



IISD Methodology to Assess Government Implementation of the IGF Mining Policy Framework

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Head Office

161 Portage Avenue East, 6th Floor, Winnipeg, Manitoba, Canada R3B 0Y4
Tel: +1 (204) 958-7700 | Fax: +1 (204) 958-7710 | Website: www.iisd.org

Geneva Office

International Environment House 2, 9 chemin de Balexert, 1219 Châtelaine, Geneva, Switzerland
Tel: +41 22 917-8373 | Fax: +41 22 917-8054 | Website: www.iisd.org

Overview

The International Institute for Sustainable Development (IISD) is undertaking a series of assessments that measure the “readiness” of member states of the Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development (IGF) to implement the IGF Mining Policy Framework (MPF). This document describes the methodology developed by IISD to assess strengths, weaknesses and gaps in national mining policy frameworks assessed under the MPF. The aim of these assessments is to help the governments of the designated member states to target their efforts in implementing the MPF, informing capacity-building efforts and allowing for monitoring of progress over time.

The IISD assessments, conducted under a mandate from the IGF with self-selecting member states,¹ take into consideration the national and international laws, policies and administrative frameworks for mining and mineral development and management in relation to the six dimensions of the MPF:

- Legal and policy framework
- Financial benefit optimization
- Socioeconomic benefit optimization
- Environmental management
- Post-mining transition
- Artisanal and small-scale mining

The assessment process is based on the MPF as the starting point. The MPF is a general document with very broad coverage. Some specific elements of the MPF may, therefore, not be applicable in every context, or some governments may make an alternative policy choice based on their specific circumstances. In keeping with the specific mandate of this project, the assessment team did not review such policy issues in relation to any specific elements of the MPF to determine whether they should (or should not) apply in the specific context of each country, only to determine if they are being applied. (More sensitivity on this issue may be warranted, however.)

Each assessment has the following components, described in detail below:

- (1) Desk-based research
- (2) The confirmation of the assessment template
- (3) Field visits and stakeholder consultations
- (4) Preparing the initial assessment
- (5) The in-country validation meeting
- (6) Preparing the draft and final assessment report

Adaptability

While this assessment methodology is based on the MPF, it is applicable to other holistic mining policy frameworks as well. This is particularly so for the Africa Mining Vision (AMV) and the recently developed *Country Mining Vision Guidebook*, designed to help individual states translate the AMV into national mining visions. Most notably, the assessment process can fit well with the suggested need to conduct “a thorough and multi-sectoral review of existing legal, institutional, policy and regulatory frameworks with regards to compliance and alignment with the AMV and existing national development goals” as part of a national mining vision process.

¹ The first assessment, for the Dominican Republic, was completed in March 2014; the assessment for Uganda saw the in-country visit completed in June 2014; and the assessment for Madagascar was undertaken in October 2014.

The Assessment Process

1. Desk-Based Research

The first step in the assessment process is to conduct desk-based research, including a document and literature review and initial information gathering. The collected information includes, among other items, the general mining laws and regulations, environmental laws and regulations, other administrative laws, references to natural resources or mining in the national constitution, international treaties, applicable labour, health and security regulations, applicable fiscal laws, public access to information laws, foreign direct investment legislation, available mine development contracts, social and economic reports, international indexes, and general information regarding the mining sector and the political context.

After the team gathers the above information, it presents a list of primary sources of law and policy to the focal point in the country, along with a request for review and provision of any missing or updated sources. The team reviews the list of sources in one or more calls with the focal point and other law and policy experts from the mining authority, with the aim of ensuring a complete set of materials is available for the assessment.

Box 1: Time attributed to desk-based research and preparation for field visits

The desk-based research and the preparation for the field visit and stakeholder consultations will carry over approximately two to three months per assessment, with three-person consulting teams attributing roughly 25 per cent of their time over these months to the project.

2. The Assessment Template

The MPF is a very detailed set of standards, any one of which could easily be overlooked in the course of conducting an assessment. The assessment team therefore created a detailed template, based on itemizing each individual standard listed in the MPF, to aid in a comprehensive review and to ensure that each of the many standards presented in the MPF was evaluated during the assessment (see Appendix 1 for a sample page.)

The template used is an Excel spreadsheet organized in pages that correspond to each of the six MPF themes. Each page has four major sections presented in columns: the corresponding MPF standards; a score with internal assessment team guidance for scoring; general descriptions of good practice on the topic (generated by the assessment team from internal and external sources, created for internal assessment team guidance only); and space for assessment team notes.

The first column presents each individual standard within the MPF, organized by the subtopics presented within each theme. The second column provides a colour-coded number score of 0 (low-red), 1 (medium-yellow) or 2 (high-green) to indicate the level of national implementation of the given standard. A brief description next to each possible score provides guidance to the assessment team of criteria that might result in that score (e.g., “no law exists” = 0 [low-red]; “a law exists, but it is not implemented” = 1 [medium-yellow]; “a law exists and it is consistently implemented and enforced” = 2 [high-green]). The third column, created by the assessors based on internal and external sources, provides general internal guidance to assessors on sources and examples of “good practice” on the given point. The team uses the final column to note interviewee responses, as well as to list relevant law and policy in the country being assessed.

Immediately following the document review, field visits and stakeholder consultations, and prior to the validation meeting described below, the assessment team adds its notes to later enable a final score for each of the issues in the template. The assessment of each factor, reflected in the scoring process, takes into consideration all information gathered through the desk review, stakeholder consultations and field visits, and is used to identify major strengths and weaknesses to present in the validation meeting. An edited version of the template (without the internal guidance notes and examples) is included in the assessment report. A summary version (with overall results by theme) is presented in the executive summary. The colour coding built into the template provides a quick visual reference of country progress that complements the written assessment report.

Box 2: The focal point in-country

It is important to have a strong commitment from the government, and the assignment of a focal point is key to the success of the assessment.

3. Field Visit and Stakeholder Consultations

Consultations with a wide range of stakeholders and visits to mines and mining regions within the country can be very helpful in the MPF assessment process, when they are possible.

Identification of Stakeholders

In preparation for the in-country assessment, the team and government focal point should agree on dates, develop a list of key stakeholders, and establish a schedule of meetings and site visits. It has been important in this assessment model to have government buy-in for the consultation of external stakeholders.

The key stakeholders of the mining sector can be divided into three major groups: government agencies, mining companies and civil society stakeholders.

Government agencies generally include the officials in charge of the permitting system and/or contract negotiations: for example, the mining authority and the environmental authority; tax authorities that implement fiscal regulation for the mining sector; and agencies implementing health, security, water, land, education and business development regulation related to the mining sector. Representatives of national, regional and local levels of government should be consulted.

Consultations with company representatives give the assessment team an overview of private sector concerns regarding mining law and policy in the country, and help identify strengths and weaknesses in monitoring, enforcement and other aspects of the national framework.

Consultations with civil society and communities aid the assessment team in understanding public perceptions of mining in the country and in identifying major strengths and weaknesses in the national mining law and policy framework and its ability to translate into sustainable social and economic development.

While the potential civil society organizations and companies to consult are reviewed with the focal point, these consultations should typically be arranged and conducted independently by the assessment team, with reporting not attributed to any individual or organization.

Duration and Schedule for In-Country Assessment

The duration of the in-country MPF assessment (consultations and field visits) is approximately 10 to 11 days. The mission begins with a meeting with the focal point, followed by a meeting with wide representation from the Ministry of Mines. This meeting is an opportunity for the assessment team to present an overview of the MPF, the assessment project and their schedule to the Ministry, and to ensure that no key documents or stakeholders have been overlooked. A list of laws and policies collected to date and scheduled stakeholder meetings is provided for review and comment.

The subsequent eight to nine days or so are used for meetings with stakeholders and one to two days for field visits, with a day of rest incorporated on the weekend. The final day concludes the in-country assessment with a validation meeting between the team and the Ministry, which is further described below.

Practical Tips for Implementing a Successful In-Country Assessment Process

A successful in-country assessment process can be aided by following these practical tips:

- Work closely with the focal point to schedule meetings prior to arrival.
- Conduct national government meetings from a single centrally located venue and civil society meetings in a comfortable and convenient venue.
- Include one or more days of site visits to key mining regions if feasible.

4. Making the Assessment

Upon conclusion of the stakeholder consultations and prior to the validation meeting, the assessment team reviews the assessment template, scoring the level of implementation (low, medium or high). This is largely a qualitative evaluation based on the full scope of the desk work and the government and stakeholder meetings. It requires the collective input of the team to maximize information and minimize potential individual biases. This initial assessment is then tested in the validation meeting and further refined in preparing the full draft and final reports.

5. Validation Meeting

The last day of the field visit is reserved for a validation meeting in which the team presents the preliminary findings regarding the level of implementation of the MPF. The aims of the meeting are for the team to ensure that key information has been collected and key stakeholders consulted, and to verify preliminary findings.

The validation meeting in this case consists of a presentation including an overview of the MPF and the assessment methodology, a list of stakeholders consulted by sector (company, government, civil society), key national sources of law and policy, the team's initial findings of strengths and weaknesses under the MPF, and conclusions and next steps. Next steps for the assessments include preparing a draft report, reviewing the report with the focal point and key government contacts, finalizing the report based on feedback, and conducting a capacity-building workshop based on weaknesses and gaps identified in the assessment process.

The assessment team obtains feedback during the validation meeting to ensure that it has collected all (and the most current) relevant law and policy and has consulted all major stakeholders. Feedback on preliminary assessment findings is critical to inform the development of the assessment report. The validation meeting should therefore include significant time for feedback and full discussion with the Ministry.

Box 3: The validation meeting

The validation meetings include the focal point, key mining ministry contacts, tax authorities, and representatives of the Ministry of Environment, the Ministry of Health and other key ministries. Approximately 25 people attend the validation meetings, and the assessment team provides each with a copy of the MPF for reference. The meeting should be estimated at two to three hours.

6. The Assessment Report

After the field visit, the assessment team prepares a draft report, circulates it to key government stakeholders for feedback and finalizes the report, taking the feedback into consideration. The report integrates the findings from the desk-based research with those from the in-country assessment. Additional follow-up with stakeholders may be needed to clarify any remaining questions that arise in preparing the report.

The MPF assessment reports have been structured as follows:

- Executive summary.
- Section I: Introduction to the assessment.
- Section II: Description of methodology used to conduct the assessment.
- Section III: Overview of the mining sector in the country and the policy context.
- Section IV: Presentation of assessment results organized by the six themes of the MPF, the key legislation and policies applicable and the identified strengths and weaknesses.
- Section V: Summary of major strengths and weaknesses.
- Section VI: Initial recommendations regarding capacity development or weaknesses requiring particular attention from the host country government.
- Appendix: Includes an edited version of the assessment template and lists of documents and institutions consulted and additional references.

Appendix: Examples of Assessment Template

1. Policy Recommendations on the Legal and Policy Framework						
A. Generation and access to geological information	Score	0	1	2	Guidance	Notes
Generation of baseline geological, topographical and other information for national land use planning		Very significant parts of information are inexistent, poor and/or outdated	Significant parts of necessary geological information are poor and/or outdated	Information covers nearly all relevant aspects and is up to date	Countries that fulfill this recommendation will typically have a consolidated and comprehensive GIS-based geological database that covers both known and predicted metalliferous and non-metalliferous resources across the entire country and that can easily be linked to databases used for national land use planning. The information should be regularly updated through geological surveys. The database should use regional or global resource classification systems (such as JORC or SAMREC) and be independently verified. Advanced countries will also have 3D-models for key areas.	
Information is made available with equal access to individuals, communities and other civil society actors to ensure that consultations between different parties can take place on an equal footing		Significant information is not available to civil society actors	Some, but not all, significant information is made available to civil society actors, and/or civil society actors do not have equal access to the	Most important parts of information are accessible for civil society actors	Information is made available to a wide range of stakeholders, both expert and non-expert, in a timely manner and in a format that is easy to comprehend.	
B. Mining codes and standards	Score	0	1	2	Guidance	Notes
Mining C&S are revised and updated to reflect changing knowledge and best practice		C&S are outdated and do not reflect current knowledge and best practice	C&S are partially updated to reflect current knowledge and best practice, but are outdated in some significant aspects	C&S are up to date, reflecting current knowledge and best practice in all major areas	The country's mining codes and standards reflect current knowledge and best practices, including those that promote sustainable social and economic development, environmental assessment and mitigation, and post-closure management plans and monitoring. The codes and standards should promote adherence to this and other sections of the IGF Mining Policy Framework.	
Mining C&S deal with all aspects of		C&S focus on one or	C&S deal with most, but	C&S deal with all	The mining codes and standards should be	
<div style="display: flex; justify-content: space-between; background-color: #f2f2f2; padding: 5px;"> 1. Legal and Policy 2. Financial Benefits 3. Socio-Economic Benefits 4. Environment 5. Post-mining Transition 6. ASM </div>						

2. Policy Recommendations on Financial Benefit Optimization						
A. Revenue generation scheme	Score	0	1	2	Guidance	Notes
Revenue generation scheme optimizes return from mining activity and taxation agreements with foreign and domestic investors in a manner that reflects the different realities they face		Revenue generation scheme results in little to no returns from mining activity and related taxation agreements	Revenue generation scheme results in some, but not optimal, returns from mining activity and related taxation agreements	Revenue generation scheme results in optimal returns from mining activity and taxation agreements	Revenue generation schemes should result in a fair return from mining activity and taxation agreements, while not overburdening investors. Revenue generation schemes that are a "win/win" for the government and investors will benefit ongoing operations, while helping maintain a favorable climate for future investments.	
Revenue generation scheme optimizes resource levy revenues returned to society during high price periods and minimizes need for entities to reduce or end production in low price periods, supporting a variety of sustainable development objectives		Revenue generation scheme does not optimize resource levy revenue returns to society in high periods, nor does it minimize need to reduce production in low periods	Revenue generation scheme promotes, but does not optimize, resource levy revenue returns to society in high periods and minimizing need to reduce production in low periods	Revenue generation scheme optimizes resource levy returns to society in high price periods and minimizes need for entities to reduce production in low periods	Revenue should be managed in a way that anticipates and manages mineral price volatility. Long-term strategic plans should include such management plans, e.g. through creation of a cash reserve/fund from high price periods to ease the strain of low price periods.	
Revenue generation scheme seeks to integrate mineral sector with other economic sectors so as to optimize its contributions		Revenue generation scheme does not integrate mineral sector with other economic sectors	Revenue generation scheme makes some effort to integrate mineral sector with other economic sectors	Revenue generation scheme substantially integrates mineral sector with other economic sectors, optimizing mining sector contributions	The revenue generation scheme should take into account the national, regional and local socio-economic systems, integrating the mineral sector in ways that maximize its contributions to social and economic development.	
B. Mining policy	Score	0	1	2	Guidance	Notes
Policy maintains sufficient flexibility to ensure a balance between optimizing revenue and		Policy is not flexible and does not balance optimal revenue	Policy is somewhat, but not sufficiently, flexible to ensure	Policy is sufficiently flexible to ensure a balance between	Risks and benefits should be shared between the government and investors in an equitable way. Clear policies leading to predictable	
<div style="display: flex; justify-content: space-between; background-color: #f2f2f2; padding: 5px;"> 1. Legal and Policy 2. Financial Benefits 3. Socio-Economic Benefits 4. Environment 5. Post-mining Transition 6. ASM </div>						

For additional information, please contact IISD's Mining and Sustainable Development Initiative through Hans Herrmann (hans.herrmann@iisd.ca) or Howard Mann (hmann@iisd.ca).

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Head Office

161 Portage Avenue East, 6th Floor, Winnipeg, Manitoba, Canada R3B 0Y4

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International Environment House 2, 9 chemin de Balexert, 1219 Châtelaine, Geneva, Switzerland

Tel: +41 22 917-8373 | Fax: +41 22 917-8054 | Website: www.iisd.org

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