

Mining Certification Evaluation Project (MCEP)
Working Group Meeting 4

Friday 27 June, 2003
Rio Tinto offices, Melbourne

Participants:

Andrew Minns, Newmont
Andrew Rouse, WWF
Arthur Hood, Placer Dome
Fiona Solomon, CSIRO
Francis Grey, Sustainable Asset Management
Ian Wood, BHP Billiton
John Southalan, Human Rights and Equal Opportunity Commission (*on behalf of Margaret Donaldson*)
Kristina Ringwood, Rio Tinto
Libby Rankin, PricewaterhouseCoopers
Malcolm Forbes, Environment Australia
Martin Webb, WMC Resources
Melanie Stutsel, Minerals Council of Australia
Michael Rae, WWF
Peter Colley, Construction Forestry Mining and Energy Union
Tim Offor, Offor Sharp and Associates (facilitator)

Guest:

Keith Ferguson, Placer Dome, Vancouver

Apologies:

James Ensor, Oxfam Community Aid Abroad
Margaret Donaldson, on behalf of Aboriginal and Torres Strait Islander Social Justice Commissioner
Martha Macintyre, University of Melbourne

Acronyms:

MCEP = Mining Certification Evaluation Project

WG = Working Group

WPC = Working Principles and Criteria

ICMM = International Council on Mining and Metals

Summary of main points of discussion

1. Welcome and Aims of Meeting

- a) Aim of meeting to discuss Working Paper 1, including Working Principles and Criteria for well-managed mine sites.
- b) The facilitator thanked the Working Group for the constructive dialogue at the last meeting and their input out of session to prepare for the discussion at this meeting.

2. Development of Working Paper 1

- a) Working Paper 1 is the first of three discussion papers that will be developed during the MCEP and circulated for public comment. It aims to:
 - Introduce the certification idea, the MCEP and its participants.
 - Discuss the direction the MCEP is taking and identify a number of emerging issues.
 - Propose Working Principles and Criteria for well-managed mine sites and seek feedback on these.
- b) The International Council on Mining and Metals (ICMM) Sustainable Development Framework and associated Principles: The Working Principles and Criteria are framed around the ICMM Sustainable Development Principles, which until recently had still been in draft form.
 - The ICMM Principles have ‘principles’ and ‘sub-elements’ and are available on the ICMM website.
 - The MCEP has used the ICMM Principles as the structure under which more specific ‘criteria’ for well-managed mine sites are organised. The criteria are being developed via the Working Group.
 - Not all ICMM ‘sub-elements’ have criteria attached to them. The Working Group have also added new sub-elements where they have deemed necessary.
 - It is proposed that the criteria, rather than the ICMM principles, would be the focus of a certification assessment.
- c) It was noted that an earlier draft of the Working Principles and Criteria (WPC) was discussed in depth at the Aitken Hill WG meeting 3 on 1-2 May.
 - WG feedback at that meeting included suggestions for specific wording, identification of specific or general issues that needed more detailed attention, and avenues for following up these.
 - Since that meeting, the project team has sought additional input from WG members on particular topics and conducted additional research on issues raised in discussion. In particular, sections on Indigenous people, free prior informed consent, and human rights have been strengthened.
- d) The decision to use ‘shall’ and/or ‘should’ in the criteria was discussed (for example, ‘the mine site operation shall comply with or exceed all national, state and local laws and regulations’).
 - An earlier draft had used both ‘shall’ and ‘should’ for different criteria, leading to the perception that some criteria had different (but unspecified) weighting or flexibility.
 - The Forest Stewardship Council (FSC) Principles and Criteria use ‘shall’ only in the criteria and it was agreed after some discussion that the MCEP would follow this model.
 - Weighting of criteria and/or the use of scoring in a certification assessment remain options that will be explored by the Working Group. It was agreed that using ‘shall’ and ‘should’ was a poor proxy for these more nuanced options.
- e) Some of the challenges of standard setting were articulated, including:
 - A multi-stakeholder and multi-disciplinary process can mean that some values, ideas or expectations are contested. So far these have been able to be negotiated among the Working Group.

- Some standards (or associated auditing skills) may not yet be standardised or available, particularly in the social area. On some issues, a global standard may not be able to take into account the diversity of local contexts or the need for a ‘bottom-up’ community development approach.
 - There is a tension to be both aspirational (for example, setting very high standards for performance or addressing issues that may be problematic to define globally) and practical (for example, linking to existing management systems or only having criteria that are easily measured).
- f) It was also emphasised that the overriding task of the MCEP is to evaluate the potential feasibility of a certification model for the mining sector. Furthermore:
- As has been stressed in previous MCEP publications, there is a need for broader international dialogue on the project’s outcomes as the starting point for any institution building. Thus the MCEP will not be certifying sites or establishing a certification institution.
 - Final design of a certification model is unlikely to end with the MCEP. Thus some of the complex issues being identified in the MCEP represent substantial decisions that would need to be taken by the institution that owned a certification standard.
 - The task for the Working Group and the MCEP’s Working Papers is thus to ‘map out the territory’ of mine site certification and identify key issues and standards, insights from field trials of the concepts developed, and feasible governance options.

3. General feedback on Working Paper (Working Group)

- (a) The final version of the ICMM Principles were published during the week previous to the Working Group meeting. ICMM member companies have committed to these principles for their operations.
- The Working Group had provided feedback to ICMM on the draft Principles. This was taken into account by the ICMM secretariat in developing the final version.
 - A copy of the final ICMM Principles was circulated during the meeting and it was agreed that the project team and the Working Group needed time to examine them in more detail to identify changes from the draft version.
 - The decision of the Working Group to use the ICMM principles as the organising framework for the MCEP criteria needs further discussion in the Working Paper’s introduction.
- (b) The large amount of detail in the Working Paper presents a potential communication barrier for general readers. It was proposed that the Working Paper be clearly separated into three parts. This would better enable feedback to be sought on different parts of the document: that is, the idea of certification and the project; the decision to use ICMM principles; and the proposed criteria in detail.
- Part A – Introduction to MCEP, certification, Working Group formation and progress.
 - Part B – Choice of ICMM principles as framework, and other issues identified by the Working Group relevant to a potential certification model.
 - Part C – MCEP Working Principles and Criteria, references.

- (c) General WG comments on latest draft of criteria in Working Principles and Criteria:
- There was discussion around the number of criteria, currently numbering more than 100. On the one hand, there appeared to be little that was missing in terms of issues from the Working Group's perspective. On the other hand, there were opportunities to reduce repetition or duplication in some areas. These will be identified in detailed feedback to the project team. Most thought the criteria were going in the right direction, though some editing and balancing remained, especially in the relative emphasis of social vs environmental issues.
 - Some criteria appeared to be too broad in scope or too high level. A few of the criteria refer to issues that may be out of the control of a mine site operation. The Working Group agreed that an assurance/auditing perspective is needed to provide input on these issues during the drafting.
 - Some criteria appeared to be too value-laden, yet sit alongside those that are based on management systems. However it was also suggested that a mix is probably appropriate given the diverse topics being addressed. It was argued that value-driven issues still need to be represented in the criteria even if they can't be quantified.
 - The need to reference international standards where possible in the criteria was discussed. International Labour Organisation (ILO) core labour standards are incorporated, but others such as voluntary principles on security may be better referred to in a footnote.
 - The need to be aware of Australian-isms in the language used in the criteria and the treatment of particular issues. As the aim of the MCEP is to evaluate the feasibility of an international certification model, not an Australian one, the Working Group would provide feedback to the project team on criteria that appear too parochial.
- (d) Issues which will need further discussion during the 'Open House' process at WWF relate to criteria currently covering: Indigenous people; Prior informed consent; Supply chain; Security forces; Gender; IUCN protected areas; and Tailings confinement.
- (e) The current 'disclaimer' may need to be reworded to emphasise that organisations will not have formally signed off on the Working Paper when it is circulated for public comment.
- (f) The project team requested that the Working Group's detailed feedback on proposed criteria and editorial suggestions be submitted via email by COB Friday 11 July.
- (g) The aim is to release Working Paper 1 for public comment at or shortly after the next meeting of WG in September 2003. However the timeframe will depend on the amount of work arising from Working Group feedback above.

4. MCEP directions

- (a) It was put to the Working Group that the MCEP was supposed to be stretching not status quo. It was agreed that not all mine sites will be certifiable at this time. Furthermore, this is probably appropriate for a mechanism that is seeking to differentiate those operations which have good performance. A certification model would be proposed with the intent of raising standards and performance over time across the whole industry and influencing the way new mine sites are managed.

- (b) There is a need to differentiate the MCEP from the ICMM's initiative and (for example) the Minerals Council of Australia's development of a Sustainable Development Code. The Working Group need to explore what is 'value-adding' about certification, how does it relate to the above industry initiatives, how to avoid it being a further burden on sites, who would audit etc. Some of these issues will be explored further in MCEP Working Papers 2 and 3.
- (c) There was good discussion about the field trials stage of the MCEP, and whether these should be developing further performance standards for sites or 'ground truthing' the Working Principles and Criteria. There was a general agreement to do the latter. This could involve workshops with local stakeholders on the rigour and relevance of the principles and criteria, and cross-checks with existing site standards. A professional auditor should be involved in the field trials to provide an evaluation from an auditors perspective, but not to carry out an audit *per se*. There will be further discussion of field trials and the research design at the next Working Group meeting in September.
- (d) The role of other stakeholders, such as governments and communities, in sustainable development was discussed. It was acknowledged that these groups do play important roles. However a certification model would:
 - Be seeking to define criteria for well-managed sites, not for sustainable mining.
 - Be focussing on the mine site's practice and performance in this regard, as the entity which is seeking to be certified.
- (e) It was proposed that the next Canary (MCEP Update 3) include voices of the Working Group discussing particular issues in MCEP.

5. Actions

- a) *Project team to cross-check Working Principles and Criteria against finalised ICMM principles and highlight what is additional or changed. Separate out ICMM framework from criteria to highlight work of MCEP.*
- b) *Working Group to submit detailed feedback on Working Paper to project team by COB Friday 11 July.*
- c) *Project team to organise 'Open House' process to convene key Working Group perspectives to address issues or dilemmas in particular criteria, during week of 11-15 August.*
- d) *Seek auditing perspective on Working Principles and Criteria to assess whether matters are sufficiently described and measurable (late August).*
- e) *Engage professional editor to assist with consistency and duplication issues (August/September).*
- f) *Develop Canary 3 for circulation to Contact List (July/August).*

6. Next meetings:

- a) 11-15 August, 2003: WWF 'Open House' proposed to be held during this week. Agenda to be determined by project team as a result of detailed feedback on criteria from Working Group. Teleconference will be an option for non-Melbourne based Working Group members.
- b) 25-26 September, 2003: Working Group meeting 5 – two-day meeting in Melbourne to finalise Working Paper and commence design of field trials.