coming even before the call and more time was needed to systemize and analyze them all. The objectives of the meeting were to show how the comments were being processed and to discuss issues prioritized from the comments received.

a. Structure and form of the Standard

In general, many comments stated that the document read well but it needed a better organization to help navigate it more intuitively. Also, several wording changes were proposed. The following key recommendations regarding the form and structure were received:

- **Adjusting the introduction for more clarity**
- **Wording changes**
It was explained that the intent of expressions “*is reasonable to believe*” and “*make the best efforts*” expressed the “good faith” nature of Due Diligence: making the best possible effort to understand the risks, but with limited resources and the complexity of the context it is difficult to have complete certainty, especially when relationships are first established.
- **Inclusion of a table of contents**
- **Inclusion of a table to describe the connection between different Affiliation status and the Modules**
- **A table/grid showing the Requirements by thematic category/sustainability issue and a Module they are part of. Remove the “empty” placeholder criteria**
- **Complement the Glossary**
- **And other editorial changes**

Comments from the members:

Q: Are you considering to make a revision for further grammar and editorial changes?

A: The intention was to send as rapid as possible for the members’ revision. In the final stage, we plan to have an editorial revision.

b. MES Standard vs MES schemes/assurance system

Several comments and questions were received regarding the difference between a MES Standard and MES Schemes/assurance system, the role of a MES scheme, the entity that would control the alignment of the schemes with the standard, audits, etc. It was explained that the open-source nature of the standard, by design was intended to be easy to adopt (and adapt) by other certification systems or supply chain programs, under their existing rules. Therefore, although the standard will include some guidance and recommendations on how a MES scheme should operate, a development of an exclusive assurance system for the standard is not considered. It is expected though that the standard can power new and existing initiatives that source or with to source from ASM. A short table showing the main differences between MES Standard and MES schemes was presented, and is intended to be included in the body of the standard for the sake of clarity:

MES Standard	MES schemes
OPEN SOURCE General document based on the OECD DDG	Adoption of the MES by the MES schemes for compliance with OECD DDG and engagement with the ASM
ARM as a maintainer organization of the Standard has no control about who uses the standard , for which purpose and under which conditions.	May be established by: by BUYERS (e.g. a due diligence protocol), by independent third parties (NGOs or service providers) by projects or programs , or similar.
MES is a generic document with the requirements and guidance	Each MES schemes defines the templates and processes to collect info of the AMP
Doesn't specify how a MES report should be done	Support AMPs with “Applicant” status or higher in their task of preparing the MES reports
The Standard does not define a certification scheme	MES Schemes may carry out due diligence or third party verification as seen appropriate.

	MES Schemes have no obligation to carry out any due diligence or verification of the content of the MES reports.
May define basic rules/recommendations for MES schemes	Ej.MES Schemes are expected to maintain a public list of AMPs participating currently in their scheme (at least disaggregated by (i) Applicant, and (ii) Candidate or Affiliate)

- No further comments were received regarding the clarity of these differences and the level of prescriptiveness on the Schemes that the Standard should include. Other important issues for the maintenance of standard-based infrastructure were raised by the team: centralization of information, capturing the impact, etc. Members were informed that these issues will be addressed in the second phase of EPRM funded project. Simone took the opportunity to thank the members who sent their comments.

c. Requirements: Child Labor

Comments were received regarding the separation for Worst Forms of Child Labor (WFCL) in “employment” (Module 3) and family/ self-employed context (Module 5), signaling that such treatment of the issue was not aligned with the OECD Due Diligence Guidance (DDG).

The team explained that such differentiation was a provocative way to consider the context where conditions of poverty leave families with no choice but have children assist them with mining related work (considered as WFCL). This will be amended to include all mining related WFCL, independent of context in Module 3, ensuring OECD DDG alignment.

Another discussion point was raised in relation to High Risks (Module 5), which included work of children not necessarily considered as “worst forms” - “workplaces that, by their nature or because of the conditions in which it is carried out, it is not likely to harm the health, safety or morals of the children.” However, a counterargument was made that any activity that has to be done in mining or surrounding the mining activities, could be considered a risk for children. It was recommended to contact ILO (a committee member volunteered to establish contact) and evaluate the interpretation of the Convention with them, to ensure alignment. It was further noted that the requirement in Module 5 did not make a differentiation between children younger than 15, and children (teenagers) between 15 and 18 years old, since they are treated differently in ILO Conventions and national laws.

Another point was raised in regards to situations where children (often young) accompany their parents to work in mining sites. This is especially the case in situations of alluvial mining or mineral selecting, occupations that tend to be performed by women, often single mothers. Although these children might be exposed to risks related to mining, they are not really “working”, and mining may be the only economic opportunity for their mothers (often single mothers).

- C:** Since definition of WFCL is based on ILO’s international conventions, and the OECD Guidance incorporates it after ILO, it is very important to include them in the interpretation, considering complex situations occurring on the ground, and taking into account that involvement in formal trade with additional support might be the only opportunity to mitigate such risks in many ASM sites. Participants were invited to send any further comments in writing and this complex issue would be highlighted during the consultation.

d. Requirements: extortion, payments

Extortion was pointed out as another contentious issue in ASM, prevalent but by no means limited to conflict-affected and high-risk zones

Miners may make considerable effort to become formal and follow best practice, but are certain zones they are exposed to the risk of extortion, as most (if not all) economic activities.

It was deemed important to consider how the Code can help avoid victimizing the victims of extortion, establishing a grievance procedure and ensuring that it doesn't put the lives of miners in danger? This could be another question for the public consultation.

The members were asked for recommendations in relation to what the buyers are expected to do in similar situations.

It was suggested that buyers need to work directly with the national governmental institutions since engaging with authorities in the mining region could put the miners in a risk position.

Importance of engaging with local stakeholders to have a better view of the context and a possible remediation process was highlighted. Two scenarios were evaluated: 1. when you disengage nothing changes, gold goes to the illegal market, and miners are still trapped in the vicious circle, 2. If you engage and there is a disengage because of the presence of the risk? If you disengage, the gold will go to illegal market. If you don't, you tolerate this practice. It is hard from a downstream view to have an answer in this case.

A distinction was brought to attention between extortion from non-state armed groups (Module 3) and state forces (Module 4): in the latter, the buyer doesn't need to totally disengage but suspend commercial operation to clarify the situation.

Another subtlety was raised: extortion situations may be systematic or accidental/temporary situations, were they to be treated distinctly, according to the risk profile?

To ensure alignment of the Code with the OECD DDG, it was considered important to seek guidance from the OECD regarding the interpretation.

e. Other comments

Module 2: Legitimacy of the AMP. Comments suggested that it was not easy to assess which scenario of legal/ institutional context might apply. Suggestions were made that centralized analysis could be a value added.

- **Mitigation timeline:**

To ensure OECD DDG alignment the maximum mitigation period from discovering the risk is changed from one year to six months, as recommended in the Gold supplement of the DDG.

- **Other issues**

The members did not raise any other comment.

The team has a list of comments and we will present you how do we address them in the document.

5. Overview of the Consultation activities

An overview of the consultation activities planned for the 60 days consultation period (as recommended by ISEAL) was given. The team expressed that the date was still to be decided, judged on the preparation work still to be done, it was likely to be in the second half of February. The formal start date, along with the plan of consultation activities would be shared with the members in the first days of February.

6. Any Other Business

The approval process of the "consultation version" of the Standard was discussed.

The Chair of the Committee suggested that the final version was rotated and approved by email unless it was deemed completely necessary to discuss a particular issue in a meeting.

The team promised to do their best to share the document with tracked-changes by the end of the first week of February, allowing reasonable time.

The team responded to a question on the availability of a French version.

Simone closed the meeting reflecting on the main intention of the CRAFT – Market Entry initiative: to facilitate the engagement of the more vulnerable miners with legal markets and to have a positive impact on the miners and their families. Setting the bar is difficult, but the lower we set the bar bigger the impact.

Present:

- **Simone Knobloch**-Valcambi COO
- **Yaw Britwum**-Solidaridad Ghana Programme Manager, Gold.-Vice chair
- **Andreina Rojas**- Intel Conflict Minerals Outreach Specialist
- **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
- **Mauricio Cabrera**-WWF Mining Policy Coordinator
- **Michele Bruelhart**-EICC Technical Director
- **Phaedon Stamatopoulos**- Argor-Heraus Director Refining & Bank Products
- **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

Project team:

- **Marcin Piersiak**-ARM’s Deputy Director
- **Baptiste Coue**- ARM’s Head of Monitoring and Evaluation (French translation).
- **Ana Maria Orjuela**-Standards and Certification analyst (Spanish translation)
- **Natalia Uribe**-ARM’s Standards and Certification Coordinator

Apologies and absentees:

- **Anne-Marie Fleury**-RJC Standards and Impact Director
- **Assheton Carter**-The Dragonfly Initiative Director
- **Cesar Ipenza**-Peruvian and environmental mining expert
- **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