



Chapter 3.6 Artisanal and Small-Scale Mining

BACKGROUND

It has been estimated that there are between 20 and 30 million men, women and children involved in artisanal and small-scale mining (ASM) worldwide, and that the ASM sector is responsible for 15 to 20 percent of the production of global minerals and metals.¹⁷⁷

While there is no single definition of artisanal and small-scale mining (ASM), it is generally understood to encompass a range of activities, including prospecting, exploration, extraction, processing and transportation, and use more simplified and labor-intensive technologies and practices than large-scale industrial mining.

The ASM sector is complex and diverse. It includes individuals or families mining to earn or supplement their livings, as well as small-scale commercial operations that employ numerous workers. Much of ASM is informal, with entities operating in contravention to laws, or in the absence of an appropriate legal framework, although some ASM operators do have permits, pay taxes and abide by social and environmental regulations.¹⁷⁸ In some contexts, there may be a criminal element to ASM activities, such as smuggling, tax evasion, money laundering, trafficking in illegal chemicals, or financing of conflict.¹⁷⁹

ASM sometimes occurs in areas close to or on large-scale mining (LSM) concessions. ASM miners may have traditionally operated in those areas, full-time or seasonally, or in other cases miners may have arrived during LSM exploration or after the development of the large-scale mine.

Given the diversity within the ASM sector, it is understandable that interactions between LSM and ASM entities can also take on a variety of forms, from violent confrontation to harmonious co-existence.¹⁸⁰

ASM is playing a growing role in many national economies,¹⁸¹ and holds the potential to provide decent livelihoods if conducted in an organized and responsible manner and afforded more secure access to capital and markets. Large-scale mines that operate in the same regions as ASM, or that purchase minerals produced by ASM, have the opportunity to contribute to positive transformations in the ASM sector.

TERMS USED IN THIS CHAPTER

Accessible ■ Affected Communities ■ Artisanal and Small-Scale Mining (ASM) ■ Child Labor ■ Collaboration ■ Consultation ■ Conflict-Affected or High-Risk Area ■ Forced Labor ■ Grievance Mechanism ■ Indigenous Peoples ■ Inform ■ Mining Project ■ Mitigation ■ Operating Company ■ Stakeholder ■ Vulnerable Group ■ Worker ■

These terms appear in the text with a dashed underline. For definitions see the Glossary of Terms at the end of the document.

¹⁷⁷ Buxton, A. 2013. Responding to the Challenge of Artisanal and Small-Scale Mining: How can knowledge networks help? Institute for Environment and Development (IIED), London. p. 3. <http://pubs.iied.org/16532IIED/>

¹⁷⁸ *ibid.* p. 4; Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development (IGF). 2017. IGF Guidance for Governments: Managing Artisanal and Small-Scale Mining. International Institute for Sustainable Development (IISD).p. 5. <http://igfmining.org/wp-content/uploads/2017/01/igf-guidance-for-governments-asm.pdf>

¹⁷⁹ IGF, 2017, p. 12; and Echavarría, C. 2014. 'What is legal?' Formalising Artisanal and Small-Scale Mining in Colombia. Institute for Environment and Development (IIED), London and Alliance for Responsible Mining (ARM), Columbia. P. 23. <http://pubs.iied.org/pdfs/16565IIED.pdf>

¹⁸⁰ Communities and Small-Scale Mining, World Bank/IFC Oil, Gas and Mining Sustainable Community Development Fund and ICMM. 2010. Working Together - How Large-Scale Mining Can Engage with Artisanal and Small-Scale Miners. p. 5. <https://www.commddev.org/wp-content/uploads/2015/06/Working-together-How-large-scale-mining-can-engage-with-artisanal-and-small-scale-miners.pdf>

¹⁸¹ Freudenberger, M., Ali, S., Fella, T. and Pennes, S. 2013. Property Rights and Artisanal Mining: Clarifying and Strengthening Rights: Options for Policymakers. USAID Issue Brief. p. 1. <https://www.land-links.org/wp-content/uploads/2016/09/Property-Rights-and-Artisanal-Mining.pdf>

OBJECTIVES/INTENT OF THIS CHAPTER

To avoid conflict and, where possible within the scope of national law, foster positive relationships between large-scale mines and artisanal and small-scale mining (ASM) entities, and support the development of ASM that provides positive livelihood opportunities and is protective of human rights, health, safety and the environment.

SCOPE OF APPLICATION

RELEVANCE: This chapter is relevant to any large-scale mining operation that has the potential to interact with ASM entities due to proximity or through commercial relationships such as sourcing ore or minerals from ASM entities.

Artisanal and Small-Scale Mining Requirements

3.6.1. Understand the ASM Context

3.6.1.1. When a large-scale mining (LSM) operating company has identified the presence of artisanal and small-scale mining (ASM) entities on the LSM concession or in close proximity to LSM operations, the operating company shall carry out a scoping process to understand the legal, social and environmental context in which ASM activities are occurring.

3.6.2. Engage with ASM Entities and Communities

3.6.2.1. When an operating company has identified the presence of ASM on or in close proximity to its mining project, and where there is no material risk to company personnel, it shall:

- a. Make a good faith effort to engage with ASM entities including, where relevant, informal ASM operators and formal ASM associations, as part of ongoing stakeholder engagement efforts (See IRMA Chapter 1.2);
- b. Make a good faith effort to consult with informal and formal ASM entities during relevant risk and impact assessments and closure planning;
- c. Engage with communities that are or may be affected by ASM operations and/or interactions between LSM and ASM entities; and
- d. Inform ASM entities and communities that there is an operational-level grievance mechanism available to raise concerns and resolve conflicts related to the LSM operation.¹⁸²

3.6.3. Foster Positive Relationships and Opportunities for ASM and Communities

3.6.3.1. The operating company shall ensure that mine security personnel are trained in respecting the human rights of individuals engaged in ASM activities and members of affected communities.

3.6.3.2. The operating company shall demonstrate that it has considered opportunities to enhance positive safety, environmental and social impacts of ASM activities for the benefit of ASM entities and host communities.

¹⁸² See IRMA Chapter 1.4—Complaints and Grievance Mechanism and Access to Remedy.

3.6.4. Perform Due Diligence in Commercial Relationships with ASM¹⁸³

3.6.4.1. When a large-scale mine sources minerals from or has other commercial relationships with ASM entities, the operating company shall:

- a. Regularly assess the social and environmental risks and impacts related to the ASM entities with whom it has a commercial relationship;¹⁸⁴
- b. Collaborate with those ASM entities with whom it can legally and legitimately engage to develop and implement a plan to eliminate or mitigate the most significant risks,¹⁸⁵ and over time, address other social and environmental risks related to those ASM operations; and
- c. Periodically monitor the effectiveness of mitigation strategies, and adapt plans as necessary to facilitate continued minimization of risks.

3.6.4.2. When a large-scale mine has commercial relationships with ASM entities that are located in conflict-affected or high-risk areas, the operating company shall carry out due diligence related to those ASM entities as required in IRMA Chapter 3.4.

CROSS REFERENCES TO OTHER CHAPTERS	
CHAPTER	ISSUES
1.1—Legal Compliance	<p>As per Chapter 1.1, if a <u>host country law</u> is more protective of human rights, health or the environment than an IRMA requirement, the <u>host country law</u> shall supersede the IRMA requirement. But if an IRMA requirement is more protective than <u>host country law</u>, the company is required to also meet the IRMA requirement, as long as doing so would not require the company to violate <u>host country law</u>.</p> <p>Chapter 1.1 also requires that <u>contractors</u> adhere to the IRMA Standard. So if there are <u>contractors</u> of the <u>mining project</u> that may be engaging with <u>ASM</u>, they should be made aware of the <u>operating company's</u> policies and approaches regarding engagement with and respect for the human rights of <u>ASM</u> entities, and operate in a manner consistent with those policies and approaches.</p>
1.2—Community and Stakeholder Engagement	<p><u>ASM</u> entities are <u>stakeholders</u> of the <u>mining project</u>, and also often members of <u>affected communities</u>. As such, engagement processes with <u>ASM</u> must conform with requirements in Chapter 1.2.</p>
1.3—Human Rights Due Diligence	<p>3.6.2.1.b requires that an <u>operating company</u> <u>consult</u> with <u>ASM</u> entities during relevant risk and impact assessments. This includes the <u>operating company's</u> human rights related impact assessment (which is covered in Chapter 1.3, requirement 1.3.2.1).</p> <p>If it is discovered (e.g., through the human rights, security or conflict risk assessments) that the <u>operating company</u> may contribute to or be linked to potential or <u>actual human rights impacts</u> as a result of sourcing from <u>ASM</u> operations the <u>operating company's</u> <u>mitigation</u> measures will be expected to adhere to the requirements in IRMA Chapter 1.3. (See specifically, requirements 1.3.3.2.b and c, and 1.3.3.3.b and c).</p>

¹⁸³ This criteria is only relevant if the LSM has a commercial/business relationship with an ASM entity. LSM with commercial relationships must carry out 3.6.4 in addition to 3.6.1, 3.6.2 ad 3.6.3.

¹⁸⁴ An array of social and environmental issues at ASM operations may pose social and environmental risks. These include, but are not limited to lack of legal compliance, bribery and corruption, child labor, forced labor, low wages, lack of labor rights, poor occupational health and safety (e.g., exposure of workers and communities to toxic chemicals such as mercury and cyanide), lack of gender equality, security risks, human rights abuses, especially in conflict-affected areas, environmental pollution and degradation from poor waste management practices, and operating in protected areas or areas of key biodiversity.

¹⁸⁵ The most significant risks will vary, depending on the ASM operations. However, if present, the following should always be considered “significant risks”: serious human rights abuses, including the worst forms of child labor, forced labor, torture, cruel, inhuman or degrading treatment, widespread sexual violence, war crimes or serious violations of international humanitarian law, crimes against humanity or genocide.

CROSS REFERENCES TO OTHER CHAPTERS	
1.4—Complaints, Grievances and Access to Remedy	3.6.2.1.d requires that <u>ASM</u> entities and communities be informed that there is an operational-level <u>grievance mechanism</u> available to raise concerns and resolve conflicts related to the large-scale mine. Such a <u>grievance mechanism</u> is required in Chapter 1.4.
2.1—Environmental and Social Impact Assessment and Management	3.6.2.1.b requires that operating companies <u>consult</u> with <u>ASM</u> associations and miners during relevant risk and impact assessments. This should include the Environmental and Social Impact Assessment in Chapter 2.1 (see especially criteria 2.1.4).
2.4—Resettlement	3.6.2.1.b requires that an <u>operating company consult</u> with <u>ASM</u> entities during relevant risk and impact assessments. If there are <u>ASM</u> miners, processors or other <u>ASM</u> entities that may be affected by <u>resettlement</u> , <u>consultations</u> with <u>ASM</u> entities will be required as part of the <u>resettlement</u> risk and impact assessment (see criteria 2.4.1). Additionally, <u>ASM</u> activities should be included in socio-economic baseline studies carried out prior to resettlement, and <u>ASM</u> entities should be afforded mitigation, compensation and livelihood opportunities in the <u>Resettlement Action Plan</u> and/or <u>Livelihood Restoration Plan</u> .
2.6—Planning and Financing Reclamation and Closure	Chapter 2.6 requires that <u>affected communities</u> be involved in assessments/closure planning. If present in the area, <u>ASM</u> entities will need to be involved in <u>mine closure</u> planning.
3.1—Fair Labor and Terms of Work	Chapter 3.1, criteria 3.1.7 and 3.1.8, relate to <u>child labor</u> and <u>forced labor</u> , respectively. If an LSM project sources from or has other commercial relationships with <u>ASM</u> (i.e., there is a supply chain relationship), the LSM operator is required in Chapter 3.1 to carry out due diligence to determine if <u>child labor</u> and/or <u>forced labor</u> are occurring at those <u>ASM</u> operations (see requirements 3.1.7.4 and 3.1.8.2, respectively). If <u>child labor</u> or <u>forced labor</u> are discovered, the <u>LSM operating company</u> is required to carry out <u>remediation</u> .
3.2—Occupational Health and Safety	3.6.2.1.b requires that an <u>operating company consult</u> with <u>ASM</u> entities during relevant risk and impact assessments. If <u>ASM</u> entities are operating on LSM concessions, they may pose occupational health and safety risks for LSM <u>workers</u> and employees. These risks should be assessed as part of the OHS health and safety risk assessment process in 3.2.1.
3.3—Community Health and Safety	3.6.2.1.b requires that an <u>operating company consult</u> with <u>ASM</u> entities during relevant risk and impact assessments. This includes the <u>operating company's</u> community health and safety scoping and, if relevant, risk and impact evaluation (3.3.1).
3.4—Mining in Conflict-Affected and High-Risk Areas	3.6.2.1.b requires that an <u>operating company consult</u> with <u>ASM</u> entities during relevant risk and impact assessments. If a large-scale mine (LSM) seeking IRMA certification is located in a conflict-affected area, consultations with <u>ASM</u> will be required as part of the conflict risk assessment (See chapter 3.4, requirement 3.4.3.4). As per 3.6.4.2, if the LSM sources from or has other commercial relationships with <u>ASM</u> operations located in a conflict-affected or high-risk area, the LSM is required to carry out the due diligence steps outlined in Chapter 3.4.
3.5—Security Arrangements	3.6.2.1.b requires that an <u>operating company consult</u> with <u>ASM</u> associations and miners during relevant risk and impact assessments. This includes the <u>operating company's</u> security risk assessment (requirement 3.5.2.1). Criterion 3.5.4 in Chapter 3.5 requires that private security personnel be given training that incorporates, at minimum, information related to ethical conduct and respect for the human rights of mine <u>workers</u> and <u>affected communities</u> , and the company's policy on the appropriate use of force and firearms. Requirement 3.6.3.1 simply clarifies that in addition to human rights of mine workers and affected communities, that the human rights of <u>ASM</u> miners be specifically included when <u>ASM</u> is located on or in close proximity to the <u>operating company's</u> mining operation.
4.8—Mercury Management	Chapter 4.8 prohibits LSM operating companies from selling or giving away mercury to <u>ASM</u> entities (See 4.8.2.2.b).