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Voluntary Sustainability Standards and Mineral Sector Governance: Synergies and Practices

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Voluntary sustainability standards and mineral sector governance: Synergies and practices.

Authors: This study was commissioned by the Extractives and Development sector programme of the Deutsche Gesellschaft für Internationale Zusammenarbeit – GIZ, and conducted by Levin Sources Ltd. This report was written by Jose Diemel, Ashley Smith-Roberts and Rebecca Pein, with contributions from Julie Schindall. Understanding that voluntary sustainability standards 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 positive impact of mineral economies in producer countries. To analyse these existing and potential synergies, the study: 1) examines VSS' engagement culture and practices, looking at existing levels of collaboration of six sample VSS with public authorities, at various stages of the VSS's development and implementation; 2) includes 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; and 3) summarises leading practices and lessons learned to inform future policy making and legislative processes, as well as the development of VSS.

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Content

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 countries[1] ha ve 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 VSS[2] with public authorities, at various stages of the VSS's development and implementation;

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.*

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 implementation[3] **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 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.

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

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.

4, 5 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).

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.

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.

Introduction

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1. Introduction

1.1 Project rationale and objectives

Over the past three decades, the adverse ESG impacts of minerals production and trade have gained significant public attention. This has resulted in the proliferation of over 30 VSS and certification systems globally. These vary in focus, supply chain tier, commodity type, geographical scope and leadership (e.g., industry platforms, international and regional organisations, financial institutions, multi-stakeholder initiatives), but all state that they aim to improve the sustainability performance of minerals.
In parallel, the development and implementation of national and regional regulatory frameworks in mineral producer and consumer countries have established mandatory requirements that seek to leverage mining, and minerals processing, transportation, trade and sourcing for sustainable development. In some cases, VSS have been translated (to various degrees) into national or regional regulations (e.g., the ICGLR RCM, as translated into Burundian, Congolese, Rwandan and Ugandan law).

However, in most cases the legal frameworks of mineral producer countries have been developed independently of laws in countries importing the raw materials, and independently of VSS. This results in a certain lack of coherence, which has very practical implications for businesses' ability to operate responsibly, create value, and contribute to sustainable development, and may hinder the further development of good governance in producer countries.

This study sets out to understand if and how VSS can complement national regulatory frameworks and help advance states' efforts to exercise effective mineral sector governance. It aims to provide insights into how VSS collaboration and knowledge exchange with mineral producer countries could help to strengthen good governance as exercised by states, as well as increase VSS' effectiveness in advancing positive outcomes for rightsholders and the environment.

The question central to the research for the study is:
How could active engagement and collaboration (synergies) between VSS and public authorities in mineral producer countries further advance good mineral sector governance?

1.2 Research phases and methodology

The research was divided into four research phases, enabling a stepwise approach to answering the overarching research question. The study used mixed research techniques: desk-based document review, case study analysis, and in-depth semi-structured interviews (with VSS, national producer country authorities, and representatives of businesses operating in mineral producer countries where VSS are implemented. The research phases included:

- **Phase 1: VSS landscape and trends analysis:** assessed the emergence and development of the VSS sector over the past 10 to 15 years and analysed the state of play of recent critical debates around the role, effectiveness, and credibility of VSS.
- **Phase 2: review of existing VSS engagement practices:** examined VSS' engagement culture and practices, looking at current levels of collaboration and exchanges between six sample VSS and public authorities in producer countries, at various stages of VSS development and implementation. The review aimed to identify existing practices, understand what is considered good or helpful practice, and determine the types of challenges encountered during VSS engagements with public authorities. The research did not seek to assess the content of the VSS or compare their practices with each other. Engagement with authorities is defined in terms of consultation, data and knowledge

exchange, and joint action. The analysis focuses on three key elements of VSS development and implementation:

a. **Standard setting and revision,** with the analysis revolving around questions related to VSS active consultation of authorities throughout standard setting and revision processes.

b. **Standard assurance process,** with the analysis revolving around questions about VSS engagement with authorities during audits and the extent to which VSS build upon existing data gathered by public authorities (e.g., mine inspection, reviews of legal compliance).

c. **Post-assessment and non-compliance handling stage,** with the analysis focusing on questions related to pro-active sharing of VSS audit data and knowledge with authorities as well as ongoing dialogue with authorities to share overall trends in audit findings to give insight into how businesses comply with VSS requirements and make suggestions about potential ways for regulators and authorities to further drive improved practices.

The research team conducted in-depth semi-structured interviews with six VSS[6]. The six VSS were select based on: the extent of their use by market actors; their use of an assurance process[7]; and the overall balance of the VSS including both mineral agnostic and mineral-specific standards. The six VSS in the scope of the study are:

- Aluminium Stewardship Initiative (ASI): Performance and Chain of Custody Standards
- Initiative for Responsible Mining Assurance (IRMA): Standard for Responsible Mining
- International Conference on the Great Lakes Region (ICGLR): Regional Certification
- Mechanism (ICGLR RCM)
- Responsible Minerals Initiative (RMI): Responsible Minerals Assurance Process (RMAP), Risk Readiness Assessment (RRA) Criteria Guide and related standards
- ResponsibleSteel (RS): International Standard
- The Copper Mark: Risk Readiness Assessment (RRA) Criteria Guide[8]

The interviews aimed to gather insights around current approaches to collaboration with public authorities, considerations of VSS in these collab-orations, and the realities around undertaking engagement with public authorities. Each interview was complemented with a high-level review of primary sources including each the VSS's website and publicly available governance information and general guidance or explanatory documentation, to triangulate and contextualise statements. Lastly, all six VSS were provided the opportunity to review relevant draft sections of this study, which all but one took, to check for inaccuracies and to allow for a deepening of the analysis.

→ **Phase 3: case studies:** explored the potential for increased synergies between VSS and producer country mineral sector governance, looking at the varying modes of collab-oration between the two and putting the perspectives, experiences and interests of VSS, producer country authorities, and business representatives at its centre.[9] The case studies:

a. describe the VSS footprint in the mineral producer country

b. provide an overview of the producer country's mineral sector policy framework and the attention it gives to ESG issues as well as to the importance of VSS in the country

c. analyse the collaboration between the VSS and the producer country, looking at the objectives of the collaboration, its initiation, positive outcomes, and challenges;

d. analyse the added value of the given VSS to the country's mineral sector governance, which elements have made it successful, as well as what key lessons could be learned from them.

6 *This included one interview per VSS.*

7 *ICMM is, despite its large geographical scope and far-reaching collaboration with governments, excluded from the scope due to its lack of an assurance process.*

8 *The Risk Readiness Assessment Criteria Guide is a jointly owned standard by RMI and The Copper Mark.*

9 *The study team was unable to gain feedback from the Indonesian authorities on the IRMA case study.*

The case studies were developed based on a desk-based analysis of secondary sources around the selected country policy frameworks, complemented with eight interviews with three VSS, two producer country authorities, and three business representatives participating in both VSS assurance processes. The in-depth semi-structured interviews served to examine those stakeholders' interests, experiences and incentives to increase collaboration.

- **Phase 4: analysis and discussion:** sought to identify key overarching findings from the previous phases and extract leading practices and lessons learned to inform future policy making, standard setting and legislative processes, including an analysis of key challenges and opportunities for VSS to advance good mineral sector governance. Phase 4 also provides recommendations to assist VSS, development cooperation organisations and civil society to better coordinate and align to yield positive developments for governance and effective uptake in producer countries, with the ultimate aim of improving outcomes for affected people and environments.

Voluntary sustainability standards landscape and trends analysis

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2. Voluntary sustainability standards landscape and trends analysis

This section provides an analysis of trends in VSS development and implementation over the past 10 to 15 years. Recent studies have provided clear and complete overviews of existing VSS, their foci and strengths, as well as their similarities and differences.[10] This analysis aims to complement existing studies with an analysis of trends related to collaboration between VSS and producer countries and knowledge exchange between the two, as indicators of the potential to increase synergies. It answers questions around the emergence and proliferation of VSS in the mineral sector, attempts to increase harmonisation and interoperability between VSS, the initial convergence of many VSS around a rather narrow interpretation of the OECD Minerals Guidance, and the recent trend of increasing alignment of VSS with international normative frameworks on human rights and environmental due diligence, including the UN Guiding Principles on Business and Human Rights (UNGPs) and OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (OECD Guidelines).

2.1 Triggers for VSS development and their proliferation

Many VSS in the mineral sector show a common pattern around their emergence, in which civil society organisations (CSOs) initially raised awareness and attracted policymakers' attention, resulting in the creation of a voluntary standard or other tools to address a specific human rights issue, often linked to one specific mineral or group of mineral supply chains. Examples of such campaigns are the ones concerning 'blood diamonds' or 'conflict minerals'[11]. Such campaigns, for a large part driven by CSOs and news media, drove policymakers and VSS to develop issue-specific regulations and standards that were focussed on addressing one or two main issues at a time.

This approach has led to a proliferation of voluntary standards that do not always align in terms of thematic scope, governance structure or assurance processes, typically because each VSS addresses a specific set of issues or a new mineral. The resulting narrow focus and scope created significant work for businesses to comply with a wide variety of VSS, and have not necessarily led to improved outcomes for affected people and environments.

Rather than taking a myopic view to human rights and environmental due diligence, a more holistic minerals value chain due diligence approach is required for greater positive impact. In practice,

10 *The joint BGR, CSRM and GIZ report of 2017: Mori Junior, R., Sturman, K. and Imbrogiano, J. (2017). 'Leveraging greater impact of mineral sustainability initiatives: An assessment of interoperability'. Centre for Social Responsibility in Mining, Sustainable Mining Institute, University of Queensland. Brisbane.; Russillo, A. and Carey, C. (2018). 'Creating Value Together. Interoperability: Opportunities, Challenges and Ways Forward for Metals, Mineral and Mining Sustainability Standards'. White Paper commissioned by Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), Germany.; Erdmann, M. and Franken G. (2022). 'Sustainability Standard Systems for Mineral Resources A Comparative Overview.' Bundesanstalt für Geowissenschaften und Rohstoffe (BGR), Germany.*

11 *See, for instance, Demand the Supply: Ranking Consumer Electronics and Jewelry Retail Companies on their Efforts to Develop Conflict-Free Minerals Supply Chains from Congo - The Enough Project.*

this may look like aligning with a comprehensive set of authoritative standards that are mineral-agnostic and that follow leading practice due diligence approaches such as the OECD Guidelines or the UNGPs, which require businesses to identify, address and remediate actual or potential adverse impacts within their[12] own operations and value chains, and which avoid the issue of piecemeal standard approaches. IRMA's Standard for Responsible Mining is one example of a mineral-agnostic standard that requires enterprises to conduct due diligence on a broad range of social, environmental and governance topics, in alignment with the UNGPs and OECD Guidelines.

A newer generation of VSS have been developed following triggers around the need for industry to demonstrate action. Some voices have criticised the creation of new VSS as a lucrative business for industry associations, auditing firms, standard setters and other industry stakeholders.[13] Moreover, civil society organisations, trade unions, and some industry actors have raised concerns that some VSS risk becoming a means to 'provide cover' for poor practices.[14]

2.1.1 Practical implications of VSS proliferation

One practical implication of this proliferation of VSS is that producer countries face an array of VSS being implemented in their jurisdictions. This means that different mining companies operating in the same country might report to the authorities that they are following standard A, B or C. In many producer countries, **authorities do not have the capacity and resources to effectively collaborate or engage in information exchange with each of the various VSS** whose standards are deployed in the region.

A second critical implication related to narrow awareness raising campaigns around a single adverse impact driving the due diligence agenda is that **additional ESG issues and alternative perspectives of affected peoples may be overlooked** and thereby not sufficiently incorporated into the VSS.

Finally, **businesses bear a significant audit burden,** including the costs of complying with varying requirements for different VSS, and customer demand driving corporate compliance with a variety of VSS. In practice, businesses may find themselves duplicating efforts, having to comply with and report against multiple standards with diverse and sometimes contradicting expectations and thus **suffering greater compliance and reporting burden and costs.** This may **result in enterprises experiencing reduced capacity to actually prevent and mitigate risks and adverse impacts.** These inefficiencies may impede the effective management of human rights and environmental risks and opportunity capture by minerals producer countries.

2.2 Efforts to harmonise and increase synergies between VSS

Standard setters themselves have attempted to address the issue through standards harmonisation processes, with the aim to enhance collaboration, avoid unnecessary duplication, reduce audit time, and inform learning. Organisations such as the Copper Mark, ASI, RMI, and others have invested significant time and resources in harmonising with relevant other VSS where possible. This includes developing standards benchmarking and recognition procedures that describes alignment, overlap and compliance between different standards, including the opportunity for cross-recognition and collaboration between VSS.

Although such alignment is regularly interpreted as a positive development, it is important to keep the purpose of standards in mind: to effectively improve outcomes for potentially affected rightsholders and environments. Critical voices point out that **harmonisation in and of itself does not necessarily make VSS effective in mitigating or preventing human rights and environmental harms.** Even the most harmonised VSS, if its standards are too low, will not improve outcomes for people and the planet.

12 *See, for instance, Global Witness | Conflict diamonds | Blood diamonds | Global Witness.*

13 *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).*

14 *'Greenwashing' fears plague mining audit industry | Investigate Europe (investigate-europe.eu).*

2.3 Robustness of VSS governance models and the increasing prominence of multi-stakeholder approaches

Recently, various attempts have been made to examine VSS governance models, and their associated levels of credibility.[15] In such discussions around VSS governance models, **'governance' often refers to the stakeholder composition involved in the development and implementation of the VSS**, particularly where it relates to oversight bodies (which typically exercise oversight for assessors' qualifications and assurance findings) and decision-making processes.

- In 2023, the automotive sector-led Drive Sustainability asked eight VSS to self-assess against the **Common standards recognition framework (CSRF)[16] it had developed.** The analysis found that only four VSS included multi-stakeholder governance, and only one had full equal multi-stakeholder governance.[17]
- A 2024 assessment of third party assurance and accreditation schemes in the minerals sector led by Lead the Charge came to similar conclusions.[18]

This **preponderance of industry-heavy governance models** means that those most affected by industry operations are less represented in the governance of these VSS. Key recommendations from critical observers include:

- a movement away from industry-heavy representation in VSS towards more inclusive approaches that involve (legitimate representatives of) rightsholders ('relevant stakeholders' in OECD language), and
- a progression from ad hoc engagement with relevant stakeholders toward a process of structured stakeholder engagement, with a final advancement to the incorporation of full and equal governance among the different stakeholders.

Another interesting point of analysis is the **evolution of increasing external stakeholder engagement in standard setting processes.** One of the main critiques on the first generation of VSS has been around their limited public engagement and consultation in standard development and revision. The second generation of standards tends to represent a more comprehensive and holistic approach to stakeholder engagement and public consultation. One example of this evolution is the recently developed ASM Cobalt Normative Framework, a result of a collaboration between RMI, the Responsible Critical Minerals Initiative (formerly the Responsible Cobalt Initiative), the Fair Cobalt Alliance (FCA), and the Global Battery Alliance (GBA).[19] Although none of these four organisations and alliances have a full equal multi-stakeholder governance, the development of the ASM Cobalt Normative Framework itself did result from hundreds of stakeholder interviews, public consultations, and participation in restitution workshops, both online and in-country. The process included in-country DRC representation, including workshops that took place in several regions, in languages that were accessible to the local population. In addition, ongoing consultations with rightsholders and Congolese governmental representatives and civil society were conducted as the framework was piloted at ASM cobalt sites across the DRC to test the effectiveness of the criteria.[20]

15 *van der Ven, H. (2023), A comparison of stakeholder engagement practices in voluntary sustainability standards. Regulation & Governance. https://doi.org/10.1111/rego.12552; and germanwatch_an_examination_of_industry_standards_in_the_raw_materials_sector_2022-09.pdf.*

16 *Automotive industry heading towards uniform ESG standards for raw materials - Drive Sustainability.*

17 *The Drive Sustainability (DS) Common Standards Recognition Framework defines full multi-stakeholder governance as follows: Governance refers to the stakeholders involved in the standard, particularly in its board and decision-making process. DS expects that industry-only standards will evolve to include stakeholders from different segments in their governing bodies, e.g. civil society In their journey to get there, having ad hoc engagement with other stakeholders may be the first important step in the expected progression, which should also evolve further to structured stakeholder engagement, and then advancing up to incorporation of full equal governance among the different stakeholders comprising the board.*

18 *LeadTheCharge-Assessment-06022024.pdf.*

19 *The Framework development commenced in 2020, underwent public consultations throughout 2021 and 2022, and was published in 2023. The framework was acknowledged by the Democratic Republic of the Congo (DRC) Ministry of Mines and can be found here: https://www.responsiblemineralsinitiative.org/media/docs/ASM%20Cobalt%20Normative%20Framework.pdf .*

20 *https://www.responsiblemineralsinitiative.org/asm-cobalt/.*

Increased incorporation of rightsholders' voices throughout the various activities of voluntary standards, including standard development, implementation and post-assurance, provides the potential for VSS to strengthen good mineral sector governance and improved outcomes for potentially affected people and the environment. So too does the broader application of full and equal governance models, including the inclusion of a wider range of stakeholders beyond industry.

2.4 VSS convergence around a narrow interpretation of the OECD Minerals Guidance

In the mining and minerals sector, many industry standards have for a long time converged around the OECD Minerals Guidance, either referencing it or striving to align with its five-step framework for due diligence. It was socialised across minerals supply chains in the early 2010s, including through support from industry associations. The OECD Minerals Guidance's emergence in 2011 was strongly connected to addressing the specific risk of conflict financing in specific geographies (referred to as Conflict-Affected and High-Risk Areas [CAHRAs]) and focussed on a set of specific minerals (tin, tantalum, tungsten, and gold, or 3TG).[21] The OECD Minerals Guidance sets out a **defined list of human rights impacts that are in scope for risk mitigation ("Annex II risks"), and is somewhat prescriptive in terms of the actions** companies should take to cease, prevent, mitigate and remediate negative risks and impacts. This content is tailored to the specific situation the OECD Minerals Guidance aimed to address (namely, the issue of 3TG mineral trade contributing to conflict financing in the Great Lakes Region).

Since its creation, the OECD Minerals Guidance has frequently been positioned by practitioners, and occasionally by regulators, as the authoritative standard for all due diligence in minerals supply chains. Although a good starting point for some users' due diligence, the OECD Minerals Guidance was not intended to define the entirety of human rights and environmental due diligence in minerals supply chains. Other OECD guidance documents on responsible business conduc[22], such as the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (the OECD MNE Guidelines in short, 2011), the OECD Due Diligence Guidance for Responsible Business Conduct (OECD RBC Guidance in short, 2018), and the OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, go beyond the Annex II risks as well as the 5-step framework, and go into greater detail on topics such as the use of leverage in preventing and addressing risks and impacts, access to remedy for impacted rightsholders, and public reporting, transparency and disclosure.[23] With this in mind, the OECD has stated that companies' broader minerals due diligence should not limit the scope to Annex II risks only.[24] However, in practice, many companies continue to follow solely the text of the OECD Minerals Guidance in their due diligence, thereby limiting risk assessment to Annex II risks and thus de-prioritising the identification of other risks. **Current leading advice to business is to move toward incorporating the more general and broader OECD Guidelines as well as the UNGPs,** rather than relying on the OECD Minerals Guidance to constitute the entirety of their due diligence.

21 *The OECD Minerals Guidance scope was extended after the third edition to include all minerals.*

22 *The OECD Guidelines (2011) outline what OECD member governments have agreed are the basic components of sustainable and responsible business conduct, covering a range of issues including labour and human rights, bribery and corruption, the environment and information disclosure. The OECD Guidelines are sector agnostic, as is the OECD RBC Guidance (2018), which aims to provide practical support to enterprises on the implementation of the OECD Guidelines. The OECD Minerals Guidance (2011) has a more narrow scope and emerged initially as an endeavour to address concerns around the financing of conflict through revenues from mineral supply chains.*

23 *The OECD Handbook on Environmental Due Diligence in Mineral Supply Chains (2023) demonstrates how the existing OECD instruments, incl. the Minerals Guidance, can be applied to address environmental risks and impacts in mineral supply chains. These topics are addressed to a lesser degree in the OECD Minerals Guidance.*

24 *It is important to note here that the superordinate guidance documents to the Minerals Guidance -- the OECD Guidelines and the OECD Due Diligence Guidance for Responsible Business Conduct (sector agnostic) -- set out a scope and process that is aligned to the UNGPs.*

2.5 Increased alignment with UNGPs and OECD Guidelines approaches to due diligence

Over the past several years, an increasing number of producer and sourcing countries and VSS have recognised the relevance and effectiveness of holistic due diligence frameworks, namely the UNGPs and the OECD guidelines, in minerals value chains. Countries including Canada, South Africa and Australia have passed laws with relevance for the mining sector that are reflective of the UNGPs. Although these frameworks are sector agnostic, they are increasingly being recognised as effective due diligence frameworks for addressing human rights and environmental risks and impacts in the minerals sector. For instance, the IRMA Standard for Responsible Mining has gained significant stakeholder buy-in in no small part due to its alignment with the due diligence requirements of the UNGPs and OECD Guidelines.

Additionally, **some of the first generation VSS are undergoing significant updates to help users fulfil the expectations of these global normative due diligence frameworks.** For instance, in October 2023, the RMI and the Copper Mark published their joint Risk Readiness Assessment v. 3.0, which is aligned with the OECD RBC Guidance.

Exploring existing levels of engagement between VSS and producer country authorities

3

3. Exploring existing levels of engagement between VSS and producer country authorities

This section aims to provide insights into how the six VSS in the scope of this study engage with authorities from producer countries, with a specific focus on interactions around the development and implementation of their standards or certification schemes. VSS engagement with authorities is defined in terms of bidirectional consultation, data and knowledge exchange, as well as joint action. Rather than looking at standard setting organisations' guidelines for engagement with government authorities, the research team aimed to gain insights into engagement practices, current degrees of collaboration, as well as VSS considerations to engage (or not) and the realities (impeding or facilitating factors) around undertaking engagement with public authorities. To enable access to such data, the research team took a quantitative empirical research approach, conducting in-depth semistructured interviews[25] with representatives of the six VSS, focusing on existing engagement practices at four key stages of standards development and implementation, namely:

1. **Standard setting and revision process, with the analysis exploring the degree of VSS's active consultation with authorities during such processes.**
2. **Assurance process,** with the analysis revolving around VSS engagement with authorities during audits, in order to understand to what extent VSS build upon existing data gathered by authorities (e.g., mine inspection, reviews of legal compliance).
3. **Post-assurance and non-compliance handling process,** with the analysis focusing on pro-active sharing of VSS audit data and trends in audit findings with authorities with the aim to make suggestions around potential improvements to existing national legislative frameworks.
4. **Government authority engagement outside of these three standards stages,** allowing for the inclusion of more ad hoc modes of engagement between VSS and authorities that are not specifically linked to standard setting or auditing processes.

25 *The interviews were complemented with a review of primary documentation such as standards consultation feedback documents, to triangulate and contextualise interview statements.*

3.1 Overarching trends and findings

This section provides an overview of identified trends and overarching findings around the existing collaboration processes and practices of the six VSS. A tabular overview of some key characteristics of the six standard setting organisations in scope, including their governance structures, membership audience, supply chain and minerals/metals coverage, market reach, and length of public audit reports, can be found in Annex I.

3.1.1 Government involvement in standard setting and revision process

The Copper Mark, ASI, RS, and to a certain extent the RMI, **show marked similarities** in their producer country engagement practices related to standard setting and revision processes. **ICGLR's inter-state regional certification mechanism and IRMA demonstrate significantly different approaches** around authority engagement during standard development processes.

Interviews with ASI, RS and the Copper Mark highlight minimal **engagement with producer country authorities throughout the standards' public consultation processes.**

- Although each of the three VSS organise public consultation processes around standard setting or revision, **they do not undertake active outreach to government authorities specifically, nor have they developed specific procedures for engagement with public authorities, as related to standard development or revision.**
- Over the past several years, VSS have increasingly emphasised their interaction and engagement with certain stakeholder groups, including broadening their engagement with CSOs and even including them and rightsholders' representatives as part of board governance structures.[26] For ASI, RS and the Copper Mark, this trend does not seem to have translated into increased direct engagement with producer country authorities around the standard setting or revision processes.
- Some of the VSS highlighted that **minimal government influence over standard setting processes could be perceived as a positive thing by specific stakeholders.** For instance, rightsholders do not necessarily trust their governments to best represent their interests, so national authorities' engagement in regions with marginalised population groups and highly sensitive ecosystems might be perceived as problematic and even counterproductive to positive change. Additionally, limited financial and human resources restrict VSS' ability to engage with a wide range of government authorities in producer countries, while admittedly sharing some of the rightsholders' view that engagement with government authorities might not always be the most effective means to bring about change.

Additionally, some VSS indicated that they have found that government authorities have historically undertaken a less active role in providing feedback to their standard's public consultation processes compared to other stakeholder groups such as industry actors and CSOs. A review of public consultation process records of ASI, RS and the Copper Mark demonstrate that, in general, **few government authorities have actively provided input in these consultation processes.** This may

26 *IRMA, ASI and RS were set up with (partly) multi-stakeholder governance from their inception. Conversely, both RMI and the Copper Mark's origins lay more deeply within industry, although the latter was set up with the commitment to eventually evolve to include (partly) multi-stakeholder governance, which it has now achieved. Similarly, the RMI has moved to adding non-industry representatives to their governance body, the Steering Committee, and has established a multi-stakeholder standards advisory working group engaged in standard development with 50% non-industry representation. Overall, increased engagement with CSOs and other stakeholders has been accomplished by inviting CSOs, academic experts and unions onto VSS advisory boards or technical committees and by proactively engaging those actors in public consultations.*

indicate limited awareness of the processes, resource restrictions, or limited interest from government authorities in standard setting or revision processes.[27]

RMI's approach to government engagement slightly differs from the three VSS described above:

- **RMI has over the past several years increasingly engaged producer country authorities in the standard development and revision process, particularly those with whom it has long-standing relations,** such as the DRC government. RMI conducted an extensive engagement process with the DRC government throughout the development of the ASM Cobalt Framework, with whom it jointly administered an in-country public consultation process in 2021. Additionally, RMI has served on governance committees for the ICGLR, and worked with the Chinese government through CCCMC and RCI to develop the joint Cobalt Standard.

Both IRMA and ICGLR's RCM engagement strategies vary widely from the other VSS as discussed above, both in extent as well as in methods of engagement with producer country authorities.

- **IRMA's standards development and revision strategy includes extensive engagement with authorities,** both during standard development (2018) and also during the most recent standard revision process (2023-2024). IRMA engages with authorities on a variety of topics, including governments' viewpoint on the common gaps in IRMA implementation. IRMA prioritises engagement with government authorities in countries where a third-party audit is planned, is occurring, or has already occurred. IRMA also meets with authorities through a diversity of bilateral and group meetings, international fora settings and in-person events, during the standards development and revision processes.
- Due to its institutional set-up, ICGLR's RCM is unique to the set of VSS reviewed for this study. **ICGLR's government authority input into the development of the RCM was ensured as a matter of course.** The mechanism's revision process (2019) was tailored to include input of every ICGLR member state through in-country consultation meetings, regardless of the country's status in adopting the RCM.

3.1.2 Assurance processes

All VSS appear to demonstrate more active engagement with producer country authorities during assurance processes, compared to the standard development processes. All VSS protocols require auditors to **reach out to authorities to inform them of the audit being conducted**.

- **RMI** goes a step further by occasionally facilitating government authorities to shadow an audit, providing them with the opportunity to gain a better understanding of the process.
- The same applies to the **ICGLR RCM.** Wherever a third-party audit is undertaken, the ICGLR officially informs the host country and asks officials to facilitate the auditors' field work. Additionally, the Audit Committee member of the host country, from government, civil society or private sector, is invited to shadow the audit. The Audit Committee, comprised mostly of government officials from the various member states, is responsible for accrediting the third-party auditors eligible for being contracted to conduct the audits.

All VSS assurance procedures require auditors to **engage with government authorities,** albeit to varying degrees,[28] **for primary data gathering and verification purposes.** VSS auditors engage with local authorities, such as the mayor of a neighbouring city, to gain a better understanding of

27 *For RS, the standard focuses on operational steel sites and sites that process raw materials for steelmaking, or that produce steel products, rather than raw materials extraction. This may have limited RS' interactions with producer country authorities, which have more jurisdiction over the mining / extraction stage.*

28 *The prominent role IRMA afford to stakeholder engagement sets the voluntary standard apart. In some audits, over 100+ stakeholder interviews are conducted. IRMA audits require engagement with government officials, and to date, IRMA has had upwards of 20 different government agencies providing input in a single IRMA audit. Written email communications from IRMA, on 07/06/24.*

entity-community relationships or for purposes of triangulation and data collection, verifying the information entities have given them.

However, interaction with producer country authorities around national compliance data and national inspection reports appears to be less of a regular practice. All VSS have requirements on checking the entity's legal compliance as part of assurance procedures. This could in theory occur through direct engagement with government authorities, yet in practice it seems more common for auditors to check through entity-level document verification rather than through engagement with, for instance, a division of the Ministry of Mines.[29] Similarly, it appears to be rare for auditing teams to engage with producer country authorities to build upon existing data gathered by such authorities. Although government-owned data such as mine inspection reports are occasionally reviewed in cases where this is particularly required, several of the VSS indicate that **building upon existing national data is not the major purpose of government engagement during the assurance process,** nor is it a major part of most VSS' mandates.

- IRMA appears to closely engage with authorities regarding input in its assurance process. Emphasising the importance of stakeholder engagement in general, **IRMA requires auditors to work directly with various levels of government** authorities to receive details on an entity's positive and negative impacts on surrounding communities and environment and advise on an entity's legal compliance.
- Due to the **ICGLR's RCM** assurance system's set up, **government authorities** themselves are **active participants in the assurance process.** Government authorities are tasked with conducting annual mine site inspections, with developing and implementing chain of custody systems, and with participating in the ICGLR's tri-partite audit committee. The tri-partite audit committee oversees the audits of mineral exporters, accredits the auditors that can be contracted for this purpose, and conducts training on the audit process for accredited auditors.
- **The Copper Mark cites governments as one of the key stakeholders during the audit process.** Engagement revolves around the auditors learning the status of the relationship between the local authorities and the entities being audited.
- **RS** states that authorities are a key stakeholder group, and auditors are required to conduct outreach and seek their input into the audit process. However, authority responses and engagement may vary from jurisdiction to jurisdiction.

Several VSS noted that authorities' willingness to engage and be informed as part of the audit process varies widely between jurisdictions. In some cases, government authorities are willing to actively engage in the auditing protocols, while other **producer country authorities show limited interest in engaging with VSS as part of the assurance processes.** One VSS notes that resource efficiency may be a key factor influencing this outcome: throughout the assurance process, government engagement is resourced as part of the audit, compared to standard setting, where government engagement may not be budgeted as part of the process.

In summary, the VSS appear to take a more proactive role in engaging government authorities during the assurance process as compared to during standards development.[30] However, VSS vary in whether they regard government authorities as merely one out of a wider set of stakeholders, alongside civil society and affected rightsholder groups, or whether government authorities are regarded as a priority stakeholder during the assurance process in order, amongst others, to build upon existing national data. The Copper Mark, IRMA and ICGLR RCM have developed systems where auditors can collaborate through the proactive exchange of inspection reports, national (non-) compliance data and audit or inspection insights overall.

29 *Cost and efficiency may be at least partly a factor here. It may be much easier (and cheaper) for VSS to verify data through online documentation than going through the rigorous process of confirming a meeting with government officials, if the relevant information is readily available online. At least one VSS pointed out the cost of engaging with government officials at several points during the interview process.*

30 *As part of this research, this raises the question of what would be the incentives of, and mutual benefits for, increased VSS engagement with authorities during the audit process, for both respective parties.*

3.1.3 Post-assurance process

Most of the VSS, except for the ICGLR's RCM, do not pro-actively reach out to government authorities to share recent audit reports. However, IRMA has increasingly engaged with government authorities after the publication of audit reports, for example through discussions with Chilean government representatives following the publication of two IRMA audit reports for lithium sites in Chile.

The ICGLR RCM embeds post-assurance government engagement through bi-annual member state meetings, where it discusses the level of RCM implementation in member countries including the implementation of ICGLR's recommendations.

All VSS, with the exception of ICGLR's RCM, publish a version of the audit reports on their respective websites, either in summary or in full. Audit reports are generally 10-20 pages for ASI, the Copper Mark and RS, while IRMA reports are often 150+ pages.[31] RMI summary assessment reports as well as RMI auditor validated company Step 5 Due Diligence Reports are available publicly on the RMI website conformant lists, and each report is generally 2-10 pages long.[32] Full assessment reports may be requested from the auditees directly by any interested party, or by RMI members through RMI's RBA-Online system.[33] All VSS indicate that, as government authorities generally have the same access to audit reports as any other stakeholder, they do not undertake proactive outreach to authorities or share full audit data or corrective action plans (CAPs). At least two of the VSS stated that no producer country government has ever asked for access to audit data or corrective action plans. This may indicate governments' limited interest or knowledge of VSS.

Importantly, most of the VSS do not own the audit reports; rather, ownership lies with the companies audited. As such, it is not up to the sole description of these VSS to regularly and pro-actively disclose individual audit data to government authorities in producer countries.[34] However, they do occasionally find means to disclose (partial) audit reports. For instance, through the RMI's RBA-Online Portal for RMI members, auditees can grant permission to provide full audit reports to downstream companies requesting the data. In some cases, RMI has facilitated the process of data-sharing between government authorities and auditees, for instance when an EU government made a direct request to determine compliance with conflict mineral regulations.

Other VSS, including the Copper Mark and ResponsibleSteel, report that the entity being audited owns the reports in their systems as well. However, in the case of the Copper Mark, there is an agreement in place between the auditees and the Copper Mark requiring the audit information to be published. RS's Assurance Manual requires that a summary report is published as well.

ASI, RS, the Copper Mark and RMI generally do not **take a proactive stance in maintaining ongoing dialogue with producer country authorities and regulators around overall trends in auditing findings,** nor do they use audit data to inform suggestions for potential legislative amendments. In contrast, **IRMA** will engage with authorities regarding audit findings upon request. This has occurred post-assurance and after the publication of the audit reports, in cases where government authorities were interested to learn more about the outcomes of the assurance process for the relevant mining operation within their jurisdiction.

Twice a year, **ICGLR member state governments, the private sector and civil society, all of which comprise the Audit Committee, meet to discuss the implementation of the RCM. Post-audit procedures include presentations of audit findings** to this technical committee. After the reports produced by independent thirdparty auditors are reviewed and approved by the Audit Committee. The outcomes and the recommendations are officially communicated to member

31 *IRMA publishes detailed 150+ page audit reports covering: an overview of the assessment process; summary of findings; next steps, including whether a corrective action plan will be developed; and information on the timing of future audits. The VSS does not have a procedure for active government engagement around audit findings either.*

32 *RMI (n.d.). Indicators & facility lists by metal. URL: https://www.responsiblemineralsinitiative.org/facilities-lists/indicators/ [accessed 06/08/24].*

33 *Written email communication from RMI, on 30/05/24.*

34 *Similarly to RMI, other VSS (such as RS and the Copper Mark) do not own the data within the audit reports, the auditees do. As such, VSS have agreements to publish at least a summary of such audit reports publicly on their websites. The length and comprehensiveness of these summary reports vary between VSS.*

states' governments, for the purposes of implementation and monitoring.

Overall, VSS appear to engage less with producer country authorities to proactively share post-audit data, with the exception of the ICGLR.

3.1.4 Government engagement outside of standard setting or assurance processes

VSS engagement with government authorities extends beyond the scope of the standard setting, assurance and post-assurance processes. VSS engage with government authorities through attendance at regional or international conferences. In these fora, VSS take the opportunity **to present their work, encourage and support the implementation of their standard in these countries, or discuss crossrecognition of their standards with regional mechanisms such as the ICGLR RCM.**[35]

Engagement can also work the other way around. A broad range of **authorities of producer countries have shown interest in reaching out to the VSS requesting guidance on specific technical issues,** such as around water use and GHG emissions (ResponsibleSteel), or artisanal and small-scale mining (ASM) (The Copper Mark). Authorities regularly reach out to the VSS to learn more **about how ESG requirements can be used to mitigate negative environmental and social impacts.** For instance, the Guinean authorities reached out to ASI in that regard. Lastly, various government administrations in producer countries have **shown interest in adopting VSS into national legislation,** such as a previous Chilean administrations' interest in adopting the Copper Mark.

- **IRMA maintains an ongoing dialogue** with government authorities across continents, separately from assurance processes, that are **directly geared towards improving mineral sector governance.** These interactions include: suggestions to authorities related to reinforcing good practices, encouraging governments to move towards improvements in rule of law, making recommendations for amendments to legal frameworks that are under review, and exploring possibilities to gap assess national frameworks using IRMA as a benchmark.

- **The Copper Mark has an ongoing dialogue with Peruvian, Chilean and Chinese authorities,** including to promote responsible mining practices. They seek to raise awareness of their standard as a tool for companies to meet responsible production objectives in their respective producer countries.

- **ASI has partnered with different governments** over the years on different projects, in particular the German government on a project related to greenhouse gas emissions.

- **RMI has ongoing relationships with numerous governments,** often based on the implementation of RMI's standards. Much of RMI's engagement includes informing governments of its standards' provisions, education and awareness building around standards implementation, and the use of RMI's standards to ensure compliance with legislative frameworks, such as the EU Conflict Minerals Regulation.

Overall, these examples indicate that engagement between VSS and government authorities extends well beyond the standard-setting and assurance processes, and often involves conversations around on-the-ground implementation of the standards. **These interactions largely appear to depend on producer countries' interest in reaching out and/or participating in ongoing relationships with VSS.**

35 *Such as RMI.*

Case Studies

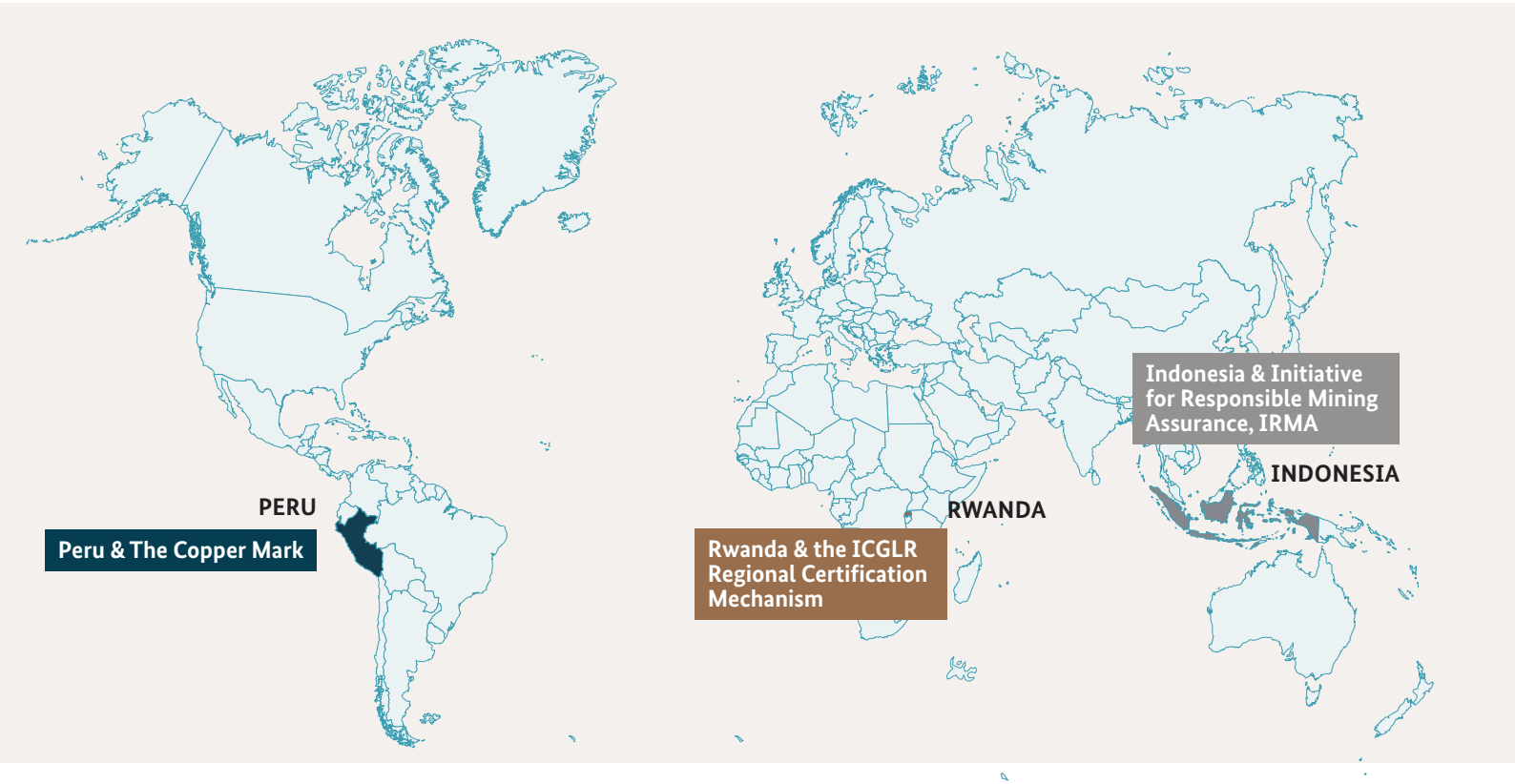
4

4. Case Studies

The case studies in this section explore the potential for increased synergies between VSS and producer country mineral sector governance, looking at the varying modes of collaboration between the two and putting the perspectives, experiences and interests of standard setters, producer country authorities, and business representatives at its core.

The case studies:

- describe the VSS footprint in the mineral producer country;
- provide an overview of the producer country's mineral sector policy framework and the attention it gives to ESG issues as well as to the importance of VSS in the country;
- analyse the collaboration between the producer country and VSS, looking at the objectives of collaboration, its initiation, positive outcomes, and challenges;
- analyse the added value of the given VSS to the country's mineral sector governance, including the elements that have made the VSS successful, and what key lessons could be learned.



4.1 Peru | The Copper Mark

4.1.1 The Copper Mark footprint

4.1.1.1 Understanding The Copper Mark

The Copper Mark is a global assurance framework that focuses on developing responsible supply chains from the mine level to the end-product. Formed in 2019 and launched in 2020,[36] it is the first social and environmental assurance programme established specifically for the copper industry.[37]
The Copper Mark Assurance Process is available for sites that are producing copper, nickel, molybdenum, or zinc and wish to be assessed against one or more of the Copper Mark standards. By April 2024, 75 assessments had been completed under the framework, resulting in 71 sites being awarded The Copper Mark, The Molybdenum Mark, The Nickel Mark and / or The Zinc Mark.[38] In December 2023, the Copper Mark reported that over 30% of global mined copper was being produced by The Copper Mark-awarded sites.[39]

The Copper Mark relies on a series of 33 criteria designed to demonstrate that copper producers adhere to specific standards in their responsible production. These criteria encompass aspects such as human rights, labour protocols, environmental footprint, community involvement, and governance.[40] As of June 2024, 41 organisations are a partner to the Copper Mark, including auto manufacturers, technology companies, and other stakeholders along all stages of the minerals supply chain.[41]

4.1.1.2 Implementation across south america and in Peru specifically

29 awarded mine sites are located in South America, spread across Brazil, Chile, Mexico and Peru (almost 40% of awarded mine sites total).[42]

- Two are in Peru: the Freeport McMoRan owned Sociedad Minera Cerro Verde S.A. mine and the Southern Peaks Mining (SPM) Compañía Minera Condestable S.A. mine.
- Another four mine sites have signed a Letter of Commitment to participate in the Copper Mark Assurance Framework.[43]

According to GlobalData, there are 86 copper mines in Peru as of April 2024.[44]

4.1.2 Peruvian mineral sector governance (copper): State of play

4.1.2.1 Peru's mining sector and link to social unrest

Peru produced an estimated 2.6 million metric tons of copper in 2023[45] (12% of global copper mine production), the second-largest copper producer behind Chile.[46] Within the Peruvian economy, the mining sector is significant, contributing 8.5% to its GDP and constituting 63.9% of its total exports. In 2023, mining exports value accounted for almost USD 40 billion.[47]

Despite the country's economic growth, Peru has faced political instability stemming from tensions between the executive and legislative branches of

36 *Written email correspondence with The Copper Mark, 17/05/24.*

37 *Dr Varma (2023) Understanding The Copper Mark: What It Is and Why It Matters. URL: https://www.linkedin.com/pulse/understanding-copper-mark-what-why-matters-varma-ex-ias-vr-/ [accessed 05/01/24].*

38 *Participating sites. URL: https://coppermark.org/participants-home/participants/ [accessed on 05/04/24].*

39 *Written email correspondence with The Copper Mark, 17/05/24.*

40 *The Copper Mark Assurance Process 2023, p 3.*

41 *The Copper Mark Partners. URL: https://coppermark.org/participants-home/partners/ [accessed on 05/01/24].*

42 *The Copper Mark Participants. URL: https://coppermark.org/participants-home/ [accessed on 05/01/24].*

43 *Idem.*

44 *Mining Technology (2024) The five largest copper mines in operation in Peru. URL: https://www.mining-technology.com/data-insights/five-largest-copper-mines-peru/#:~:text=There%20are%20more%20than%20709. [accessed on 17/06/24].*

45 *US Geological Survey (2024) Copper. URL: https://pubs.usgs.gov/periodicals/mcs2024/mcs2024-copper.pdf [accessed 06/06/24].*

46 *GlobalData (2023) Copper production in Peru and major projects. URL: https://www.mining-technology.com/data-insights/copper-in-peru/?cf-view&cf-closed [accessed on 05/01/24].*

47 *The Rio Times (2024) Peru's mining exports surge by 11.7% in January-November 2023. URL: https://www.riotimesonline.com/perusmining-exports-surge-by-11-7-in-january-november-2023/ [accessed 06/06/24].*

government. In December 2022, Peru's Congress started impeachment proceedings against President Pedro Castillo and his controversial removal led to escalating protests that encompassed broader issues around inequality and lack of investment in Peru's rural regions.[48]

Peru's social unrests continue to constrain investment in the mining sector and to curb growth.[49] In early 2023, social unrest severely hindered the country's copper mining production and negatively impacted mining investment.[50] Protests, roadblocks and other disruptions blocked access to mines for long periods of time, which resulted in forced shutdowns that temporarily led to increases in copper prices.[51]

4.1.2.2 Authorities' focus on responsible mining in Peru

Investment in mining in Peru holds significant potential for the country. The government appears to have increased its focus on responsible mining to improve mining production and ensure a steady flow of mining investment into the country.[52] Various legal instruments[53] related to responsible mining practices have been set into law over the past decade in order to secure investment and improve mineral sector governance.

These legal instruments include provisions related to responsible mining, such as environmental protection provisions, provisions related to the rights of local communities and engagement with them, and provisions related to occupational health and safety. Mining companies are required to achieve a social license to operate within communities surrounding mining operations, which involves a process of consultation and engagement with affected mining communities.

Peruvian mining authorities have further established specific frameworks and initiatives aimed at enhancing sustainable mining practices in the country.[54] Some of those fundamental and key frameworks include:

- **The Commitment to Sustainable Development:**[55] a decree enacted in 2003, as Peru's first attempt to incorporate social legislation. that outlines a set of obligations that mining companies must adhere to during their exploration activities. It mandates that any application for a mining concession must incorporate a commitment, in the form of an affidavit, to contribute to sustainable development within their areas of impact. These commitments involve reinforcing local institutions, fostering local employment, and promoting local services, among other obligations.[56]

48 *Crux Investor (2023) Peru's turbulent politics and economic reliance on copper mining. URL: https://www.cruxinvestor.com/posts/perus-turbulent-politics-and-economic-reliance-on-copper-mining [accessed 05/01/24].*

49 *Idem.*

50 *FitchRatings (2022) Social conflicts, regulation curb Peru's mining sector's growth. URL: https://www.fitchratings.com/research/corporate-finance/social-conflicts-regulation-curb-perus-mining-sectors-growth-13-04-2022 [accessed 14/12/23].*

51 *Bloomberg (2023) Peru's violent protests imperil 30% of its copper output. URL: https://www.bloomberg.com/news/articles/2023-01-27/protest-surge-imperils-30-of-copper-supply-in-no-2-miner-peru [accessed 17/06/24].Crux Investor (2023) Peru's turbulent politics and economic reliance on copper mining https://www.cruxinvestor.com/posts/perus-turbulent-politics-and-economic-reliance-on-copperminin [accessed 05/01/24]. Quartz (2023) Peru's political crisis cuts off access to 2% of the world's much needed copper supply: global copper prices likely to rise as protests shut down Peruvian copper mines. URL: https://qz.com/peru-protests-mining-copper-supplydemand-prices-1850067374#:~:text=Peru's%20political%20crisis%20cuts%20off,has%20been%20released%20from%20jail. [accessed 06/06/24].*

52 *Prepared by the German-Peruvian Chamber of Commerce and Industry (AHK Peru) for the Federal Institute for Geosciences and Natural Resources of Germany (BGR) (2021) Baseline study on sustainability standards among Peruvian copper producers at 6.*

53 *The main overarching legal instruments regulating the mining industry are: (i) the Political Constitution of the Republic of Peru; (ii) the General Mining Act; (iii) the Law for the Promotion of Investments in the Mining Sector; (iv) the Organic Law for the Sustainable Use of Natural Resources; (v) the General Environmental Law; (vi) the Framework Law of the National Environmental Management System; (vii) the Law of the National System of Environmental Impact Assessment; (viii) the Regulation for the environmental protection and management applicable to mining exploitation, processing, general work, transportation, and storage activities; and (xi) the Regulation of the Framework Law of the Environmental Management System.*

54 *KPMG (2023), Peru-Chile Mining Investment Guide 2023-2024, p5. URL: https://assets.kpmg.com/content/dam/kpmg/pe/pdf/GUÍA%20DE%20MINERÍA%20CHILE-PERÚ.pdf [accessed 06/06/24].*

55 *Supreme Decree 042-2003-EM.*

56 *OECD (2017) Local Content Policies in Minerals-Exporting Countries: The Case of Peru, p3.*

- **Law on the Right of Indigenous and Native Peoples to Prior Consultation:**[57] a 2011 law outlining the principles and procedures that must be followed to ensure the right to prior consultation is protected regarding legislative or administrative measures that could directly impact Indigenous communities, including mining operations. In 2012, corresponding regulations were developed.
- **The Mining Vision 2030:**[58] carried out in 2019 by the Ministry of Energy and Mines. It strives for economic growth through the establishment of a fair and socially equitable mining environment.
- **Regulations for Consultation and Citizen Participation:**[59] a resolution that requires prior consultation with and participation by local communities in mining operations.

Around 25 of the 74 private copper mining sites and companies[60] in Peru are applying one or more of the following initiatives, demonstrating the sector's heightened focus on responsible mining practices:

- Extractive Industries Transparency Initiative (EITI)[61] – In 2017, Peru was the first Latin American country to comply with and implement the EITI standard.[62]
- the Global Reporting Initiative (GRI);
- the ICMM (International Council on Minerals and Metals), the standard most of the companies active in copper mining in Peru adhere to;[63]
- The Copper Mark

The government acknowledged the importance of the Copper Mark and its contribution to responsible mining at a seminar on responsible copper mining in the Andean region organised by the Copper Mark and Cesco in 2020.[64] The private sector appears to have spoken up for the potential added value of VSS and brought the Copper Mark to the attention of the Peruvian mining authorities. For example, **the private sector has spoken positively about the Copper Mark at conferences and exhibitions related,** including the ***PERUMIN 36 Mining Conference*** in 2023 and the ***EXPOCOBRE Mining Fair*** in 2023.

4.1.3 Collaboration between the Copper Mark and Peruvian authorities

4.1.3.1 How the Copper Mark seeks to add value to Peru's mineral sector governance

The Copper Mark engages with Peruvian government authorities to explain how VSS can be used to meet the governments' overarching, mining-related and social and environmental objectives and support the government's limited capacity and resources to monitor ESG compliance. Mining is one of the most important sources of income for the country, particularly in regions such as

57 *Ley 29785 del Derecho a la Consulta Previa a los Pueblos Indígenas u Originiarios Reconocido en el Convenio 169 de la Organización Internacional delTrabajo. Rodrigo Prado, Luis Carlos (2020). Mining Projects in Peru: Community Relations, Indigenous Rights and the Search for Sustainability. URL: https://www.lexology.com/library/detail.aspx?g=04240ed2-e82d-4937-8034-b488f71fee1e [accessed 06/06/24].*

58 *http://www.minem.gob.pe/_detalle.php?idSector=1&idTitular=9757&idMenu=sub149%22%20%5Cl%20%22:~:text=-Visi%C3%B3n%20de%20la%20Miner%C3%ADa%20en%20el%20Per%C3%BA%20al,atributos%20de%20c%C3%B3mo%20ser%C3%A1%20nuestra%20miner%C3%ADa%20al%202030%3A.*

59 *Resolución Ministerial No. 596-2002-EM/DM.*

60 *A list of the mining companies that make use of a particular standards can be found: https://minsus.net/mineria-sustentable/wpcontent/uploads/2021/06/estudio-de-linea-base-sobre-estandares-de-sostenibilidad-entre-los-productores-de-cobre-de-peru-V.1.pdf.*

61 *It should be noted that Peru is an EITI implementing country and therefore EITI is applicable to all mining companies in the country. However, at the time of writing, Peru has been temporarily suspended from EITI for missing reporting deadlines (see EITI website, url: https://eiti.org/countries/peru [accessed 30.05.24]).*

62 *EITI (2017) Peru leads the way in EITI implementation in Latin America. url: https://eiti.org/news/peru-leads-way-eiti-implementation-latin-america [accessed 08/01/24].*

63 *A Dufey & P Zamorano (2023) Voluntary international sustainable mining standards and certifications in countries Andean. Environment and Development Series 175, p52.*

64 *Cesco (2020) Chile and Peru agree to work for a responsible production of copper. URL: https://www.cesco.cl/en/2020/08/28/chile-andperu-agree-to-work-for-a-responsible-production-of-copper/ [accessed 12.12.23].*

Cajamarca.[65] The government aims to ensure that such economic activity can help develop and promote other activities, generating a roadmap for development.[66]

Government authorities often face challenges implementing and enforcing the many mining-related regulations developed over the past decade, including those related to human rights or environmental concerns. In the case of environmental permitting,[67] these challenges may lead to long processing times. **The Copper Mark has explained to Peruvian authorities how it can complement the administrative procedures that are necessary by law.**

The Copper Mark presents itself as a tool that a government official can use where the standard is helpful for fulfilling government objectives. To illustrate: in the neighbouring country of Chile, an estimated 80% of copper production is produced at sites that have been awarded the Copper Mark.[68] By establishing relationships with major mining companies and ensuring certification of copper producers in Chile, the Copper Mark has shown how a high market saturation of a VSS can constitute a kind of 'soft law' that works in parallel to the formal mining code. The Copper Mark hopes to expand its reach in Peru as well as other countries.

4.1.3.2 Existing relationship between the Copper Mark and Peruvian authorities

Although both the Copper Mark and Peruvian authorities appear to be aligned on the added value the Copper Mark could bring, actual engagement appears to largely take the form of regular contact between the Copper Mark and the Peruvian embassy in Washington, DC, and with the US embassy in Lima, Peru.[69] Thus far, the engagement relates to the promotion of responsible practices in the mining industry and overseeing how many new mining sites will be awarded the Copper Mark in Peru. In-country collaborations appear to be limited. A Peruvian authority representative from the Ministry of Mines stated that the conversations with the Copper Mark have not yet outlined how the government and the Copper Mark could work together. This is partly because the government aims to remain impartial and objective in regard to collaboration with the various VSS operating in Peru.[70]

4.1.4 Opportunities for further collaboration and challenges

As part of its stakeholder engagement strategy, the Copper Mark has begun developing thematic research projects that take a deep dive into certain ESG aspects of the copper supply chain. In Peru, the Copper Mark is working in a consortium with the Alliance for Responsible Mining (ARM) [71] to explore the baseline situation of local ASM copper mining.[72] Currently, the Peruvian mining code centres around ASM gold (ASGM), because artisanal copper mining is a relatively new phenomenon in Peru, spurred by the recent rise in copper prices. As a result, artisanal copper mining has not been studied by the Peruvian government. Clear data regarding the environmental and social impacts of artisanal copper mining in Peru does not yet exist. Legal provisions around ASM are limited. Within the consortium, the Copper Mark is sharing the findings of the research along the copper supply chain, including with stakeholders such as large-scale mining companies, and is planning to inform government authorities of the findings of the research, to see where risks around ASM copper can be mitigated.

Some sources state that in certain instances, national authorities have gone so far as to deny the production of ASM copper within the country.[73]Given that ASM copper production is not currently addressed within Peru's legal framework,

65 *Interview with Sustainability Department at Peruvian Ministry of Mines on 08/02/2024.*

66, 67, 68 *Interview Outreach and Research Department at The Copper Mark on 25/01/2024. The VSS interviewee from the Copper Mark is from Peru, and she has also worked in the Peruvian government in various roles, with 25 years of experience in mining policy and economics. Therefore, she provided perspectives both from the role of government, as well as the role of VSS in the country.*

67, 70 *Interview Outreach and Research Department at The Copper Mark on 25/01/2024.*

71 *The Copper Mark received a research grant through ISEAL, with funds matched in kind by GIZ and Intel.*

72, 73 *Interview Outreach and Research Department at The Copper Mark on 25/01/2024.*

the opportunity may exist to inform future revisions of the mining code through updating the legal ASM formalisation framework to include copper miners, depending on the results of the research.

The Copper Mark and other VSS are not routinely engaging with the sustainability office in the Ministry of Mines which can be a challenge. One government official said that it would be helpful if the Copper Mark and other VSS actively invited Peruvian authorities to participate in the consultation processes during workshops, public meetings, or through other forms of engagement.[74] Authorities highlighted it would be helpful if VSS contacted them directly, rather than having to review the information on their website when a standards revision or consultation process is occurring.[75] The officials mentioned they would like to be aware of the consultations, and gain knowledge and awareness of the Copper Mark as it relates to sustainability issues and leading practices.[76]

However, political implications could impede the active involvement of the Peruvian Ministry of Mines in a VSS consultation process. Peruvian authorities prefer to remain observers, in part because of the many departments, including legal, that would need to be involved in an official consultation process. Several offices oversee the scope of issues the VSS address, and different departments may espouse different points of view, thereby adding an additional complexity to government interaction with the VSS.[77]

Peruvian mining authorities acknowledge the need to ensure that mining companies are operating responsibly. They seek to achieve this by creating mining frameworks that consider ESG topics. A sustainability manager working for a Peru-based copper mining company highlighted that the Copper Mark provides guidance to mining operations on how to implement the requirements of national mining legislation, which include elements of how to build a strategy, what a risk assessment should look like, and which stakeholders to consult in engagement plans. They stated that the Copper Mark provides invaluable guidance which is not provided by Peruvian governmental offices. They also reflected that the Copper Mark allows room for innovation and opportunities as each mining company can define how they will achieve or attain these goals.[78]

4.1.5 Analysis: Potential for closer collaboration

Since the government may not have the capacity or intentional strategy to engage with the Copper Mark or other VSS within Peru, there is an appreciation, mainly from companies operating in Peru, for the gap-filling role that VSS play. **VSS can help demonstrate that companies are conducting business responsibly.** In some cases, VSS requirements go further than the national mining law, which may create positive outcomes for potentially affected rightsholders.

The Copper Mark's artisanal copper mining study has the potential to lead to recommendations for the government based on data and research. By taking the time to conduct research, the Copper Mark and its partners demonstrate that **one precondition of effective collaboration with national authorities is to offer solutions that have been tested and implemented effectively.** This includes research projects that allow for the effective monitoring and tracking of on-the-ground results.

The Copper Mark and other VSS have an opportunity to be intentional in inviting government officials to participate in the VSS consultation processes through workshops or other forms of engagement.[79] The Peruvian government official interviewed sees such engagement as an opportunity for knowledge building and awareness raising. Here, there is a role for the Copper Mark to reach out to government officials directly, rather than relying on the VSS website or other platforms to alert officials that a standards revision or consultation process is occurring.[80]

74, 75, 76, 77, 78, 79. 80 Interview with Sustainability Department at Peruvian Ministry of Mines on 08/02/2024

4.2 Rwanda | The ICGLR Regional Certification Mechanism

4.2.1 The ICGLR RCM footprint

4.2.1.1 Understanding the ICGLR and the regional certification mechanism

The International Conference on the Great Lakes Region (ICGLR) is an inter-governmental body comprising 12 member states[81] from the African Great Lakes Region.[82] It is a dialogue platform for addressing regional conflicts in the Great Lakes region (GLR).

The ICGLR emerged in 1996 as a result of a collaborative effort between the United Nations and the African Union.[83] The two organisations aimed to bring long-term peace to the region after the 1994 genocide in Rwanda and the prolonged instability and conflict that occurred in Eastern DRC (1997-2003) which also involved neighbouring countries, many of which are now ICGLR member states. Formal ICGLR consultations began in 2001. The official launch of the preparatory process took place in June 2003 in Nairobi, Kenya.[84]

Mineral production in the DRC provided funding for many of the parties in the 1990s conflicts in the region. Beginning in the early 2000s, both the UN Group of Experts (GOE) and CSOs brought attention to the intricate conflict in the GLR and the severe consequences of the illicit mineral trade. To mitigate these effects, in 2005 the GOE on the DRC proposed the development of traceability systems for all relevant natural resources originating from the country, with a focus on 3TGs, as these were the main conflict-financing minerals at the time. The GLR countries signed a Protocol against the Illegal Exploitation of Natural Resources in 2006. In 2008, the ICGLR introduced the Regional Initiative against the Illegal Exploitation of Natural Resources (RINR) to implement the Protocol.

The Regional Certification Mechanism (RCM): The GLR countries approved the six tools of the RINR, including the **ICGLR Regional Certification Mechanism (RCM)**,[85] at a special summit in Lusaka in 2010.The RCM was developed to increase the transparency of the mineral trade in the region and to establish sustainable, conflictfree mineral supply chains that do not financially support (non-state) armed groups and or public/private security forces that contribute to the continuation of conflicts and/or engage in significant human rights violations. The RCM is a compulsory regional standard for certification of 3TGs sourced from or transiting across an ICGLR member state.[86] To promote reliable assurance, the RCM mandates, in addition to national mine site inspections, an **independent third-party audit** of mineral exporters to confirm adherence to relevant requirements. This process involves verification of systems, processes, and practices at the exporter level, along with examining a representative sample of its supply chains, extending up to and including mine sites. The RCM comprises of the following main elements:

- Mine Site Inspection and Certification;
- Mineral Chain of Custody (CoC) Tracking;
- Mineral Export and Certification;
- Mineral Tracking Database;
- Third Party Audits (TPA).[87]

As of May 2024, five ICGLR member states have implemented the RCM: Burundi, DRC, Rwanda, Tanzania and Uganda.[88]

81 *Angola, Burundi, Central African Republic, Republic of Congo, DRC, Kenya, Uganda, Rwanda, Republic of South Sudan, Sudan, Tanzania, Zambia.*

82 *ICGLR (2022) The ICGLR Structure. URL: https://icglr.org/the-icglr/.*

83 *African Development Bank (2009) Concept Note: International Conference on The Great Lakes Region – ICGLR, p2.*

84 *Idem.*

85 *Dr M Barreto, P Schein, Dr J Hinton & Dr F Hruschka (2018) Economic Contributions of Artisanal and Small-Scale Mining in Rwanda: Tin, Tantalum, and Tungsten, p7.*

86 *Impact ICGLR Regional Certification Mechanism Implementation. URL: https://impacttransform.org/en/work/project/icglr-regional-certification-mechanism-implementation/.*

87 *ICGLR (2023) Overview of The ICGLR Regional Initiative on The Fight Against the Illegal Exploitation Of Natural Resources.*

88 *Email with ICGLR coordinator, on 10/04/24.*

4.2.1.2 The ICGLR in Rwanda

The increased attention to the link between the conflict in the GLR and the severe consequences of the illicit mineral trade escalated for Rwanda when the U.S. Congress enacted the Dodd-Frank Wall Street Reform and Consumer Protection Act in 2010. Section 1502 required all US companies to declare whether the 3TGs in their supply chain originate from the DRC or neighbouring countries, including Rwanda.[89]

In response, Rwanda has prioritised the ICGLR agenda concerning conflict minerals, enhancing its role as both trusted mineral exporter and transporter.[90] In 2011, Rwanda became the first ICGLR member state to implement the RCM, supported by GIZ and the German Federal Institute for Geosciences and Natural Resources (BGR).[91] Rwanda adopted the ICGLR RCM model law into its domestic legislation in 2012.[92]

As of January 2024, sixteen of the 45 audits the ICGLR has conducted under the RCM standards were completed in Rwanda.[93]

4.2.2 Rwanda 3TG mining sector governance: State of play

4.2.2.1 Rwanda's mining sector

Rwanda's mining industry is predominantly centred around 3Ts (tantalum, tin and tungsten), with minor quantities of gold[94] 3Ts make up around 20% of Rwanda's overall exports, placing 3T minerals among the top five of the country's major exports, alongside tea and coffee.[95] After the DRC, Rwanda ranks as the secondlargest producer of tin in Africa, is among the top 10 tungsten producers globally[96,] and accounts for approximately 30% of East and Central Africa's tantalum production.[97]

Approximately 80% of the country's mineral production is attributed to ASM[98], employing approximately 65,000 people with another 170,000 people directly depending on the sector.[99] The Rwandan artisanal mining sector represented 3% of the country's GDP in 2022, superseding Rwanda's historical cash crops and foreign currency earners, which were coffee and tea.[100]

4.2.2.2 Authorities' focus on responsible mining in Rwanda

Rwanda's mining sector has been linked to a wide range of environmental, social and governance issues over the years, ranging from conflict over land use and dangerous occupational health and safety (OHS) conditions to air, water and soil pollution. In response, the government has regulated its mineral sector through the Law on Mining and Quarrying Operations (2014)[101], and a set of more specific laws and regulations around for instance the environmental and water use and management[102] which together set out provisions for responsible mining practices.

89 *Barreto et al. (2018) p7-8.*

90 *ECDPM (2017) The political economy of regional organisations in Africa – PEDRO project (2018-2020). URL: https://ecdpm.org/work/political-economy-regional-organisations-africa-pedro-project [accessed 12/01/24].*

91 *91USAID (2016) Capacity Building for a Responsible Minerals Trade (CBRMT): The Regional Certification Mechanism of the International Conference of the Great Lakes: Evaluation and Recommendations,p17.*

92 *ICGLR Model Law: Prevention and Suppression of the Illegal Exploitation of Minerals in the GLR. Rwandan Law. No. 002/2012/Minerena of 28/03/2012 on the RCM for Minerals.*

93 *Interview with ICGLR coordinator, on 18/1/24.*

94 *C Nsengiyumva, S Ndagijimana and D Rwabuhungu (2023) Environmental Impacts of Mining Activities in Ngororero Mining Company (NMC): Ngororero District-Rwanda (11)2 Aspects Min Miner 1212 at 1212.*

95 *Barreto et al (2018), p8.*

96 *Nsengiyumva et al. (2023), p1212.*

97 *Barreto et al (2018), p1.*

98 *International Trade Administration (2022) Rwanda - Country Commercial Guide. URL: https://www.trade.gov/country-commercial-guides/rwanda-mining-and-minerals [accessed 12/01/24].*

99 *Barreto et al. (2018).*

100 *NISR (2022) Gross domestic product: fiscal year 2021/22. Retrieved from National Institute of Statistics of Rwanda: https://www.statistics.gov.rw/publication/1849#:~:text=In%20the%20fiscal%20year%202021,10%2C266%20billion%20in%202020%2D21.*

101 *Law No. 13/2014 of 20/05/2014, Law on Mining and Quarrying Operations.*

102 *Law No. 48/2010 of 13/08/2018 on Environment, and Law No. 49/2018 of 13/08/2018, Determining the Use and Management of Water Resources in Rwanda.*

In 2016, the government disbanded the Rwanda Natural Resources Authority (RNRA) and set up the **Rwanda Mines, Petroleum, and Gas Board (RMB)**,[103] which is responsible for the management of Rwanda's extractive sector. The RMB concentrates on tasks such as exploration, licensing, inspection, and sector regulation. Additionally, it tackles legacy and reputational issues.[104]

The government is actively promoting sustainable development through its minerals sector, according to a new Mining Policy Framework (MPF) assessment by the Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development (IGF).[105] Rwanda has implemented the ***Rwanda Vision 2050***, which outlines the country's long-term development goals aiming to transform Rwanda's entire economy and society and progress towards self-reliance by adopting an economic model driven by private sector-led growth and transformation.[106]

These national plans include the formalisation of the ASM sector, to, amongst others address its informal character and detrimental and unsafe working conditions. Formalising the sector, however, remains an ongoing challenge due to insufficient geological knowledge and ground data, inadequate capitalisation within the sector, as well as constraints in human and institutional capacity.[107] Nevertheless, the government has made significant efforts to reform the ASM sector since 2017 through increasing value addition, continued professionalisation, greater investment in mechanisation and the strategic implementation of sustainable and responsible mining practices.[108]

4.2.2.3 Authorities' stance towards international VSS

To increase transparency and refute allegations around conflict-minerals, Rwanda pro-actively focused on tracing the 3TG supply chains from mine site to export. From 2008-2011, it conducted a pilot of the Certified Trading Chains (CTC) approach to highlight ethical production processes in artisanal settings.[109] Rwanda was the first ICGLR member state to implement the RCM in 2011 and to adopt the mechanism into domestic legislation in 2012. **Rwanda and the ICGLR share the responsibility for implementing the RCM assurance system.**

Under the RCM, Rwanda is:

1. **Required to annually inspect all its 3TG mine sites.** National mine site inspections and the associated validation process are led by a "Lead Government Agency" which also develops standards and procedures for mine site inspection and validation in alignment with RCM compliance. The mine site inspection report incorporates both national standards and ICGLR regional mineral certification standards. Mine sites are categorised as "red," "yellow," or "green,"[110] as defined by the ICGLR certification manual.[111] The second edition of the RCM (2019) introduced "blue" status, which applies to sites and exporters that have requested an inspection/audit but where this has not happened yet.[112] From there, government has three years to conduct the inspection and undertake validation.

103 *International Trade Administration (2022) Rwanda - Country Commercial Guide. URL: https://www.trade.gov/country-commercial-guides/rwanda-mining-and-minerals [accessed 12/01/24].*

104 *Barreto et al. (2018) p4.*

105 *Visit Rwanda (2024) Mineral transparency initiatives in Rwanda. URL: https://www.visitrwanda.com/investment-opportunities/mining/[accessed 12/01/24].*

106 *Rwanda Vision 2050. URL: https://www.minecofin.gov.rw/fileadmin/user_upload/Minecofin/Publications/REPORTS/National_Development_Planning_and_Research/Vision_2050/English-Vision_2050_Abridged_version_WEB_Final.pdf [accessed 30.05.24].*

107 *STRADE (2018) STRADE Country case studies: Rwanda and Democratic Republic of Congo, p23.*

108 *RMB (2024). Rwanda: Africa's Emerging Mining Destination. Retrieved from Rwanda Mines, Petroleum and Gas Board: https://www.rmb.gov.rw/index.php?eID=dumpFile&t=f&f=68168&token=bca415628ca0d601bb28468f283b98d21a6986c1.*

109 *Barreto et al. (2018) p4.*

110 *According to the ICGLR source interviewed, all but 1 Rwandan mine site has earned green status; 1 has earned yellow status.*

111 *RCM is operationalized in Rwanda through law n° 002/2012 of 28 March 2012.*

112 *ICGLR (2019). Manual of the Regional Certification Mechanism (RCM) of the International Conference on the Great Lakes Region (GLR). URL: https://icglr.org/wp-content/uploads/2024/03/ICGLR-Regional-Certification-Mechanism-Manual-2nd-Edition_Final.pdf.*

2. **Authorised to temporarily suspend a mine site based on breach of the national or RCM standard** surfaced in the inspection report.[113] The findings must be included in the ICGLR's data management system and regularly shared with the ICGLR Secretariat. If a mine site inspection reveals a violation of a red status criterion, this information must be promptly communicated to ICGLR.[114]

3. **Responsible for regulating, licensing and assuring a chain of custody system** in conformance with the RCM requirements. This includes the implementation of a regulatory framework for a licensing system, transparency and reporting requirements, license fee requirements and annual financial reporting. In Rwanda, the 3TG chain of custody tracking systems are provided and managed by two different actors: the ITRI Tin Supply Chain Initiative (iTSCi) (since April 2011); and by the RCS Global Group-owned Better Sourcing Programme, which entered the Rwandan traceability market in 2016.[115] These initiatives were integrated in Rwanda's mining regime through the 2012 regulations on regional certification mechanism for minerals.

The ICGLR then cross-checks the Rwandan mine site inspections with exporter-level data, through independent third-party audits (TPAs) carried out by auditing firms and accredited by a tri-partite Audit Committee. (which also approves the audit reports, but does not audit itself).[116] The Audit Committee includes representation from government, local and international industry, and local and international civil society. Operating under a different scope than the mine site inspections, the TPA programme oversees audits of all 3TG exporters.

Smuggling allegations: Allegations of connections to minerals smuggling have diminished the reputation of at least one traceability and due diligence scheme operating within the country: iTSCi. Global Witness authored an investigative piece in 2022 on the iTSCi scheme, which provides chain of custody tracking services, tracing minerals from mine site to export. Stakeholders, including civil society and academics, have criticised iTSCi for several years now for "laundering" minerals smuggled from DRC into Rwanda through the incorrect use of iTSCi mineral tagging, whereby seriously diminishing the credibility of the certification system.[117]

Although the report only remotely refers to RCM, it alleges that smuggled and/or illicitly mined material makes its way into certified mine sites under the iTSCi scheme.[118]If these allegations are true, RCM and its near-perfect rating of green status mines in Rwanda may be questioned where iTSCi certified these sites. ICGLR's response to the allegations of mineral smuggling on the other hand is that the tri-partite audit reports have uncovered no evidence of smuggling violations in Rwanda, and that Rwanda represents good implementation of the RCM.[119]

4.2.3 Collaboration: ICGLR RCM and Rwandan authorities

ICGLR RCM is an intragovernmental system working closely with individual member states in standard development, assurance implementation, as well as in recommending changes to member states policy frameworks and mineral sector governance practices.

Since the RCM's inception, **Rwanda played an active role in the development of the RCM and in adopting and implementing the framework into national legislation.** Of the countries implementing the RCM, Rwanda, Burundi and Tanzania have

113 *For example, mine sites awarded a red status are temporarily suspended for a minimum of 3 months until the site is re-inspected and validated (valid sites are awarded a green, blue or yellow status).*

114 *RNRA & GMD (2013) Mines Inspection Report Template. URL: https://www.bgr.bund.de/EN/Themen/Min_rohstoffe/CTC/Downloads/Rwanda_mine_inspection_report_en.pdf?__blob=publicationFile&v=2.*

115 *RMB (2024).*

116 *ICGLR (2019).*

117 *See Global Witness (2022).*

118 *Global Witness (2022) The ITSCI Laundromat: How a due diligence scheme appears to launder conflict minerals. URL: https://www.globalwitness.org/en/campaigns/natural-resource-governance/itsci-laundromat/.*

119 *Email with ICGLR coordinator, on 10/04/24.*

had all their 3T exporters audited under the system. Taking the number of mine sites labelled as green into account, all but one of Rwanda's mine sites achieved green status, according to the ICGLR official interviewed for this study.[120]

The ICLGR official also highlighted that Rwanda has played a central role in hosting ICGLR members' meetings. For years, ICGLR meetings were held in Kigali, where the ICGLR convened and engaged with the different governments of the member states. ICGLR officials often take delegates from other member states to Rwanda to demonstrate how to improve and expand upon their implementation of the RCM.[121] One of the reasons for Rwanda to stand out among the ICGLR member states in the RCM's implementation, according to the ICGLR official interviewed, is because the country is more advanced, compared to other states, in using technology to improve its monitoring and tracking systems.[122] This includes the exploration of digital tools such as blockchain technologies. Such digital tracking systems help to document the flow of minerals from mine to export, thereby supporting the due diligence implementation of the RCM and other systems.

Despite the interviews conducted highlighting Rwanda's leadership role, other sources state that in the past, there have also been instances where Rwanda has considered leaving the ICGLR and/or the RCM,[123] which adds an element of nuance to the picture. This same representative also indicated that in the past, Rwanda seemed reluctant from time to time to incorporate ICGLR's recommendations. And although blockchain has been explored, there seems to remain some reticence by Rwanda around the use of specific types of transparencyincreasing technology, including a method of fingerprinting.[124]

4.2.3.1 Alignment between the RCM and Rwandan law

One of the key strengths of the ICGLR RCM is the close alignment between the RCM standard and Rwandan law on responsible mining. Adopting the RCM into national law added value to Rwanda's mineral sector governance by setting common standards on issues like child labour and "conflict-free" mineral sourcing.[125] This helped improve mineral sector governance.[126] Most obligations under the ICGLR RCM and national regulations are aligned, although some companies have reported some confusion in needing to adhere to both.

The Rwandan mine site inspections and the RCM independent third-party audits share significantly more overlap compared to other VSS. The national mine site inspections are broader than the RCM audits, including topics such as health and safety, environmental degradation and protection and community relations and traceability elements. Nevertheless, the shared basis of the adoption of the RCM into Rwandan law facilitates the formulation and implementation of ICGLR RCM recommendations to Rwanda's policy framework and enforcement practices.

Another benefit of the current RCM system is the sharing of evidence between the government inspection database, downstream purchasing companies, and the ICGLR. In Rwanda, when the government conducts its annual inspection and provides a site with a green, yellow, or red status, associated findings are fed into a database and shared with the ICGLR.[127] The ICGLR uses these findings, while also carrying out their own thirdparty audits.

4.2.3.2 Pro-active recommendations for mineral sector governance imrovement

The ICGLR RCM is the only VSS to incorporate an advisory body that actively promotes and facilitates the improvement of member states' mineral sector governance and addresses gaps in member policy frameworks or enforcement practices. This, at least in theory, creates leverage to influence member states' legislative implementation and enforcement of the RCM and leading practices in member states.[128] Although the ICGLR is not

120, 121, 122 *Email with ICGLR coordinator, on 10/04/24.*
123, 124 *Written comment by former ICGLR Uganda employee, on 16/05/24.*
125, 126 *Interview with RMB official on 15/03/24.*
127 *Interview with Executive Management at Luna Smelting, Kigali, Rwanda on 24/01/24.*
128 *Interview with RMB official on 15/03/24.*

empowered to enforce its recommendations, its governance structure as a conference creates regional interdependencies and allows it to serve as an instrument to monitor and discuss the uptake of ICGLR's recommendations and helps member states to keep each other in check, even though ICGLR's recommendations are not implemented by its member states in all cases.

Overall, interviewees state that the ICGLR's RCM recommendations and collaboration have had a positive influence over Rwanda's legislative processes and practices.[129] According to a private sector interviewee, Rwandan authorities and ICGLR officials have collaborated to ensure the RCM operates as a helpful tool for companies to comply with the country's national mining standards.[130]

4.2.3.3 Regular engagement through ICGLR's bi-annual conferences

The ICGLR provides a structure for regular engagement between member states which facilitates continuous relationship building as well as creating a platform for learning and sharing of best practices. The ICGLR RCM and its bi-annual conferences are said to stimulate regional economic integration, collaboration and interdependencies, according to a smelting company representative.

Regional actors such as Rwanda's LuNa Smelter are invited to present to other member states their due diligence and 'conflict free' processes. This helps companies and member states to build upon each other's knowledge and leading practices. Additionally, it encourages member states to engage with one another and work with regional companies rather than smelters outside of the Great Lakes region, resulting in increased regional economic development and integration.

Both private and public sector representatives interviewed for this study highlighted that the ICGLR Certificate, issued by national member states, provides confidence to mineral purchasers that a mineral shipment has undergone a due diligence process. When neighbouring member states produce an ICGLR Certificate, it is trusted and accepted by the different member state governments.[131] In this way, **an ICGLR Certificate facilitates minerals trade between and transit through member states, thereby supporting the regional economy.**

4.2.4 Analysis: Challenges and potential for further collaboration

4.2.4.1 National Capacity

The RMB developed its Inspection Manual in accordance with the ICGLR inspection procedure and principles, resulting in significant overlap between the two inspection processes.[132] Although a smelter interviewed said that the level of expertise between the local government inspections and the international third-party audits for ICGLR vary,[133] the results of the inspections are "more or less the same". However, the third-party ICGLR audits are said to be more rigorous, with the ICGLR auditor exhibiting greater professional knowledge and experience with inspections and audits compared to a local government inspector.

4.2.4.2 Transparency and credibility

Although high-level results of national mine site inspections are shared with ICGLR, **there is room or improvement in the sharing of more detailed evidence of the national inspection reports with the ICGLR audit committee.** Currently, ICGLR third-party auditors do not have access to the full government inspection reports, unless they are proactively published. According to a company interviewed, there is currently no interaction between these functions during the audits, as the TPA overseen by ICGLR occurs independently of the national inspection reporting.[134] There is an opportunity for greater collaboration and cooperation here, if the full details of the government inspection reports were to be shared with the ICGLR third-party audits. In addition, downstream

129, 130 *Interview with Executive Management Luna Smelting, Kigali, Rwanda on 24/01/24.*
131 *Interview with, RMB official on 15/03/24.*
132, 133, 134 *Interview with Executive Management Luna Smelting, Kigali, Rwanda on 24/01/24.*

purchasing companies, especially those using the iTSCi traceability system, have requested that the Rwandan government share the inspection results on the database with them, so they can better understand the trading companies. The Rwandan government has agreed to share their inspection database with the buyers, as some threatened to stop their contracts with the mining companies until the government shared the database.[135]

4.2.4.3 Enforcement limitations

The ICGLR governance operates as an advisory body, without the authority to enforce the RCM's obligations on member states.[136] ICGLR may provide recommendations to member states. The implementation is then up to the member states' discretion. ICGLR also provides overall recommendations for the region that do not pinpoint any particular state or its practices.

The cooperation of some of the member states can be a limiting factor. There are tensions, conflicts and allegations of 3TG smuggling between ICGLR member states[137] (see section 4.2.2.3 for more details) that may limit the ICGLR's ability to facilitate collaboration and promote leading practices.[138] From a political standpoint, better relations between the member states could result in an easier RCM implementation process RCM implementation.[139] However, the current state of play means that it is harder for the RCM to operate effectively. One recommendation would be to further refine and provide greater authority to the ICGLR advisory and recommendation process, even in the form of member states being able to provide a deeper supporting role in modelling leading practices and providing support to member states that are not as far along in the RCM implementation journey.

4.2.4.4 Continuity of ICGLR's relationshsip with member state governments

A final challenge cited during the interview with the ICGLR was the **impact of government turnover in delaying implementation of the RCM.** The advisory body may spend years coming to an agreement with a member state's government regarding the implementation of the mechanism. Then, a change of government or its leadership means some of the progress made under the former administration may be lost.[140] In these instances, ICGLR's engagement with the new administration must start anew, sometimes with varying results.

135 *Interview with Executive Management Luna Smelting, Kigali, Rwanda on 24/01/24.*

136 *Interview with RMB official on 15/03/24.*

137 *A 2023 Financial Times article estimates the DRC government is being impacted to the tune of $1 billion in revenue lost a year due to smuggling minerals across the Rwandan border, accessed on 09/04/24. URL: https://www.ft.com/content/ecf89818-949b-4de7-9e8a-89f119c23a69*

138, 139 *Interview with Executive Management Luna Smelting, Kigali, Rwanda on 24/01/24.*

140 *Interview with Natural Resource Unit Coordinator at ICGLR on 18/1/24.*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4.3 Indonesia | Initiative for Responsible Mining Assurance (IRMA)

4.3.1 The IRMA footprint

4.3.1.1 Understanding IRMA

IRMA is known for its detailed standard and audit reports, which are independent evaluations of a mine's environmental and social performance. One feature of third-party assessment under the IRMA Standard is that it is not a one-time procedure, but a step-by-step process of continuous improvement.[141] IRMA's multi-stakeholder governance structure is set up so that organisations from each of the following categories may join as either "members" or "participants":

- mining companies, including exploration and development and processing;
- purchasing;
- trade unions;
- affected communities;
- CSOs;
- investors and financiers.

Each of these sectors is represented on IRMA's Board of Directors with equal voting and veto powers. Governmental and intergovernmental bodies, research institutes, standard setters, industry associations, and consulting and advisory firms can become members too, although they are not represented on IRMA's Board.[142] As of May 2024, there are 93 members and participants.

As of April 2024, more than 88 mining companies and 105 sites are engaged in the IRMA system, with 10 independent IRMA audits published and an additional 10 in process.[143]

4.3.1.2 IRMA's footprint in Nickel and Indonesia

Of the 20 mines that have either completed or are undergoing a current assessment under the IRMA Standard, four of them are involved in nickel production.[144] However, sites in Indonesia or the Asian region have completed an independent IRMA audit. A further 86 sites are undergoing self-assessment with 40 of those sharing publicly on IRMA's website that they are self-assessing. Self assessment is the first step of the IRMA audit process. Two self-assessing mines are currently located in Indonesia: Kawasi mine site (producing copper and cobalt) and PT Weda Bay Nickel.[145] An additional 10 mines involved in nickel production are undergoing self-assessment and are willing to share this publicly on IRMA's website. These self-assessing nickel sites are located in various other jurisdictions around the globe. To provide context, there were an estimated 186 nickel mines in operation globally as of July 2023, of which 127 are in Indonesia.[146]

Eramet, a French mining group, is involved in several nickel operations in Indonesia, including as a minority shareholder of PT Weda Bay Nickel. Eramet has expressed its intent to join IRMA and made a commitment to independently audit all its active mine sites against the IRMA Standard by 2027.[147] The Weda Bay mine is in preparation for an external IRMA audit scheduled for 2025.[148] As part of its CSR strategy, Eramet is working along with its partners at the mine site, namely Indonesia Weda Bay Industrial Park (IWIP) and PT Antam, to integrate IRMA provisions into PT Weda Bay Nickel operating practices.[149]

IRMA has met with the Indonesian government to explore ways the IRMA Standard and system could support responsible management of the mining

141 *Independently assessing mines, IRMA. URL: https://connections.responsiblemining.net/independently-assessing-mines*

142 *Members / partners, IRMA. URL: https://responsiblemining.net/members-partners/*

143 *Written response from IRMA Standards Department on 05/06/24.*

144 *Independently assessing mines, IRMA. URL: https://connections.responsiblemining.net/independently-assessing-mines*

145 *Self-assessing mines, IRMA. URL: https://connections.responsiblemining.net/self-assessment*

146 *The five largest nickel mines in operation in Indonesia, Mining Technology. URL: https://www.miningtechnology.com/marketdata/five-largest-nickel-minesindonesia/#:~:text=There%20are%20more%20than%20186,GlobalData's%20mines%20and%20projects%20database.*

147, 148 *Eramet in Indonesia: nearly two decades of investment. URL: https://www.eramet.com/en/eramet-group/sites/eramet-in-indonesia/*

149 *Interview with Eramet on 08/03/24.*

sector. One approach IRMA promotes is for governments to use the IRMA Standard as a benchmark for assessing and improving the country's legal frameworks, incorporating practices in the IRMA Standard into enforceable legal frameworks. In 2022, two ministries conducted an analysis of the alignment of the country's legal framework with the IRMA Standard. The ministries, the Coordinating Ministry for Maritime Affairs and Investment and the Ministry of Energy and Mineral Resource, are two of the major ministries within the government involved with the development of the strategic planning framework for promoting the development of energy transition minerals and the electric vehicle (EV) battery industry in Indonesia, including nickel. A local CSO, Action for Ecology and People's Emancipation (AEER), has also conducted a partial assessment between the IRMA Standard requirements and Indonesia's legal framework, with a focus on the nickel sector and reviewing Indonesian regulations related to worker health and safety, wages, and water and air quality.[150] IRMA states it welcomes such assessments as a basis for critical analysis and multi-sector dialogue that can lead to improvements in legal frameworks and their implementation.[151]

IRMA is engaging across sectors in Indonesia, to raise awareness of IRMA as a vehicle through which Indigenous rights holders, workers, and communities affected by mining can advocate for their rights. Many IRMA members and partners have ongoing engagement in Indonesia, and IRMA seeks their guidance to inform meaningful engagement and responsiveness to the specific needs of stakeholders and rightsholders in Indonesia. In its efforts toward continuous improvement, IRMA also seeks to learn from the experience of voluntary standards focused on other sectors in Indonesia, such forestry and palm oil, other initiatives focused on the mining sector such as EITI, as well as from the experience across sectors engaging with these initiatives.

4.3.2 Indonesia's mineral sector governance (Nickel): State of play

4.3.2.1 Indonesia's mining sector

Indonesia is the largest producer of nickel in the world, producing nearly half of global nickel supply (1,600,000 metric tons and 48% of global share).[152] In terms of reserves, Indonesia is second in the world of global nickel reserves, with 21,000,000 metric tons, 21% of global share.[153] Indonesia is also home to the largest smelter processing nickel to matte, and the second largest smelter processing ferronickel.

Leading producers of nickel in Indonesia include Sumitomo Metal Mining, Vale, PT ANTAM (Persero),[154] Tsinghan Group and IWIP.[155] Some of the major operating mines include the PT Weda Bay Projects in Maluku; the Sorowako mine in South Sulawesi; Asera Project in South East Sulawesi; and the Bahoomahi Mine in Central Sulawesi.[156]

The Indonesian government has made various efforts to develop value chains for minerals needed for the energy transition, including nickel. This includes developing policies and plans in alignment with Indonesia's strategy to become a leader in the EV value chain by 2045. The government has also issued policies and funding to support mining operations, including mineral extraction and processing as related to EV value chains.[157]

The environmental and social impacts of nickel mining and processing in eastern Indonesia in particular has raised concern across sectors. This activity is concentrated in the regions of Sulawesi, North Maluku, and Papua. Several CSOs have published reports detailing the damages nickel mining and processing have inflicted on the environment as well as local communities. Mighty Earth, an international CSO with a focus on

150, 151 *Interview with Law & Policy Director at IRMA on 25/01/24.*

152, 153 *USGS Mineral profiles and datasheets, and Indonesian Ministry of Mining.*

154 *Nickel production in Indonesia and major projects, Mining Technology. URL: https://www.mining-technology.com/data-insights/nickel-in-indonesia/?cf-view.*

155. 156 *Written email communications from Eramet on 06/06/24.*

157 *MEMR Ministerial Regulation Number 9/2020 concerning Strategic Plans for Mineral and Coal Management.*

climate change and protecting forests and wildlife, published a report in 2023 that outlines nickel mining's contribution to deforestation across Indonesia, especially as related to the nickel extraction and processing that must occur to create precursor-ready materials for EV batteries.[158] A primary concern with the nickel processing, in addition to the deforestation concerns, is the fact that much of the nickel is processed using coal-fired power plants, which further pollute the environment and threaten natural habitats.[159] Another policy paper, published in October 2023 by the CSO Satya Bumi, outlines human rights abuses associated with nickel mining, including categorising human rights cases that have been brought against the Indonesian government in the Sulawesi region.[160] The paper highlights the tension between the Indonesian government putting a "nickel policy ecosystem" in place to take advantage of the momentum of the nickel boom and accelerate the development of the Indonesian EV supply chain, and the lack of policies in place or in practice to protect the environment and human rights.[161] This includes policies the government has put in place to facilitate investment in the nickel supply chain and elevate the downstream nickel sector as a priority state programme,[162] whilst allegedly failing to balance such activity with parallel environmental and human rights protections.

4.3.2.2 Authorities' focus on responsible mining in Indonesia

The Indonesian government has put several policies in place to accelerate the development of the nickel supply chain, in support of promoting market entry into the various factors of the EV sector in the country. As part of this push, the Indonesian government has initiated a roadmap for the development of transition minerals until 2045, as expressed in its strategy for mineral and coal management. This strategy creates a framework for generating policies and regulations related to EV minerals development.

The Indonesian government has developed several other programmes in promotion of the EV minerals sector, including the Just Energy Transition Partnership (JETP) Indonesia Comprehensive Investment and Policy Plan (CIPP), focused on Indonesia's decarbonisation and energy transformation, including strategies to transition away from coal without leaving workers behind and strategies to decarbonise energy sources for mineral processing.[163] In parallel, the Deputy for Strategic Investment Downstream, Investment Coordinating Board developed a roadmap for downstream strategic investment to 2040, including for EV minerals such as nickel. To further support the development of the national EV battery industry and Indonesia's role as a top battery manufacturer, the government set up the Indonesia Battery Corporation.[164]

An overview of policy updates to support mining and minerals investment include:

1. **Dialogue and strategic partnerships:** the Indonesian government has been in talks with the US government about the possibility of developing a Critical Minerals Agreement between the two countries.[165] Indonesia also has strategic cooperations with Australia, China, South Korea, the UK, and the Associa-

158 *From forests to electric vehicles: quantifying and addressing the toll of Indonesian nickel. URL: https://mightyearth.org/wpcontent/uploads/2024/04/ForeststoEVs_FinalV2.pdf.*

159 *Idem. Climate Rights International (2024) Nickel Unearthed. URL: https://cri.org/reports/nickel-unearthed/ [accessed 08/06/24].*

160, 161, 162 *Neo-extractivism in Indonesia's Nickel Epicenter: the fragility of mining governance and realizing ecologi cal justice and protection of human rights on Celebes land. URL: https://satyabumi.org/neo-extractivism-in-indonesias-nickel-epicenter-the-fragility-of-mining-governance-and-realizing-ecological-justice-and-protection-of-human-rights-on-the-celebes-land/.*

163 *Indonesia Just Energy Transition Partnership (JETP). URL: https://www.undp.org/indonesia/projects/indonesia-just-energy-transition-partnership-jetp#:~:text=The%20Indonesia%20JETP%20is%20a.*

164 *Indonesia Battery Corporation. URL: https://www.indonesiabatterycorp.com/en.*

165 *Reuters (2023) Indonesia proposes critical minerals trade deal with US. URL: https://www.reuters.com/business/indonesia-proposes-critical-minerals-trade-deal-with-us-2023-09-07/#:~:text=JAKARTA%2C%20Sept%207%20.*

tion of Southeast Asian Nations (ASEAN), and with the Indo-Pacific Economic Framework (IPEF) and its Critical Minerals Dialogue.[166]

2. **Facilitating foreign mining investment:** in May 2023, a new law on mining areas appoints a wider range of entities to carry out inspection and research activities, for the purposes of encouraging foreign investment.[167]

3. **Reforming current laws and policies to streamline mineral production for businesses:** in 2020, mining regulation in Indonesia was amended to shift the control of minerals and coal from regional bodies to the central government.[168] The intention was to make mining practices across Indonesia's various regions more predictable and consistent, thereby facilitating foreign investment.[169]

4. **Supporting mining governance and transparency:** Indonesia joined the Extractive Industries Transparency Initiative (EITI) in 2010. Between December 2019 and January 2024, the EITI International Secretariat sought stakeholder views on Indonesia's progress in implementing the EITI Standard within the mining and minerals processing sector.[170]

4.3.3 Collaboration between IRMA and Indonesian authorities

4.3.3.1 How IRMA seeks to add value to Indonesia's mineral sector governance

As explained by IRMA, an overriding intent of its engagement with the Indonesian government and other stakeholders is to raise awareness about the availability of the IRMA Standard for a set of best practices for mining sector governance in Indonesia, in order to prevent and minimise harm while driving continuous improvement in the sector.[171] This includes technical and potentially financial support for bringing mines into the IRMA system and conducting independent third-party audits in Indonesia.[172]

IRMA states that engaging with national authorities to discuss best practices and use of the IRMA Standard and system to assess and improve legal frameworks, agreements, and partnerships is a major focus for the IRMA Secretariat and its governing body. While recognising the boundaries of VSS, it is a priority for IRMA to support having legal frameworks in place to promote best practices and enforce implementation of best practices. While not seeing IRMA as a replacement

166 *The White House (2023) Fact sheet. URL: https://www.whitehouse.gov/briefing-room/statements-releases/2023/11/16/fact-sheet-in-san-francisco-president-biden-and-13-partners-announce-key-outcomes-to-fuel-inclusive-sustainable-growth-as-part-of-the-indo-pacific-economic-framework-for-prosperity/#:~:text=The%20IPEF%20Critical%20Minerals%20Dialogue.*

167 *Government Regulation (GR) No. 25 of 2023 on Mining Area (GR 25/2023).*

168 *Government Regulation (GR) No. 25 of 2021 on Implementation of the Energy and Mineral Resources Sector (GR 25/2021)*

169 *Indonesia amends the Mining Law. URL: https://www.nortonrosefulbright.com/en/knowledge/publications/b545e479/indonesiaamends-the-mining-law.*

170 *Indonesia 2024 EITI validation URL: https://eiti.org/offers/indonesia-2024-eiti-validation-call-views-stakeholder-engagement#:~:text=Indonesia%20joined%20the%20EITI%20in.*

171, 172, 173 *Interview with Law & Policy Director at IRMA on 25/01/24.*

for the important role of governments, rule of law, and responsible governance of the mining sector, IRMA does see the role of its Standard as a benchmark for assessing and improving legal frameworks and its audit system as a complement to the role of government, bringing market recognition to mines that engage in independent IRMA audits and demonstrate commitment to improving practices.[173]

While the role of VSS and IRMA may be limited by their voluntary nature, there is a definitive role such standards can play in complementing the role of government, including with creating more market value for implementing best practice standards and for supporting the value of transparency around site-level reporting as a tool to engage with and respond to the sectors, including with rightsholders affected by mining. VSS can therefore engage in partnerships with governments and a range of stakeholders and rightsholders to improve responsible practices in the mining sector. IRMA's engagement in Indonesia revolves around this concept, promoting government incorporation of best practices and use of the VSS to advance positive impacts for rightsholders and the environment, while preventing and mitigating potential harm in the mining and mineral processing sectors.

4.3.3.2 Existing relationship between IRMA and Indonesian authorities

The relationship between IRMA and the government of Indonesia first came about in 2021. The US government, through the International Visitor Leadership Program (IVLP), hosted a group of Indonesian government leaders and Chamber of Commerce representatives from Indonesia, to discuss the mining sector.[174] This included a conversation about IRMA, in the format of a virtual multi-hour presentation and discussion that introduced the IRMA Standard and system, how governments can use IRMA as a benchmark for assessing and improving legal frameworks, and how IRMA can complement the role of government by providing market-based support for protecting environmental and social values.

In 2022, contacts in Indonesia invited IRMA to be a part of a forum in Jakarta discussing the IRMA Standard and system. The impetus for this was related to requests from downstream companies calling for responsible governance and implementation of IRMA in Indonesia.[175] As a multi-stakeholder initiative, the IRMA Secretariat agreed to participate in a multi-stakeholder forum and also set up meetings across all sectors that govern IRMA. This included setting up separate opportunities to engage with CSOs and affected rightsholders.

Indonesia's Coordinating Ministry for Maritime and Investment Affairs, EITI Indonesia, Eramet, and others cohosted the "Introducing the Initiative for Responsible Mining Assurance (IRMA) to Indonesian Mining Companies" forum on 6 September 2022. Over 140 participants attended the event, including representatives of more than 25 companies with experience in minerals, including nickel.[176] Speakers at the event included representatives from Eramet, IRMA, the Coordinating Ministry for Maritime and Investment Affairs, the EITI Secretariat, and Ørsted.[177]

In the follow-up to the multi-day forum, IRMA conducted outreach to government officials, but limited continued engagement followed, outside of ad hoc connections with Indonesian officials at various international fora and conferences.[178] However, IRMA plans to continue efforts to develop relationships with the Government of Indonesia with the aim of increasing engagement in IRMA, and promoting the practices in the IRMA Standard and their incorporation into the country's legal framework and partnerships.[179]

To note, Indonesian authorities could not be reached to confirm the details provided here.

174, 175 *Interview with Law & Policy Director at IRMA on 25/01/24.*

176, 177 *Engaging Indonesia, IRMA. URL: https://responsiblemining.net/2022/10/13/engaging-indonesia/.*

178 *Interview with Law & Policy Director at IRMA on 25/01/24.*

179 *Engaging Indonesia, IRMA. URL: https://responsiblemining.net/2022/10/13/engaging-indonesia/.*

4.3.4 Challenges and opportunities for further collaboration

As a strategy, IRMA is continuing to pursue engagement with Indonesian authorities, including continuing to explore opportunities for incorporating the practices in the IRMA standard into law and policy frameworks.[180] Next steps involve continuing outreach to the Indonesian government, including through transitions in leadership, and promoting inclusive, multi-stakeholder engagement to inform best practices for the mining and mineral processing sectors and their practices in Indonesia.

IRMA has also expanded staffing in the IRMA Secretariat to include an Indonesia-based Community Outreach Coordinator, who will aim to deepen IRMA's engagement with and accountability to affected communities, CSOs, and trade unions in Indonesia.[181] IRMA is also proactively deepening engagement with affected communities, CSOs and trade unions through a US Agency for International Development (USAID) Powering a Just Energy Transition Green Minerals Challenge (JET Minerals Challenge) award, which supports innovative solutions to addressing corruption and related issues in supply chains for the energy transition.[182] IRMA is using this award to deepen engagement with civil society and workers in Indonesia and co-develop tools that will be useful for them to make better use of the IRMA Standard and system. This may include improving tools in the IRMA Community Toolkit, such as the Community Impact Survey, communities can use to collect information about impacts at the mine-site level.[183] Survey responses could be used to inform an IRMA audit, engage with the mine site, and/or engage with government and policy-makers, for example.[184]

IRMA is also part of conversations exploring instruments related to international trade, and how these may support responsible minerals sector governance. This includes looking at relationships and partnerships between countries, such as the US and Indonesia[185], on issues such as commodities trading, including what rights could be protected through various types of partnerships and trade agreements. This could include levers such as mechanisms for rapid response to violations of labour rights, such as those in the US-Mexico-Canada Agreement's Facility-Specific Rapid Response Labor Mechanism, protecting the rights of Indigenous people to free, prior and informed consent, protecting conservation and biodiversity, and other environmental and social topics.

One lesson learned thus far for IRMA is that having a government-hosted forum to introduce IRMA in Indonesia led some in civil society to view IRMA as an initiative of the Indonesian government. IRMA's engagement with civil society includes raising awareness that IRMA is a global multi-stakeholder initiative that is equally governed by affected communities, CSOs, trade unions, mining companies, purchasing companies, and investors, and while IRMA does engage with governments, IRMA is not a government initiative.[186] To clarify the role of IRMA and its independent, multi-stakeholder approach, IRMA conducted a series of events with CSOs in late 2022 to early 2023.[187]

180 *Interview with Law & Policy Director at IRMA on 25/01/24.*

181, 182 *Recent hires include sector leads for civil society, the mining sector, the purchasing sector, and the investor and finance sector to deepen engagement with each sector across multiple jurisdictions, including Indonesia.*

183 *IRMA (n.d.) Resources. URL: https://responsiblemining.net/resources/#resources-communities [accessed 08/06/24].*

184 *The Community Impact Survey may be especially useful for communities facing impacts of a mine site that is not engaged in the IRMA system and may not be likely to undergo an IRMA audit. Others may want to focus on specific issues such as best practices in operational-level grievance mechanisms, protecting Indigenous rights to Free, Prior, and Informed Consent, promoting best practices in water and/or tailings management, biodiversity, or other requirements in the IRMA Standard.The JET Minerals Challenge award supports engagement in South Africa as well and both projects will inform improvement of IRMA's tools and responsiveness to civil society and organized labor. IRMA plans to share lessons learned at the end of the project and will share new tools on the IRMA website for global use and ongoing improvement.*

185 *https://www.piie.com/blogs/realtime-economics/us-should-consider-critical-minerals-trade-agreement-indonesia*

186, 187 *Interview with Law & Policy Director at IRMA on 25/01/24.*

4.3.5 Analysis: Potential for closer collaboration

At this juncture, it may be useful for the government of Indonesia to complete and share its assessment of the IRMA Standard and its degree of alignment with the Indonesian legal framework. This assessment may help inform both Indonesian authorities as well as IRMA about opportunities for closer collaboration. The government of Indonesia shared some initial assessment findings at the IRMA-focused forum in 2022, but the assessment and findings have not otherwise been made public and did not appear to be based on crossstakeholder input and discussion.[188]

IRMA is working with governments around the globe to explore[189] important factors to consider when assessingthe quality of a standard. IRMA points to factors such as:

- Who governs the standard and how is decision-making power distributed?
- Does the standard provide comprehensive coverage and incorporate leading international frameworks
- to avoid unnecessary duplication?
- Do audits only require company self-reporting or the added value of independent third-party audits?
- How are local stakeholders and rights holders engaged in audits?
- Why is it important to make audit reports public, including promoting transparency?

These are some of the key questions IRMA finds are essential to explore, and can be informed by VSS and national government collaboration.

188, 189 Interview with Law & Policy Director at IRMA on 25/01/24.

Analysis and recommendations

5

5. Analysis and recommendations

5.1 VSS existing modes of collaboration with national authorities and their potential added value in improving mineral sector governance

VSS play a prominent role in improving 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.

In many cases, there is significant overlap between VSS and requirements of national mineral legislation. Interviewees outlined that **VSS add important value through the extensiveness of their ESG requirements that regularly go further than what is required by national law in production countries.** This provides VSS with the opportunity to complement and advance business practices that are at a minimum required by the state. Evidence from the three case studies featured in this report indicates that:

- **IRMA Standard requirements go beyond what current Indonesian mining law requires,** as related to managing human rights and environmental impacts.
- Working with **the Copper Mark** makes it easier to **move toward compliance with Peruvian mining law,** according to the Peruvian company interviewed.
- The **RCM certification mechanism is representative of the law in Rwanda** — therefore, companies following the RCM are closely aligned to what is required by law.

Although some companies have reported some confusion in being required to adhere to both VSS requirements and national regulations, overall interviewees highlighted the benefits VSS provided in advancing their business practices to reach compliance with national legislation.

VSS assurance and certification schemes appear to **give confidence to mineral purchasers and downstream buyers about the due diligence undertaken in their minerals supply chains.** Such confidence could support producer country authorities because it expands the economic opportunities and commodities market in regions that may otherwise be boycotted or avoided by buyers or consumers for the appearance of being too high risk, such as what has occurred in the past with cobalt from the DRC. In this way, VSS have the potential to help producer countries manage and address reputational risks associated with sourcing minerals for their region.

At the same time, it is important to note that while (some) purchasers and downstream users of minerals may have confidence in the VSS, this does not necessarily represent the perspective of other groups such as affected people or civil society. High-profile media and civil society reports citing weaknesses in VSS[190] have tended to quickly erode businesses' confidence in the standards, which could lead to **unwelcome shocks for producer countries that have put significant stock into a VSS whose standard is not strongly backed by a credible multi-stakeholder alliance.**

5.1.1 How VSS can add value to national mineral sector governance

A pivotal question this study seeks to address revolves around the specific added value VSS could have to existing national legal and enforcement frameworks, and how VSS could complement national mineral sector governance structures, specifically through engagement and collaboration with national authorities in producer countries.

While acknowledging that VSS could, and should, not aim to replace the important role governments and their legal frameworks have to govern the mining sector, the research demonstrates that **VSS are currently supporting mineral sector governance through two primary modalities:**

190 *See, for example, "The ITSCI Laundromat," Global Witness, April 2022, https://www.globalwitness.org/en/campaigns/natural-resource-governance/itsci-laundromat/#itsci (accessed 6 May 2024) or Lead the Charge, LeadTheCharge-Assessment-06022024.pdf*

1. **VSS are playing a role in examining and improving legal frameworks with the aim to improve for mineral sector governance, which in turn has the potential to improve outcomes for affected people and in particular vulnerable groups such as women and children**. The adoption of VSS requirements into national legislation and potentially some level of convergence between VSS standards and policy frameworks seems to be a goal possibly pursued by ICGLR and IRMA.
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. An example of this can be seen in the Copper Mark case study focused on Peru and partly Chile.

More specifically, the three case studies point out the following:

- *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. The IRMA model and its engagement with the Indonesian authorities works towards mineral sector governance improvement with a clear objective of **integrating the IRMA standards into Indonesian national mining legislation.**[191]
- *The Copper Mark case study in Peru* shows that the Copper Mark takes a different approach, where the Copper Mark operates de facto **in parallel with the national mining law.** The Copper Mark's added value to mineral sector governance is therefore more indirect. The VSS **functions as a guiding tool for companies through its active engagement it enables these companies to both meet the Copper Mark requirements and in turn comply with various Peruvian ESG regulations.** The Copper Mark **conducting ASM-related studies and sharing baseline data additionally provides technical expertise to the Peruvian government.**
- *The RCM case study in Rwanda* demonstrates how the **certification mechanism adds value through the collaboration and cooperation displayed by the various member states,** which gather biannually to discuss implementation, tracking and monitoring of the certification mechanism and onthe-ground results. Being an **intergovernmental mineral sector governance model, where the standard itself is transposed into national mining law,** the RCM has created an ecosystem wherein neighbouring states facilitate trade within the region through the assurance the certification. Here, a key benefit exists in terms of shared understanding between member states on responsible business practices, smoother connections between the national authorities and the standard auditors (and sometimes even an overlap between the two), and a stimulation of national governments' enforcement of companies' due diligence practices. Even where tensions may exist between certain member states, the overall model of the ICGLR RCM can be seen to unite mineral sector governance across the African Great Lakes region.

5.1.2 VSS responsibility to advocate for legislative change

These findings raise pertinent questions around VSS mandates and how their overall mission relates to improvements around mineral sector governance in producer countries. The fact that VSS have the potential to actively and positively influence such governance might not mean that good mineral sector governance is central to their mission statements. Furthermore, the vacuum resulting from the seemingly limited interest from government authorities in producer countries to engage in VSS processes, and the absence of VSSspecific government authority engagement procedures, raises **questions around responsibility.** What is reasonable to expect of public authorities when engaging with VSS? Is it VSS' responsibility – and is it even appropriate – to proactively seek to inform mining regulations, and play an active role in legislative advocacy?

191 It is important to note that this goal has not yet been met, and is still within its early stages and is therefore as yet unproven.

VSS cited their own **missions and their relevance to advocating for changing legislation in the jurisdictions in which the VSS are implemented.**

- Some VSS encourage governments to conduct benchmarking against their mining standard (such as IRMA).
- Others (such as the Copper Mark) have had conversations with government authorities about translating their standard into mining law.
- RCM obligations are directly incorporated into national legislative frameworks.
- Some VSS (such as the ASI) are taking less of an active advocacy role around legislative changes and report that they focus more of their engagement on stakeholders outside of government, such as community members and CSOs.

5.2 Recommendations for VSS, policy makers and civil society

An overview of existing modes of VSS engagement with producer country authorities is discussed in section 3 of the report. A discussion of key challenges and opportunities can be found in the various case studies in section 4.

This study's findings and the challenges and opportunities outlined above not only raise questions around how VSS mandates relate to enhancing good mineral sector governance. They also present a set of core questions about roles and responsibilities of other stakeholder groups:

- What responsibility do producer country governments have themselves with regard to VSS?
- What facilitating role could intergovernmental organisations or development cooperation organisations such as GIZ play?
- How can VSS credibly 'carve out' their self-designated mandates to further responsible business conduct, while still respecting states' primary duty to protect human rights and the environment?

The below section outlines recommendations for these key stakeholder groups including VSS, for GIZ and other policy makers, and civil society.

5.2.1 For VSS

5.2.1.1 Increased transparency in reporting audit results and next steps

Transparency is a prerequisite for effective collaboration and is an important foundation for good governance and responsible business conduct. As a key recommendation, VSS could **proactively share audit reports with relevant government offices** once they are published. They could host official meetings with governments to discuss the results and any (non-)compliance data, similarly to how IRMA liaised with the Chilean government to discuss the data once two assurance processes were completed.

As part of such an engagement strategy, VSS could also start notifying key priority/ partner governments when they will conduct an audit in their jurisdiction, or when the standard is up for development or review.

5.2.1.2 Prioritise government officials as key stakeholders in audit processes

Whether producer country officials were seen as priority stakeholders during the audit process varied among the VSS. Some VSS, such as IRMA, prioritise government officials as key stakeholders that warrant enhanced engagement at various stages of the standards development: during the development and review process; during the audit process, and during the post-audit process, especially by sharing audit reports and discussing audit results in jurisdictions such as Chile.

Other VSS, such as RS or ASI, indicated that government officials receive similar attention to other stakeholders. A recommendation here would be for the VSS to **re-evaluate whether producer country authorities should be elevated as a key stakeholder group,** and whether practices such as knowledge exchange during the audit process and the sharing of audit reports could occur with limited additional costs.

5.2.1.3 Proactive engagement versus reactive interactions

- VSS' engagement with producer country authorities appears to take place in an ad hoc fashion, and mostly dependent on producer countries' interest in reaching out and communicating with VSS. Apart from IRMA, RCM and in some ways RMI, VSS often display a more reactive approach to engagement with public authorities. A key recommendation would be for VSS to **develop proactive engagement strategies with producer country authorities, clearly outlining the objectives of the interactions, the benefits, and the expected result of the interactions.** To overcome challenges linked to limited VSS resources and capacity, VSS could implement a **prioritisation strategy,** whereby they intentionally focuses on government engagement in priority jurisdictions:
  - **in which an audit has occurred or is being planned;** and/or
  - with the **highest risk status,** as related to negative ESG impacts.
- VSS can take advantage of planned **visits to conferences and international fora,** where they can schedule side meetings or ad hoc interactions with government officials who are also attending. This has been highlighted by several VSS as a low-cost opportunity to increase intentional engagement with government officials.
- **VSS can develop low-cost strategies to share knowledge and data with prioritised government authorities,** which may be as simple as proactively sharing audit reports with relevant jurisdictions (see more about this below), or more actively build upon existing national inspection and monitoring data.

There may also be the opportunity for civil society and development actors to follow the development and implementation of such strategies.

5.2.1.4 Conduct assessments of legal frameworks against voluntary standards

As explored in the IRMA-Indonesia case study, assessing a VSS against a country's legal framework could enable policymakers in producer countries to understand if and how the VSS could bring value to policy implementation and overall rule of law.

This may include identifying areas where national mining legislation and VSS align or diverge, which is mostly relevant where countries are hoping to reform mining law to improve social or environmental results in practice, or where companies are looking for further guidance as to where national legislation and VSS exhibit synergies.

5.2.2 For development organisations and policy makers

5.2.2.1 Facilitate the building of effective relationships between states, VSS and civil society

This research shows that most of the engagement between VSS and government authorities extends beyond the standard-setting and assurance processes, and includes engagement related to the on-the-ground implementation of standards.

Findings also indicate that **a knowledge gap exists with many national authorities, who may not understand key distinguishing aspects of each VSS,** such as the rigour of their requirements and processes, their market application, or their governance structures. And lastly, that information exchange around assurance processes between VSS and producer country authorities is, in general, limited.

Development organisations and policy makers could play a pivotal role in facilitating the development of effective relationships between states, VSS and civil society, for instance through the convening of these actors in **country-level dialogue and exchange fora with the aim to :**

- **Enhance national authorities' ability to evaluate which (elements of) VSS might be useful** to advance good mineral sector governance;
- **Facilitate the proactive exchange of information and data regarding responsible business practice;**
- **Establish a trusted setting for states, VSS and civil society to exchange perspectives about good governance in the mineral sector and the role of VSS**

5.2.2.2 Enhance national authorities capacity to evaluate VSS

Governmental representatives can only determine which VSS will have a natural synergy with their mineral sector governance (which is first and foremost the duty of the state) once they can accurately analyse these specificities. Several VSS explained they have interacted with government authorities that are not aware of their standards, or that governments are not always well informed about the potential relevance of VSS for authorities' work with regulations and the implementation thereof. **Development organisations and policy actors could help increase the capacity of national authorities to accurately evaluate 'synergy-ready' VSS whose rigour and structure could advance effective mineral sector governance with regard to responsible business conduct.** Here it is important to emphasise one of the framing points for this study: that the objective for national authorities would be to only engage with VSS whose robustness can credibly advance mineral sector governance in that country.

5.2.2.3 Facilitate knowledge and data exchange between VSS and authorities

When a VSS is assessed to be fit and ready for synergistic engagement, **development organisations and policy actors could provide additional capacity building and information exchange support to producer countries on more detailed topics** to foster direct engagement between governmental officials and VSS. Such facilitation of the interaction around **information exchange is crucial to ensure** information is received, understood and actioned upon, **rather than just 'made available'** as seen in more transactional models. Of course, this activity is contingent upon increased transparency by VSS of audit reports.

Information and data exchange could revolve around:

- the pro-active sharing of trends in assurance findings;
- highlighting how (some) VSS provide detailed implementation guidance for companies, which facilitates both VSS alignment and in some cases legal compliance. See the Copper Mark in Peru for instance;
- sharing information about fora that VSS support which are designed to ensure communities understand what is happening with mining operations in their regions and advocating for affected people's rights, as seen with IRMA and ASI's Indigenous Peoples' Advisory Forum;
- noting VSS' role in contributing issue-specific knowledge to government authorities, such as RS on greenhouse gas emissions.

5.2.2.4 Support civil society to play its critical accountability role

Civil society plays a critical role in ensuring that both business and governmental actors are fulfilling their responsibilities and duties with regard to responsible mineral production. Civil society is also typically the critical representative voice of people affected by mining. Development and policy actors can foster civil society's ability to conduct their critical work through support for financial and human resources, and advocating for sufficient civic space for civil society to play its role.

Development and policy actors could engage with producer countries to understand how they perceive the role of civil society and consider avenues to better integrate civil society's perspectives and findings into the ongoing improvement of mineral sector governance.

5.2.3 For civil society

5.2.3.1 Continue to operate as an accountability check for mineral sector governance

Civil society provides an accountability check that ultimately responsible business practices are being met through the exercise of these **processes and procedures.** This is particularly true for the minerals sector. Civil society helps keep mining operations accountable for their impact on the ground and in communities and as related to the land, soil and water.

5.2.3.2 Continue to translate and communicate audit results and data to rightsholders

Civil society groups have been instrumental in translating and communicating the results of audit reports and data to communities.

- Human Rights Watch, for instance, has been interpreting the results of audit reports for miningaffected communities. It has helped promote the use of grievance mechanisms for rightsholders to report on the impacts of mining operations in their communities.
- **Some CSOs have conducted shadow audits,** for instance in bauxite mining, and have reviewed VSS audit reports and provided critical feedback around VSS requirements as well as audit processes, especially where they concern integration of rightsholders' perspectives.

Overall, there is an important role for both local and international CSOs to continue to raise awareness, holding mining operations and government accountable for on-the-ground impacts, and for critically assessing VSS audit practices.

Other responsible minerals production actors, such as business and government, will need to ensure that civil society is enabled to fulfil this critical role which requires significant resources and access (which is consistently shrinking generally)[192]. See the previous section for more about how development and policy actors can support strengthened integration of civil society into effective mineral sector governance.

5.2.3.3 Ensure improved outcomes for people and environments affected by business activities

It can be easy to lose sight of the main purpose of sustainability standards and regulations. As set out in global norms, they seek to improve outcomes for people and environments affected by business activities. CSOs can help to continue to guide the conversation around VSS and improved outcomes on the ground, thereby ensuring the prominence of this ultimate objective.

192 *See, for example, the most recent Civicus Monitor annual findings, https://monitor.civicus.org/globalfindings_2023/, accessed 6 May 2024.*

Annex I: VSS Characteristics

Characteristics[193]	ASI	ICGLR[194]	IRMA
Governance structure[195]	**Mostly multistakeholder** **ASI board** is made up of 8 representatives, half industry, half CSO /independent. 2 out of 8 positions on the board are filled by CSOs (with a biodiversity and human rights background) while affected rightsholders and/or their legitimate representatives do not directly hold positions in the board). **ASI's Standards Committee** includes a broader range of direct rightsholders representatives (incl. trade unions, community representatives, and indigenous communities). The ASI Indigenous Peoples Advisory Forum (IPAF) nominates two representatives on the ASI Standards Committee.	**Inter-governmental** The ICGLR includes 12 members states. It oversees the implementation of the RCM, which is implemented by 5 member states (Burundi, DRC, Rwanda, Tanzania and Uganda).	**Multi-stakeholder** **IRMA is governed** by six sectors: mining companies, downstream purchasers, CSOs, communities, trade unions, investment and finance, and one atlarge member. Each sector has two representatives on the board, with each sector holding equal voting and veto power. The board also includes one at-large member. Affected rights holders, their representatives and CSOs maintain equal decision-making power with industry
Membership / audience	**348 members** comprised of industry, industry associations, &-and CSOs	12 ICGLR countries, 5 of which have adopted the RCM	**74 members** comprised of: mining and processing companies, downstream purchasers, CSOs, communities, trade unions, standard setters and consulting services
Supply chain scope and minerals / metals coverage	All stages of the aluminium supply chain (inc. bauxite mining, primary aluminium production, semifabrication and material conversion processes, recycling, and end use).	Extraction / mine site to export stages of the supply chain (incl. mining, trading, transport, processing and exporters). 3TGs (tin, tantalum, tungsten and gold).	Extraction / mine-site level only, including mineral processors when on the mine site. All minerals other than thermal coal, uranium, and deep sea mining projects. As of June 2024, IRMA has **two draft standards** in the revision process: The revised Standard for Responsible Mining will cover exploration, development and processing; and a draft Chain of Custody standard.
Market reach (number of audits concluded) + page length of public audit reports	**270+ certifications.** Published, full audit reports are generally 15-20 pages.	45 RCM audits have been conducted, 16 of which have been located in Rwanda. Reports are available only to member states in which they were conducted, unless otherwise published.	10 **published audit reports, and one published surveillance audit report.** Published, full audit reports are 150+ pages.

Annex I: VSS Characteristics

Characteristics[193]	RMI	ResponsibleSteel	The Copper Mark
Governance structure[195]	**Mostly industry-led** **The RMI Steering Committee** is comprised of 11 voting representatives, mostly from industry, with one government and 2 CSO representatives. There are three additional exofficio, non-voting members. Affected rightsholders and/or their legitimate representatives do not directly hold positions on the board. Civil society groups represent less than 30% of the Steering Committee.	Mostly multistakeholder **RS board of directors** includes 11 representatives with equal representation between: 4 industry, 3 independent, and 4 CSO members. While international CSOs are represented (incl international trade union, biodiversity conservation organisations), affected rightsholders and/or their legitimate representatives do not directly hold positions on the board. RS governance documents aim to guarantee that CSO members have equal voting rights with industry on the RS Standard. RS governance documents aim to guarantee that CSO members have equal voting rights with industry on the RS Standard.	**Partly multistakeholder** **The Copper Mark is governed** by a board made up of 3 industry representatives, 3 nonindustry representatives, and the Executive Director. The multi-stakeholder Advisory Council includes representatives from industry, academia, finance, and advisory services. Affected rightsholders and their legitimate representatives do not directly hold positions on the board. The Copper Mark's governance documents do not guarantee that CSOs or affected rights-holders have equal representation.
Membership / audience	**500+ industry** members, comprised of downstream, midstream, upstream members	**152 members** comprised of industry, CSOs and "associate members." "Associate members" comprise industry associations, standard setters, certification bodies and consulting services. Associated members are nonvoting.	**41 partners,** comprised of industry
Supply chain scope and minerals / metals coverage	RRA covers all stages of the supply chain, from mining to recycling. It covers all minerals. The RMAP system covers mining, smelting and refining, processing and other upstream actors. The RMAP covers all minerals. The RMI also offers the Downstream Assessment Program (DAP) for all minerals.	Operational steel sites and sites that process raw materials for steelmaking, or that produce steel products. RS does not cover the mining / extraction phase, unlike the other VSS analysed.	RRA covers all stages of the supply chain, from mining to recycling. It includes copper, zinc, molybdenum, and nickel.
Market reach (number of audits concluded) + page length of public audit reports	225 conformant 3TG smelters or refiners (244 for all minerals) Historical number of audits is undisclosed. Published RMAP assessment reports are generally two pages long. RMI auditor validated company Step 5 Due Diligence reports are also published, and are generally 3-10 pages long. Full assessment reports may be requested from he auditees directly or through RMI's RBAOnline system for members.	**32 certifications issued.** Published summary audit reports generally 15-20 pages.	**70 recipients of The Copper Mark, The Molybdenum Mark, The Nickel Mark and /or The Zinc Mark.** Published summary reports 15-25 pages.

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This report has been finalised in January 2025 and does not fully reflect the latest occurrences in the sector in Indonesia.