



Voluntary Sustainability Standards and Mineral Sector Governance: Synergies and Practices

EXECUTIVE SUMMARY

Over the past three decades, the adverse environmental, social and governance (ESG) impacts of minerals production and trade have gained significant public attention, resulting in the **proliferation of a significant number of voluntary sustainability standards and certification systems (VSS) globally**. In parallel, national regulatory frameworks in mineral producer countries¹ have established mandatory requirements that seek to leverage mining, and minerals processing, transportation, trade and sourcing to advance sustainable development. At the same time, in most cases international voluntary standards have been developed independently of these national legal frameworks. This results in a **certain lack of coherence, which has very practical implications**:

- Authorities of many producer countries appear to have insufficient capacity and resources to effectively engage with each of the standard-setting bodies whose frameworks are deployed in the region.
- Businesses bear a significant audit burden, and are subject to greater compliance and reporting costs, which may result in enterprises experiencing reduced resources to actually prevent and mitigate risks and adverse impacts.

This study was commissioned by the Extractives for Development programme of the Germany development agency GIZ. Understanding that VSS often play a significant role in determining the impact of mineral sector businesses in producer countries, **the study seeks to build understanding about how VSS can complement national regulatory frameworks in mineral producer countries and enable these countries' authorities to exercise more effective mineral sector governance**, ideally leading to an overall improvement in the impact of mineral economies in producer countries, and for affected people and in particular vulnerable groups such as women and children.

To analyse these existing and potential synergies, the study is organised into **three components**:

1. An examination of VSS' engagement culture and practices, looking at existing levels of collaboration of six sample VSS² with public authorities, at various stages of the VSS's development and implementation;
2. Three case studies which explore the potential for increased synergies between VSS and public authorities, looking at current modes of collaboration, their objectives, initiation, and positive outcomes as well as challenges;
3. A summary of leading practices and lessons learned to inform future policy making and legislative processes, as well as the development of VSS.

Existing levels of VSS engagement with public authorities in producer countries

Among the six VSS examined, the study finds that **collaboration with public authorities in mineral producer countries** around the three main phases of standard development and implementation³ **is fairly limited**.

With the exception of the Initiative for Responsible Mining Assurance (IRMA) and ICGLR's Regional Certification Mechanism (RCM), VSS do not appear to undertake active outreach to government authorities specifically related to their **standard's development or revision, or have a specific outreach strategy for engagement with public authorities**. Overall, the six VSS do demonstrate more active engagement with public authorities **during assurance processes**. VSS indicate that auditors engage with public authorities at various levels for primary data gathering and verification purposes during the assurance process, and to a lesser extent to build upon existing national compliance data and national inspection reports. **Post-assurance**, however, of the six VSS only ICGLR's RCM proactively reaches out to government

¹ The definition of mineral producer countries in this report is restricted to countries where minerals are extracted, and excludes mineral processing.

² 1) Aluminium Stewardship Initiative (ASI): Performance and Chain of Custody Standards; 2) Initiative for Responsible Mining Assurance (IRMA): Standard for Responsible Mining; 3) International Conference on the Great Lakes Region (ICGLR): Regional Certification Mechanism (ICGLR RCM); 4) Responsible Minerals Initiative (RMI): Responsible Minerals Assurance Process (RMAP), Risk Readiness Assessment (RRA) Criteria Guide and related standards; 5) ResponsibleSteel (RS): International Standard; 6) The Copper Mark: Risk Readiness Assessment (RRA) Criteria Guide.

³ 1) standard setting and revision process; 2) the assurance process; and 3) post-assurance and non-compliance handling process.

authorities to share recent audit reports or to maintain ongoing dialogue with producer country authorities and regulators around overall trends in audit findings.

Much of the collaboration that exists between the VSS and government officials exists beyond the scope of the VSS' standard setting, assurance and post-assurance processes. These interactions appear more ad hoc, appear somewhat dependent on producer countries' interest in reaching out and/or participating in ongoing relationships with VSS, and for a large part relate to promoting responsible business practices in general, and to the exchange of technical expertise.

VSS modes of collaboration with public authorities and their added value in improving mineral sector governance

VSS play a prominent role in industry efforts to improve responsible business practices in mining and minerals extraction and processing, although they are increasingly criticised for not going far enough or being insufficiently accurate and effective.⁴

- VSS frequently add value through the extensiveness of their ESG requirements that regularly go further than what is required by national law, complementing and advancing business practices that are at a minimum required by the state.
- VSS assurance and certification schemes appear to **give confidence to many mineral purchasers and downstream buyers about the due diligence undertaken in their minerals supply chains.** At the same time, it is important to note that affected people and civil society do not always share this confidence.⁵

While acknowledging that VSS could, and should, not aim to replace the central role of state governance for the mining sector, the study demonstrates that **VSS are already helping advance good mineral sector governance in three ways:**

1. **VSS are playing a role in examining and improving legal frameworks with relevance for mineral sector governance.** The **Indonesia-IRMA case study** describes how VSS can inform the development or revision of legislation related to the mineral sector. IRMA proactively works with government authorities, amongst other stakeholders, to raise awareness about how their standard can be used to inform mining legislation.
2. **VSS and governmental representatives are in dialogue to share technical expertise on specific ESG topics,** to share findings from localised projects to address risks and impacts, and to generally exchange information about responsible mining to advance mutual capacity building. The **Copper Mark case study in Peru** is an example of this. The VSS functions as a guiding tool for companies and through its active engagement it enables these companies to both meet the Copper Mark requirements as well as to comply with various Peruvian ESG regulations.
3. **Regional certification mechanisms can stimulate national governments' enforcement of companies' due diligence practices.** The **IGCLR RCM case study in Rwanda** demonstrates how the mechanism incorporates an advisory body that actively promotes and facilitates the improvement of member states' mineral sector governance and addresses gaps in members' policy frameworks or enforcement practices. Although the ICGLR is not empowered to enforce its recommendations, its governance structure creates leverage to influence member states' legislative implementation and enforcement of the Regional Certification Mechanism and leading practices in member states.



4 EU's Flawed Reliance on Audits, Certifications for Raw Materials Rules | Human Rights Watch (hrw.org); and Muller-Hoff, C. (2022). 'Human rights fitness of the auditing and certification industry? A cross-sectoral analysis of current challenges and possible responses', ECCHR (ECCHR_BfdW_MIS_AUDITS_EN.pdf).

5 Idem.

Challenges and opportunities for increased synergies between VSS and producer country mineral sector governance frameworks

The study thus finds that there is significant potential for VSS to positively impact governance processes in producer countries. By making specific changes to VSS outreach strategies, and their approaches to knowledge and data sharing, VSS would be better positioned to optimise their contribution to effective mineral sector governance. Stakeholders interviewed for this study, however, raised various challenges regarding the potential for such increased collaboration and knowledge and data exchange.

- **VSS** have highlighted **limited capacity, including financial and human resources constraints**, to engage with a large number of government authorities. Some of the VSS also hinted that increased **involvement of public authorities in VSS standard setting or assurance processes is not universally perceived as a positive development** by all stakeholder groups. For instance, rightsholders do not always trust their governments to best represent their interests. More broadly, some of the VSS question whether it should be their mandate to advocate for legislative changes, or mineral sector governance improvement.
- **Public authorities indicate that their limited active participation** in VSS development or implementation is due to **a combination of lack of awareness, limited resources to engage with each of the VSS**, and wish to maintain a level of independence from the VSS. They do, however, demonstrate a general interest to stay informed of developments around the VSS operated in their region.

Recommendations

The VSS, public authorities in mineral producer countries, business users of VSS, and people affected by mining and civil society organisations in general all play a key role in leveraging potential or actual synergies between VSS and good governance in mineral producer countries. Based on the findings of the study, **recommendations to build up these synergies** include:

VSS:

- Develop proactive engagement strategies with producer country authorities, clearly outlining the objectives, the benefits and the expected result of the interactions.
- Increase transparency in reporting audit results and next steps, through the proactive sharing of full audit reports with relevant government offices.
- Re-evaluate whether producer country authorities should be elevated as a key stakeholder group for the VSS, meaning they would be prioritised for investment in engagement.

Development cooperation organisations and policy makers:

- Take on a facilitating role in building effective relationships between states, VSS and civil society, for instance through the convening of relevant actors in country-level dialogue and exchange fora.
- Enhance national authorities' ability to accurately evaluate 'synergy-ready' VSS whose rigour and structure could advance effective mineral sector governance with regard to responsible business conduct, through support for capacity building and a set of practical tools.
- Facilitate the proactive exchange of information and data between public authorities and VSS regarding responsible mining practices.

Civil society:

- Continue to operate as an accountability check for mineral sector governance by raising awareness, holding mining operations and government authorities accountable for on-the-ground impacts, and by critically assessing VSS practices.
- Continue to facilitate access to information for (potentially) affected rightsholders, through the translation and communication of audit results and data to them.
- Continue to facilitate the participation of (potentially) affected people in discussions regarding the role of VSS in good mineral sector governance.

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