

Mining Certification Evaluation Project (MCEP)
Working Group Meeting 12

Tuesday 24 May 2005: 10 a.m. – 3.30 p.m.
Saville Park Suites

Participants:

Andrew Minns, Newmont
Andrew Rouse, WWF
Durham Davis, WMC Resources
Fiona Solomon, CSIRO
Francis Grey, SAM Sustainable Asset Management
Kristina Ringwood, Rio Tinto
Leah Horowitz, WWF
Michael Rae, WWF
Nick Currey, Placer Dome Asia Pacific
Peter Colley, Construction Forestry Mining and Energy Union

Guests:

Kurt Hammerschmid, Integrated Environmental Systems
Torsten Halbich, Anglo American (via telephone)

Facilitator:

Tim Offor, Offor Sharp

Apologies:

Ian Wood, BHP Billiton
James Ensor, Oxfam Community Aid Abroad
Malcolm Forbes, Environment Australia
Margaret Donaldson, Office of the Aboriginal and Torres Strait Islander Social Justice
Commissioner
Martha Macintyre, University of Melbourne
Melanie Stutsel, Minerals Council of Australia
Nick Chipman, PricewaterhouseCoopers

Summary of main points of discussion

1. The FPIC section of the Final Report

- (a) All those who had participated in the e-mail discussion of the draft of the FPIC section of the Final Report were thanked for their contributions.
- (b) The major issues debated during that discussion were:
 - The role of government; and
 - What level of consultation / negotiation / seeking of consent would be acceptable for certification.
- (c) Other issues included:

- Whether international agreements were applicable to transnational corporations;
 - Indigenous vs. non-Indigenous rights to FPIC;
 - Whether the MSO should incorporate additional claimants over time; and
 - Principles behind FPIC vs. its practical implementation.
- (d) Additionally, it was mentioned that it would be important to discuss the need for on-going, not once-off, consultation.
- (e) It was noted that much debate around this topic was occurring on an international level.
- (f) The Working Group would likely not be able to reach consensus on these issues.
- (g) However, the opinion was expressed that it would be important to capture the MCEP Working Group discussion that had occurred so that it could inform further discussions by others in future.
- (h) The strategy for incorporating this discussion into the document would be to:
- Change the text according to the comments, where possible;
 - Where comments conflicted or suggested something radically different from the text, prompt further e-mail discussion on particular, well-defined topics; and
 - If necessary, indicate issues on which disagreement remained and outline the different positions and points of debate.
- (i) The suggestion was made that this section of the document could include case studies.
- (j) It was agreed that this section would become an appendix, with a summary in the main document.

2. Draft of Parts 1 and 2 of the Final Report

- (a) The Working Group discussed the draft of Parts 1 and 2 of the Final Report that had been circulated via email the previous week.
- (b) Several suggestions for improvement were made, and the Working Group was asked to send further comments by e-mail before 3 June.
- (c) It was noted that one missing element that would be added was a discussion of the level of assurance that could be provided.

3. The Audit Protocol

- (a) It was noted that the field trial teams at the New Zealand and Brazil trials had made extensive suggestions for ways to improve the Audit Protocol.
- (b) Their suggestions included eliminating redundancy, making the question sequences more logical, and aligning the various sections of the Audit Protocol.
- (c) The opinion was expressed that it would be valuable for the project to improve the Audit Protocol according to these suggestions.
- (d) This would require approximately three days, with two auditors and the Project Officer working together.
- (e) Although this revised version would not be able to be tested, it would capitalize on the efforts of those field trial teams and would result in the production of the final MCEP Audit Protocol.

- (f) The alternative suggestion was made that the auditors' recommendations could simply be included in the Final Report.
- (g) It was noted that there might be several options for improving the Audit Protocol, and that these should be examined.
- (h) It was agreed that the Team Leader from the New Zealand field trial, Kurt Hammerschmid, and the Project Officer would draft and circulate a scoping study that would indicate the various options for changing the Audit Protocol.
- (i) The Working Group could then decide which, if any, of these options would be most valuable as the ultimate Audit Protocol of the MCEP.

4. Part 3 of the Final Report

- (a) The Working Group discussed issues to be addressed in Part 3 of the Final Report, which will examine options for governance of a mining certification scheme.
- (b) It was noted that key stakeholders who would likely be interested in such an initiative would include ICMM, as a representative of the global mining industry; non-governmental organizations (NGOs); governments; organised labour (e.g. the ICEM); and investors.
- (c) The opinion was expressed that it would be important to have some analysis of the learnings from other certification schemes, especially what had and had not worked.

5. Ownership of the accreditation / governing body

- (a) Two options were presented for the structure of an accreditation body: a privately owned organization or a membership organization.
- (b) Important features for such a body would include: independence from any one interest group, credibility with stakeholders, economic viability in terms of both venture capital and ongoing funding, representativeness of stakeholders, and acceptance by both industry and other stakeholders.
- (c) The degree of centralization or decentralization would also have to be decided.
- (d) It was noted that a certification scheme would probably have to rely largely on funding from the mining industry as it would likely prove difficult to find other sources.
- (e) The opinion was expressed that it would be necessary to think pragmatically about what would work, especially in the initial stages, but that the structure would evolve over time.
- (f) It was suggested that the financial sector could be a driver, if they could be convinced that the certification scheme would provide them with useful results.
- (g) It was noted that credibility might not be granted from the start but would be earned over time.
- (h) The suggestion was made that the accreditation body could begin by being privately owned and that the board membership could expand over time.
- (i) Rules about voting would also play a role in determining the representativeness of the board.
- (j) It was pointed out that it might be easier to have individual companies contribute representatives than to aim to attract representatives from industry groups.

- (k) It might also be important to include representatives from jewelers' associations as well as the World Bank or the IFC, for credibility.
- (l) Governments of developed countries with a large mining sector might also be interested in becoming involved.
- (m) It would also be important to have the involvement of unions representing mineworkers at the national or international level.
- (n) Major standards organizations could also play a role.
- (o) In selecting a board, there would be two major considerations: ensuring that all major players were represented, and including people with important skill sets, such as auditors.
- (p) In addition to the governing body, which would make strategic decisions about the program, there would also be an advisory group.
- (q) Membership of this latter group would represent a lesser investment in terms of reputation, so organizations might be inclined to join the advisory group initially.
- (r) At start-up, it would be necessary to have the governance, funding, and advisory groups in place.
- (s) It was noted that NGOs should be involved from the beginning to ensure credibility of the certification scheme.
- (t) Eventually, the governing body could expand to become more broadly based, including representatives from a range of stakeholder groups, including developing countries.

6. Other issues to be discussed in Part 3

- (a) Other issues to be discussed in Part 3 included the selection and accreditation of certifiers, as well as the manner and frequency of evaluations of certifiers.
- (b) One option would be to conduct shadow audits regularly to check up on certifiers.
- (c) The certifying body would need a team of specialists capable of addressing all sections of the Audit Protocol, and the time period of the audit could vary – this would be at the discretion of the certifiers, as long as they satisfied the accreditation body.
- (d) Another issue was the appeals process.
- (e) It was noted that the Forest Stewardship Council possessed an appeals committee to handle such requests.
- (f) This process would be important for mine site operators who felt that they had been unfairly denied certification, as well as for external stakeholders who felt that certification had been unfairly granted.
- (g) It was suggested that there should be a Code of Conduct for auditors.

7. Next steps beyond MCEP

- (a) The MCA meeting in Alice Springs in November will provide an opportunity to discuss the results of the MCEP.
- (b) It will also be important to promulgate the results in international forums, such as executive Working Group meetings of the ICMM.
- (c) Company representatives on the MCEP Working Group were asked to assist in spreading the word about the findings of the MCEP.

- (d) No gathering of NGOs was likely for the near future, but the NGOs on the Working Group could distribute the Final Report to others.
- (e) One-on-one networking would also be important.
- (f) Media coverage could also play a role; the Working Group was asked to suggest appropriate journals and/or journalists.
- (g) The main aim would be to inform people as well as, hopefully, to attract the interest and support of key stakeholders.
- (h) Additionally, it was expected that a meeting would take place in September or October, at which the various initiatives working towards certification in the mining sector would attempt to join their efforts.
- (i) It was suggested that CSIRO might be able to assist with residual research questions.

8. The field trial at Mineração Catalão

- (a) One of the Anglo American participants in the field trial at Mineração Catalão joined in the discussion via telephone.
- (b) He reported that the trial had been a very positive experience, and made several suggestions for refining the Audit Protocol and process.
- (c) These included separating questions for the corporate structure from those for the site, engaging with the ISO process in order to limit the duplication of efforts, and including NGOs from the developing world.
- (d) It was indicated that the other mining representatives would concur with the suggestions put forth.
- (e) The Anglo American representative also recommended conducting further field trials in other developing countries.
- (f) It was pointed out that no further field trials would take place as part of the MCEP, but that after the close of the project, there might be scope for other groups to conduct field trials of the MCEP Audit Protocol in future.

9. Actions

- (a) The Project Officer will:
 - With Kurt Hammerschmid, draft a scoping paper discussing options for a finalized Audit Protocol, by 1 June; and
 - Circulate a revised draft of Parts 1 and 2 of the Final Report, by 10 June.
- (j) Michael Rae will:
 - Circulate a first draft of Part 3 of the Final Report, by 3 June; and
 - Circulate a final draft of Part 3 of the Final Report, by 24 June.
- (k) The Working Group will:
 - Provide comments on the draft of Parts 1 and 2 of the Final Report, by 3 June; and
 - Provide comments on the draft of Part 3, by 17 June.

10. Date for next Working Group meeting

- (a) Tuesday 21, Wednesday 22 and Thursday 23 June 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 final draft of the Final Report will be discussed.