

Mining Certification Evaluation Project (MCEP)
Working Group Meeting 11

Wednesday 23 March 2005: 10 a.m. – 2.30 p.m.
Royal Society of Victoria

Participants:

Andrew Minns, Newmont
Andrew Rouse, WWF
Francis Grey, SAM Sustainable Asset Management
Leah Horowitz, WWF
Margaret Donaldson, Office of the Aboriginal and Torres Strait Islander Social Justice
Commissioner
Michael Rae, WWF
Nick Currey, Placer Dome Asia Pacific

Guests:

Esther Gilmore, SAM Sustainable Asset Management
Liz Lange, independent consultant
Mick Roche, BHP Billiton

Facilitator:

Chris Burnup, Jacquard Projects

Apologies:

Durham Davis, WMC Resources
Fiona Solomon, CSIRO
Ian Wood, BHP Billiton
James Ensor, Oxfam Community Aid Abroad
Kristina Ringwood, Rio Tinto
Malcolm Forbes, Environment Australia
Martha Macintyre, University of Melbourne
Melanie Stutsel, Minerals Council of Australia
Nick Chipman, PricewaterhouseCoopers
Peter Colley, Construction Forestry Mining and Energy Union

Summary of main points of discussion

1. Timeline

- (a) A timeline for the remainder of the project was presented to the Working Group.
- (b) It was indicated that the Project Team were seeking the Working Group's approval of the intention to combine Working Papers 1, 2 and 3 into a single Final Report.
- (c) It was noted that this would permit the avoidance of repetition in the documents, allowing them to be streamlined.

- (d) This would both facilitate the production of the final project documentation and make it easier to read.
- (e) The general consensus was that this would be an appropriate strategy.
- (f) Working Group members were asked to send feedback on the drafts of Working Papers 1 and 2, henceforth to be labelled “Parts 1 and 2 of the Final Report”, to both Andrew Rouse and Leah Horowitz, as Leah would be overseas for the next five weeks and on leave for most of that time.
- (g) The Working Group was informed that a Track Changes copy of Part 1 of the Final Report (formerly “Working Paper 1”) was available by e-mail, on request, although any potential readers were warned that the multiple colours made it a difficult document to read.
- (h) It was suggested that 15 April would be an appropriate deadline for comments on Parts 1 and 2, circulated previously, and that comments on the outline of the FPIC section of Part 1 should be sent by 1 May.
- (i) The Project Team was seeking comments on the structure and content of the drafts.
- (j) It was indicated that once the international field trials had been completed, their results would be incorporated into Part 2 and an updated draft would be sent to the Working Group.

2. Working Paper 3

- (a) It was noted that Part 3 of the Final Report would contain a discussion of existing certification systems.
- (b) It should also discuss governance issues for certification systems.
- (c) Part 3 will also indicate the best components of these existing systems and list Working Group members’ preferences for the governance of a mine site certification system.
- (d) It will also incorporate insights gained from trialing the process in the field.

3. Life after MCEP

- (a) The opinion was expressed that after completion of the research phase, the MCEP could join with other initiatives working toward similar goals.
- (b) It was suggested that there was much overlap between the various efforts and that joining forces with them would be the most productive strategy.
- (c) However, it was noted that the MCEP Working Group represented a broader range of stakeholders than others, many of which had no involvement from NGOs.
- (d) Meanwhile, the suggestion was made that the strategy used to create the FSC, which involved a large assembly of participants, was to be avoided.
- (e) Instead, it was recommended that a relatively small group of major players could be brought together in order to identify a single way forward.
- (f) It was noted that it would be important to involve industry in any such initiative.
- (g) The opinion was expressed that it would be useful to bring together industry initiatives that address other aspects of mine production, such as the chain of custody.

4. The Audit Protocol

- (a) It was noted that the report from the field trial team at Waihi had made significant recommendations as to ways in which the audit protocol could be improved.
- (b) As noted in the field trial team members' report and in the process report, these improvements would involve removing redundancy, separating management system elements from performance elements, and adopting some aspects of the ISO framework.
- (c) It was noted that much of the duplication had resulted from the fact that the basis for the audit protocol had been the ICMM Principles.
- (d) The opinion was expressed that the changes recommended by the Waihi team would make the protocol much more rigorous and logically structured.
- (e) The question was raised as to whether it would be feasible to carry out those recommendations at the present time, or whether it would be adequate simply to leave them as recommendations for the next phase.
- (f) It was indicated that it would be impossible to make the requisite changes ahead of the field trial in Brazil, which would take place in two and a half weeks' time, as the audit protocol had already been sent to the site upon their request.
- (g) It was also noted that the tight timeframe for the completion of the project would not allow for the recommendations to be carried out before the end of MCEP.
- (h) Part 3 of the Final Report should thus make recommendations for changes to the audit protocol.
- (i) It was observed that in a revised version, it should be possible to trace all questions back to the Principles and Criteria, unless a decision were made to change these.
- (j) It was suggested that significant improvements could be made to the audit protocol in a period subsequent to the completion of the MCEP, in preparation for the next phase.

5. Free, Prior and Informed Consent (FPIC) section of Part 1 of the Final Report

- (a) It was noted that the workshop on FPIC had been highly productive, and that the minutes from that discussion would form the basis of a section of Part 1 of the Final Report.
- (b) The outline for that section, which had been circulated to the Working Group, was discussed and general approval was expressed.
- (c) It was noted that some issues regarding the implementation of FPIC were still unresolved, and that this should be indicated in the paper.
- (d) The observation was made that the FPIC section of the paper would be substantial.
- (e) It would need to cover both what had been agreed and what was still being debated.
- (f) The opinion was expressed that this discussion would be one of the most profound contributions of the MCEP to international efforts.
- (g) It was noted that the emphasis of the discussion had been on mechanisms for dispute resolution on site and ways to achieve the best possible result within a given situation.

- (h) The debates had centred around the process of negotiation with stakeholders rather than becoming ideological arguments.
- (i) This pragmatic approach was seen as productive and positive.
- (j) The opinion was expressed that it would be critical to find the intersection between the role of government and that of the company.
- (k) It was observed that some governments opposed any negotiations between the company and the community, while others allowed companies to use their own codes of practice.
- (l) It was suggested that it would be useful to describe a few different political contexts as examples.
- (m) It was noted that this section would look different from the other sections; it might be differently formatted, possibly with several break-out boxes.

6. Evaluating performance

- (a) The opinion was expressed that the MCEP audit protocol measures performance as well as systems.
- (b) It was suggested that mines would prefer a certificate from such a process, which would be more meaningful than other certification systems which focus solely on systems.
- (c) However, the contrasting opinion was voiced – that most of the MCEP audit protocol actually refers to systems rather than performance.
- (d) It was observed that in order to test performance, it would be necessary to use auditors who were experts in specific areas.
- (e) It was noted that although MCEP goes beyond other certification systems in addressing performance to some extent, constraints of cost and time had limited the degree to which this could be pursued.
- (f) It was also noted that the audit protocol was designed to be applicable to all mine sites, regardless of context, which limited its ability to test performance, which would of necessity be specific to ecological, socio-economic and legislative conditions.
- (g) It was suggested that regional standards, such as those used in FSC, could be considered.
- (h) However, it was noted that the specificities of each mine, due not only to its very particular ecological, geological and social context but also to the product being mined and the process being used, would require site-specific standards to be generated.
- (i) Another alternative would be to determine whether the mine had managed risks adequately.
- (j) However, the question was raised as to who would decide which risks were significant, and what would constitute adequate management of those risks.
- (k) The suggestion was made that the audit protocol should attempt to cover every imaginable issue and that those that were not relevant would simply be marked “N/A”.
- (l) It was noted that this was how most audit programs operated.
- (m) It was suggested that pre-audit preparation could determine which questions were applicable to the site.

- (n) Additionally, performance standards could be sent to the site well in advance of the audit in order to help the site to improve its performance as well as prepare for the audit.
- (o) The suggestion was made that the audit protocol itself should be sent to the site.
- (p) However, the opinion was expressed that this might allow some sites to fool the auditor with paperwork.
- (q) The opinion was expressed that auditor qualification would be crucial, and should be addressed in Part 3 of the Final Report.

7. Community Relations section of the audit protocol

- (a) The Community Relations team member at the Waihi field trial reported that the audit protocol required a great deal of external verification.
- (b) This raised questions as to how to obtain access to people, how to ensure that the right sample of the community had been achieved, how to know what size sample would be appropriate, and how to avoid upsetting community members in situations in which they had already been extensively interviewed.
- (c) The question was raised as to how FSC and MSC handle this aspect of their audits.
- (d) It was indicated that they invited comment from stakeholders, in consultation with local NGOs.
- (e) Part 3 of the Final Report should explore options, making reference to existing guidelines.

8. Corporate Governance section of the audit protocol

- (a) The Corporate Governance team member at the Waihi field trial observed that much of this section requested information about activities at the head office rather than on site, making the questions difficult to answer.
- (b) The remark was made that in a real certification audit, the site would have to have the material ready for the auditor ahead of time.
- (c) The question was raised as to the value of the policy if it were not implemented on site.
- (d) One response was that it would be important to ensure that site-based issues could inform policy at the head office.
- (e) Additionally, this was an area that had not been addressed in other certification programs. In order to drive improvement, MCEP was flagging it as an important feature of a company's operations.
- (f) However, it was indicated that, with its current design, the audit protocol might be missing site-based Corporate Governance risks.
- (g) It was also noted that in the current format, the audit protocol questions did not contain clear boundaries and it was difficult to see the relationship of this section to the other sections.

9. Employee Relations section of the audit protocol

- (a) The Employee Relations team member at the Waihi field trial reported that the audit protocol missed issues such as work/life balance, disciplinary procedures, and did not require evidence of a strategic approach.

- (b) It also did not contain adequate coverage of issues regarding non-union employees and contractors.
- (c) The question was raised as to how to set standards for those issues such as a good work/life balance.
- (d) The suggestion was made that a risk-based approach could be taken.

10. MCA Sustainable Development conference

- (a) It was noted that the MCA conference in November would provide an opportunity to discuss, with other participants, the possibility of building on the MCEP research to create a certification system.
- (b) After some discussion, it was decided that, if possible, it would be best to give a short paper followed by a moderated open panel discussion involving members of the Working Group.
- (c) The paper could discuss the MCEP process, outcomes, issues and how they were worked through.
- (d) As the abstract is due before the completion of the project, it will cover what has been done to date and what is expected to have been done by 30 June.
- (e) It was suggested that the paper could also refer to other (non-MCEP) initiatives that may occur in the interim.
- (f) It was decided to see who amongst the Working Group members would be able to attend the MCA meeting in Alice Springs in November.

11. Actions

- (a) The Project Officer will:
 - Participate in the final field trial at Anglo American's Catalão niobium mine in Brazil.
 - Circulate a process report on that field trial.
 - Finalise Part 2 of the Final Report.
 - Draft and circulate a section on FPIC for Part 1 of the Final Report.
 - Assist with research and writing for Part 3 of the Final Report.
- (b) Michael Rae will:
 - Circulate a draft of Part 3 of the Final Report.
 - Circulate an abstract for the MCA conference.
- (c) The Working Group will:
 - Provide comments on the drafts of Parts 1 and 2 of the Final Report.
 - Indicate their availability to attend the MCA conference.

12. Date for next Working Group meeting

- (a) Tuesday 24, Wednesday 25 and Thursday 26 May were proposed as possible dates.
- (b) Working Group members are requested to express their preference for one of the three dates.
- (c) During this meeting:
 - The results of the field trial at Catalão will be presented.
 - Parts 1, 2 and 3 of the Final Report will be discussed.