

Comments on the MCEP, Working Paper 1

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Introduction

The WWF – Australia Mining Certification Evaluation Project has a significant future capacity for all stakeholders, in that it may lay the foundation by which a truly international mining standard can be developed. The MCEP itself aims to assess the potential for third party certification, addressing all mining operation impacts so that opportunities for benchmarking and continuous improvement can be achieved and explored. It is pleasing to see such interest in the research project from all level of stakeholders including the WWF, CSIRO, major mining companies, labour unions, environmentalists, indigenous peoples, socialists and audit bodies. Particularly as the project not only addresses the core management system requirements of the International Standards Organisation (ISO) being the Quality, Environmental and Safety aspects, but also giving equal footing and consideration to social and economic impacts.

Summary

I have read the working paper and associated documentation that is freely available on the WWF website, and as an ex miner turned external systems auditor, I must say from the outset I found the discussion material, papers, ILO literature and meeting minutes very informative and extremely interesting reading. Although a number of valid points are identified throughout Working Paper 1, I think the most crucial, aside from the core foundation of a certification methodology itself, is the slight differentiation between the ICMM Sustainable Development Principles and that of the Working Principles of the MCEP. Where the key differences are,

- Well managed mines as opposed to Sustainable development
- Focussed on mine site performance as opposed to corporate performance
- Audit criteria based on identification of performance against the MCEP principles.

These subtle changes identify the core differences in objectives between the ICMM and the MCEP. And although this author offers no comment in support of either methodology, these changes needed to be identified early so as the integrity in the process was maintained and all stakeholders could focus on the achievable MCEP outcomes.

Observations

If I may make the following observations on Working Paper 1

On reflection and compliance with ILO Conventions, and I am in support of them, I find it difficult to understand the consequence or ramifications to a state if it does not comply, although these international guidelines as referenced are “legally binding on the states that ratify them”. Which raises the questions,

What is the extent of the legalities or penalties?

What is the timeframe in which penalties are manifested?

Who is responsible for ensuring that the penalties are enforced?

Are these controls effective in eliminating recurrence?

Part B – INTRODUCING CERTIFICATION

Pg 14 Section 5.1 defining the term “Properly”, consideration could be given to including not only reference to standards (which I take as external standards ie ISO) but also developed internal standards designed by an organisation to meet product or procedural requirements consistently.

Pg 15 Section 5.3 there may be benefit in considering the customer mentality of accepting “the most competitive price”. Looking at the MO’s ability to compete in the open market, consideration could be given to including a mechanism whereas improved mine site performance could input producer pre selection criteria.

Pg 16 Benefits,

- “the effective driver of change” may be based on individual MO or corporate ethics, as such benefits of certification would be negated.
- “improved access to capital” may be dependant on product and mine project viability, in some cases having an effectively managed system and work site may not improve access to capital if the company returns are bleak.

Pg 16 Risks,

- “audit overload within the industry” in effect third party external audits are not overly prevalent within the industry. Granted there is a perception that internal audits have reached overload however, these and those of the individual regulators are not considered by myself as a true in depth audit. Many organisations would extract numerous benefits from engaging a JAS-ANZ accredited certification body.
- “the potential for small to medium enterprises to be excluded due to their resource limitations” true certification and system control would only benefit small enterprises by reducing exposure and streamlining processes. However, if certification costs themselves are exorbitant then there would be a real potential for industry discrimination.
- “failure to secure sufficient funding for managing a certification program” this may be addressed through incorporating these costs into the base cost of the product. although it would increase the competitive market price of the MO’s product balanced over the normal three year lifetime of comparable certifications, impact would be negligible.
- “compliment existing laws, regulations, codes of practice, policies and procedures” there may the very real possibility that countries may be exploited due to the level of existing domestic legislation in reflection of more comprehensive legislation in other countries. Hence the need to incorporate truly international benchmarks that focus on sociological and environmental impacts based on best legislative practice. The objective should be to assist all mining companies to achieve at least minimum compliance.
- “have sufficient funding and expertise within the certification institution” there may be benefit in considering the International Accreditation Forum (IAF) and its members eg the Joint Accreditation System of Australia and New Zealand (JAS-ANZ) as the benchmark for organisations wishing to undertake the role of an external certifier. An international framework of accreditation bodies is already in place, eg IAF, ensuring all certification bodies operate within strict guidelines.

Pg 16, Section 5.4 Developing a Certification Model

- “Geography” Specific mention is given to opportunities for a tiered approach to certification in consideration of national, international, regional or local locations or sites. Some consideration could be given to ensuring that any proposed certification model is single entity, ideally reflecting international impacts and controls with a focus on raising the operation standards throughout the industry.
- “Accreditation” as a comment and as an area of which I have had some experience, the ISO framework, although itself in the business of developing and maintaining standards, has aided in the development of an International Register of Certified Auditors (IRCA). The local Quality Society of Australia (QSA), a body affiliated with IRCA, grants QSA Registration to those internal and external auditors who have met specific requirements of experience and tertiary qualification. Unfortunately it is not a requirement of JAS-ANZ, that its accredited certification bodies (CB’s) provide QSA registered auditors to undertake second or third party audits or certifications. This is entirely an individual decision within each CB, what then occurs is,
 - Smaller CB’s enlist contractors to undertake audit work, thereby reducing operation costs
 - The quality of audit service is lowered, therefore effectively undermining the certification industry’s integrity and clients perception of certification as a positive business tool.
 - Larger CB’s become driven to exact returns from their newly enlisted auditors sooner to compete for clients, effectively undermining their quality of service to their customers.

Thankfully NCS International is an organisation that prides itself on quality auditing, targeted on positive outcomes ensuring service satisfaction with our clients. As such it is our internal requirement that all of our auditors attain at a minimum, QSA registration as lead auditor in one or more disciplines, the reason why our client satisfaction rating is at 99%.

Pg 20, Section 6.3 The MCEP Criteria

- Some consideration may be given to utilising some pre existing performance measures. Some, not all, are already recognised internationally, others individual to country. Eg Lost Time Injury Frequency Rates (LTIFR), Accident Frequency Rates (AFR’s) and degress of environmental impacts.

Pg 20, Section 7.1 Contractors

- In some cases, the mine owner may differ from the mine operator, there are examples both within Australia and South America where the mine owner has leased the entire operation to a second party. When this occurs consideration could be given to including certification as a contractual or lease requirement, therefore ensuring that mines regardless of ownership or operational responsibilities attain minimum compliance.
- In such cases where the any function within a mine is contracted, consideration could be given to including the need to conduct second party audits by the mine owner or mine operator in sub contractual arrangements. Again, the costs associated with conducting these audits could be included in the individual lease or contract agreement.

Pg 20, Section 7.2 Corporate Entities

- “Issues of fig-leaf certification” as a comment, I fail to see the reasoning behind a corporate entity applying this fig-leaf mentality. The organisation, once committed to compliance, I would like to think would not risk the time and effort involved in attaining certification and the positive corporate exposure achieved by allowing a mine site to underachieve.

Most CB’s (should be all) must comply with JAS-ANZ guidelines, in so much that all sites within the scope of the certification need to be audited at least once (if not more) within the three year life of the certification. Six monthly surveillance audits or “snapshots” are conducted at a random selection of sites to ensure the certification remains compliant.

Further, a commitment to conform to the developed standards would need to be gained from the mine owner, if this was not achieved the mine owner may be in contravention of the intent of the certification.

Pg 20, Section 7.3 Retrospectivity

- “Performance” if the future intention is to develop an international standard whereas all sociological and environmental impacts are effectively controlled and addressed, then retrospectivity may not be an issue. Older mine sites if part of a larger corporate entity would need to show commitment and planning to achieve certification compliance and continuous improvement.

Pg 20-21, Section 7.4 Assessment and Scoring Protocol

- As a comment only, I have seen where some organisations are supportive of scoring protocols eg those of National Safety Council of Australia (NSCA), the National Safety Occupational Association, South Africa (NOSA). However, I feel it is difficult to measure performance effectively through scoring, as in all audits, the organisations performance is rating is a perception of the auditor, based on his experience and the availability of objective evidence. Hence my reluctance to support scoring systems. Performance should be based on compliance and continuous improvement rather than a score. Reasoning being some corporate entities may not strive to continuously improve if they have already attained a perfect score.
- “weighting” this scoring protocol may allow mine owners or operators to focus on opportunities to achieve higher scoring rather than the intent of the certification itself. This may again undermine the integrity of the process and as such may introduce tangible levels of compliance, rather than compliance and continuous improvement.
- “scaled or rated assessment” see comments above on Section 7.4.

Part C – DRAFT WORKING PRINCIPLES AND CRITERIA

Pg 27, Section 8.6 The Mine Site and The Mine Site Operator (MSO)

- again as a comment only, through conducting a variety of external audits as a Lead Auditor across a wide variety of industry sectors it is quite obvious that the certified organisations greatest challenge is maintaining control of its contracted workforce or service. The reason being that most if not all organisations perceive that either they can exhibit very or are reluctant to enforce effective control. This underpins the “not my responsibility”, approach ensuring that responsibilities become clouded and risk exposures amplified.

Conclusion

I appreciate the opportunity to comment on the MCEP Working Paper 1 and look forward to receiving the regular papers and discussions available to those on the contact list. The comments identified in the body of this discussion are raised with a view to assisting the Working Group in its endeavours by identifying discussion points that may or may not have been previously considered.

Please, view them in that light.

Kind Regards

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