

## IGF 2018: Intergovernmental Workshop: 15 October 2018

An intergovernmental workshop and training event took place on Monday 15 October, for delegates to the 14th Annual General Meeting of the Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development (IGF), which convenes from 16-18 October in Geneva, Switzerland, on the theme of ‘Modern Mining Law and Policy: Accountable, Equitable and Innovative.’ Delegates reviewed guidance on local content policies in the morning, and on conducting effective Environmental and Social Impact Assessment (ESIA) in the afternoon. At the end of the day, they met in regional groups to identify priorities for future work.

### Opening Plenary

Alexander Medina Herasme, Director General of Mining, Dominican Republic, and Chair of the IGF Executive Committee, opened the workshop.

Greg Radford, Director, IGF Secretariat, provided an update on the Secretariat’s work, noting the progress made on: engagement and outreach, implementing the Mining Policy Framework (MPF), and capacity building and technical support. He welcomed new IGF members and presented the Secretariat’s activities in different regions. Citing countries’ active participation in IGF’s activities in Africa, Matthew Bliss, Deputy Director of the IGF Secretariat, highlighted the success of the Secretariat’s work in regions and with regional organizations.

Radford explained that all activities are aligned to the MPF, and comprise related country assessments that can include identification of strengths and weaknesses in a country’s mining sector, as well as areas that could benefit from technical assistance and capacity building. He noted that the assessment reports are validated by the governments concerned.

Alec Crawford, IGF Secretariat, updated participants on recent changes to the MPF assessment methodology, highlighting several improvements that incorporate lessons learned in recent years, without changing MPF language. He noted that the assessment methodology now incorporates consideration of climate change, gender equality, investment law, and the Sustainable Development Goals (SDGs), and he recommended consulting the guidance available on emerging international best practice.

Radford encouraged sharing of country experiences, and Medina affirmed the benefits of assessment for the Dominican Republic, which was one of the first countries to complete an assessment.

Delegates from several developing countries asked how the IGF assessment methodology could help them to better explore their mining resources, attract stable investment, and add value for local communities. Radford responded that the IGF can tailor the technical assistance offered to match each country’s needs, and he encouraged delegates to discuss with the Secretariat the possibility of developing their own country-specific plans. Noting the importance of guidance in helping countries to implement the MPF, Radford presented



Family photo of 2018 AGM delegates



**Greg Radford**, Director, IGF Secretariat, and **Alexander Medina Herasme**, Chair, IGF

the guidance documents that the IGF has developed in four areas: managing artisanal and small-scale mining (ASM), local content policies, environmental and social impact assessment (ESIA), and base erosion and profit shifting (BEPS). He introduced several reports that the Secretariat has worked on with partner organizations, which provide detailed analyses on topics including, *inter alia*, global trends on ASM, women in ASM, innovation in mining, and voluntary standards in the extractive economies.

### **Local Content Policy Guidance Training**

Aaron Cosby, International Institute for Sustainable Development (IISD), recalled IGF members' 2016 request for guidance on local content policy, and expressed satisfaction that this request has now been fulfilled. He drew attention to five areas relevant to local content: upstream linkages to local suppliers; downstream linkages to companies that process the extracted product; employment policies; spillover benefits to non-mining companies; and building domestic capacity in the mining sector. He noted that countries developing local content policies must take into account their obligations under various international trade agreements, as well as technological advancements in the mining industry itself.

Isabelle Ramdoe, IGF Secretariat, stressed the importance of clarifying policy objectives, which, she said, could include promoting local employment, increasing government revenues, and importing relevant technology. She noted that both governments and the private sector need to understand the local context in which the mining sector operates, including



**Isabelle Ramdoe**, IGF secretariat

current and future opportunities, and existing human resource capacity. She highlighted issues for consideration, mentioning: distinguishing between policies that benefit local communities, and those that benefit national companies; whether local suppliers have the ability to meet mining companies' requirements; offering both 'carrots' and 'sticks' in policy packages; and promoting policy coherence between building an open economy and providing local opportunities. She encouraged participants to identify the intent of policies, for example, whether they seek to correct historic injustices against indigenous peoples, provide opportunities for women, or have other aims. She noted that promoting downstream linkages may also need to take into account national security concerns, for example, whether rare earth minerals should be exported or retained in the country.

On spillover benefits, Cosby highlighted that infrastructure such as roads and Internet connectivity had potential to benefit many other sectors beyond mining, and that developing human resource capabilities could also increase capacity for other entrepreneurial pursuits, depending on the business context.

Cosby invited delegates to comment on the guidance document and discuss what kind of training and capacity building may be needed. Delegates from several developing countries stressed the importance of ensuring that development benefits communities directly affected by mining activities. They also discussed various policy instruments including both 'sticks' and 'carrots' they had used in their country to promote local content. An African country indicated the necessity of sharing infrastructure between mining businesses and other sectors, especially for mines located in remote areas. A Latin American delegate shared her country's experience of building water treatment plants for mines in desert regions, emphasizing the value of collaboration between governments and the private sector in promoting local development. Noting the limited capacity of local suppliers to meet relevant standards, countries also called for training activities to ensure local content policies can foster local economic development.

Participants from Latin America called for guidance on establishing training and professional development programmes that can serve non-mining sectors, and on expanding of state-owned enterprises in the mining sector. One participant noted that local companies in her country already



**Aaron Cosby**, IISD



**Lourdes Nancy Tarqui Blanco**, Ministry of Mines and Metallurgy, Bolivia

provide basic services to the mining sector, and that support is needed for career development in more specialized areas of work.

### **Consultation on ESIA Guidance Document**

In the afternoon, the Secretariat introduced the recently developed guidance document on Environmental Studies and Impact Assessment (ESIA), highlighting several existing challenges in most countries for conducting assessments. Clémence Naré, IGF Secretariat, identified two evolving themes during the development of the document, including the need to consider the management and closure plans of mine companies jointly with the environmental studies. She reminded delegates that legal frameworks should not only consider mining codes, and highlighted the development of the guidance included all laws and legal aspects, including contract governing and environmental assessments, reinstatement plans, and permitting and contracting processes.

Suzy Nikiéma, IGF Secretariat, presented the main findings of the document, and welcomed delegates' feedback to enable its further improvement. She stressed the importance of legal frameworks supporting ESIA as a crucial issue in the mining sector, to provide clear and appropriate indications of when ESIA should be drafted, what the scope should be, and how follow-up should be carried out to ensure commitment. She lamented that a number of issues are not well framed in many countries, resulting in mines that operate without appropriate management plans. Nikiéma also noted an increase in arbitration processes in which companies are requesting compensation when governments have turned down a mining



**Priscila Armijos Silva**, Ministry of Energy and Non-Renewable Natural Resources, Ecuador

permit application because of an unfavorable ESIA, leading to millions in damages being paid to companies. She suggested this is mostly a result of having incomplete legal frameworks that are unclear or that do not cover all eventualities.

During responses from the floor, one participant commented that the most relevant option in ESIA is that financial and environmental feasibility studies should be undertaken together and provide integrated outcomes. Participants suggested that having strategic frameworks in place, especially for sensitive areas, would promote development of 'forecasting maps' and reduce potential future conflicts.

While praising the high quality of the ESIA guidance document, a European country proposed that the guidance should also address issues such as lack of transparency in processes. She suggested that further guidance could be developed on strategic environmental assessment (SEA) in the mining sector.

Marina Ruete, IGF Secretariat, stressed the importance of correct sequencing of actions, noting that environmental assessment, mine closure plans and guarantees should be provided before mining permits are granted.

A Latin American country expressed concern that investors may find it unattractive and difficult to work in a country with strong legislation on environmental impacts of mining. She emphasized the need for operators to have free access to proposed mining locations for the purpose of carrying out feasibility studies. An African country noted that environmental assessment is carried out before the scale of the mining project is known.



L-R: **Marina Ruete**, IGF Secretariat; **Kristi Disney**, SDSG; **Suzy Nikiéma**, IGF Secretariat; **Clémence Naré**, IGF Secretariat; and **Alexander Medina Herasme**, Chair, IGF



Delegates during the session

Ruete recommended that government staff should have sufficient time and capacity to study the EIA presented by companies. She noted potential conflicts of interest as government staff approving the EIA sometimes have established their own companies that prepare the plans on behalf of mining companies. She noted that legal frameworks regarding consultation of local communities are not always clear on how implementation will be monitored and regulated, and that there are difficulties with integrating assessments of social, environmental and climate issues. Ruete mentioned cases in which automatic approval is granted for mining permit applications, even within seven days. She highlighted the need for budgets to be available for follow-up and oversight of implementation.

An African country asked how to ensure compensation of local communities affected by mining, noting that mining permits may be granted without the agreement of such communities. She emphasized that budgets for follow-up and oversight of mining operations are needed.

A European country suggested studying examples of countries that already have a single process for both environmental and social impact assessment, such as Germany.

Ruete summarized the issues of concern, including: the ineffectiveness of monitoring and inspection mechanisms; lack of periodic implementation reports; and a 'permissive culture' of mining in which penalties imposed are not in line with the

gravity of damage caused. She proposed clarifying the roles of stakeholders involved in monitoring and implementation, ensuring periodic reporting, and establishing multi-stakeholder monitoring mechanisms rather than monitoring being done only by governments or companies.

Reporting back on consultations with the International Association for Impact Assessment (IAIA) and the Secrétariat international francophone pour l'évaluation environnementale (SIFÉE) during September and October, Naré noted similar feedback regarding the need for SEAs and developing clear guidelines when reporting on environmental feasibility, among others.

Kristi Disney, Sustainable Development Strategies Group, presented on IGF's partnership with the German Corporation for International Cooperation (GIZ) to expand the research with case studies to complement the background paper. She encouraged participants to declare their interest in being considered for case studies. One participant stressed the need to conduct comprehensive EIAs in sensitive areas, regardless of the time it might require.

### ***Facilitated Discussion and Closing***

Delegates met in three regional groups in the late afternoon to identify relevant priorities for action.

At the end of the day, they posed for an IGF 'family photo' and then adjourned.



Delegates from the Americas discuss regional priorities