

Implementing UNEA Resolution 4/19 on Mineral Resource Governance

Regional Summary
**Latin America and
the Caribbean**

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Mineral Resource Governance Recommendations and Suggested Actions Key



Intensified mining for recovery from the coronavirus disease (COVID-19)



Artisanal and small-scale mining (ASM)



Platforms for cooperation and capacity-building



Mine waste recycling, re-use and circularity



Tailings management



National-level governance



Harmonization and alignment of governance initiatives

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Latin America and the Caribbean Consultation Report

This report describes the outcomes of the Latin America and the Caribbean consultations conducted on the implementation of the United Nations Environment Assembly (UNEA) Resolution 4/19 on Mineral Resource Governance. Five consultative meetings were held, during which 293 representatives from Member States, including through UNEP national focal points, as well as major groups and other stakeholders were convened to identify best practices and knowledge gaps, assess governance options and consider common elements of interest for next steps on the mineral resource governance agenda. Participants provided their feedback to three key consultation questions:

1. What are the most pressing mineral resource governance challenges in your region?
2. What are some examples of emerging, good, or best practices in your region?
3. What themes and issues should be the focus of future action, including by international or UN bodies, on Mineral Resource Governance?

An additional 17 written submissions from Latin America and the Caribbean, including 14 from Latin America and the Caribbean governments were received, in response to the consultation questions. Participants were invited to the following consultations:

- Briefing – Latin America, 15 July 2020 (English/Spanish)
- Sub-regional Consultation – Latin America and the Caribbean, 21 July 2020 (English)
- Sub-regional Consultation – Latin America and the Caribbean, 23 July 2020 (Spanish)
- Regional Consultation – Latin America and the Caribbean, 18 August 2020(English/Spanish)
- Global Forums on the UNEA-4 Resolution on Mineral Resource Governance – 22 & 24 September 2020 (All UN languages)

Most pressing challenges in knowledge and practice

The first key question for the consultations was, "What are the most pressing mineral resource governance challenges in your region?". This section provides a summary of responses from the region, and incorporates input from both the online consultations and written submissions.



Environmental concerns

Environmental issues were noted as a source of conflict in several contexts. Contamination of air, land and water, biodiversity impacts, deforestation, erosion, sedimentation and long-term geochemical instability (e.g. Acid and metalliferous drainage) were some of the mentioned issues.

A lack of public disclosure of environmental emissions, independent monitoring, and transparency also impact the public's confidence in this area. In particular, the issues of mine closure, remediation and post-closure management are of concern to many countries.

Participants discussed the location of mineral resources in their respective jurisdictions. Often, minerals are located in areas that are already considered environmentally fragile. This exacerbates environmental problems in the area, putting different sectors at odds, i.e. Mineral development versus environmental protection and social cohesion.



Extractive economies in transition

Participants mentioned that minerals and fossil fuel exporting countries in the Global South have a lot to gain by considering the consequences for their national budgets, companies and workers of the world moving away from fossil fuels and planning ahead accordingly. Participants discussed how the transition to low or zero carbon will also require the use of several mineral resources, as well as drive higher demand.



Fragmented approach and little harmonization in legal frameworks

Discussion also centred on the approval and harmonization of laws that are, in one way or another, related to mineral resource governance. On the one hand there is the mining operation and economic angle to the drafting of laws on minerals, while on the other hand there are environmental protection laws. It is often the case that the two sets of laws are not well-linked. This causes implementation challenges and gaps, which results in friction between the environmental authorities and those who focus on mineral resources development. Environmental or water authorities must ensure that mining companies comply with the conditions of water use permits or laws, but often these laws go ignored in favour of mineral resource development.



Inclusion of civil society and impacted communities

Some participants reported that the mining governance framework is outdated, particularly with respect to the inclusion of civil society and impacted community groups in assessment, planning, approvals and ongoing monitoring processes. There were also concerns reported about the safety of land and environmental defenders which could be better addressed by accountable and transparent governance systems.

Another key issue raised relates to the participation of Indigenous peoples and communities where mining is set to take place in their lands. Information is often only available in inappropriate formats, and mechanisms for avoiding or resolving conflict often do not exist.



Legacy issues

Participants identified that a lack of participation in environmental and social impact assessments may lead to certain issues not receiving the attention they deserve. This in turn leads to an accumulation of social impacts that leave legacies which end up eroding trust between the actors in governance.

In Peru, for instance, participants provided examples of environmental harms that have increased social opposition to mining.

Financial provision for mine closure was an issue raised by some participants. Few mining jurisdictions in Latin America have legal provisions for financial trust funds for mine closure. When mines close, often the government is left with the financial burden of having to deal with environmental issues that may emerge after mine closure. This is also true in the case of artisanal mining operations.



Tailings

Issues related to tailings were mentioned by multiple participants. Participants emphasized the need for participation of all stakeholders in decisions around the construction of mine tailings storage facilities. Additional inputs from participants focused on mine tailings reclamation in the face of depleting mineral resources, or the high expenses of extracting minerals in the current economic climate.

Tailings design and safety are significant concerns throughout the region. The Global Industry Standard on Tailings Management was believed to represent a step forward in the management of new and currently operating facilities. However, concerns remain about legacy tailings storage facilities, particularly those that were designed 50-60 years ago and whose safety may be impacted by climate change.



Artisanal and small-scale mining (ASM)

In some jurisdictions in the region, the formalization of artisanal and small-scale mining (ASM) has focused on the issue of production but not on other stages of the value chain such as the end markets. This has shown to have serious shortcomings. Participants stressed the great need to explore the other elements within the production value chain in order to raise plausible recommendations towards a transition to a formal economy for artisanal and small-scale mining. Legislation also needs to pay particular attention to protecting the rights of women. They play an essential role in the ASM supply chain, and often rely on it in times of shortage (as during this pandemic).

Mercury is still a challenging issue for many countries in the region, particularly relating to improving ASM practice. Capacity building and technical assistance

are required to help miners understand the benefits of changing technology, for example through the work of the [Global Mercury Partnership](#).



Strategic planning for short, medium and long-term

Some countries are beginning to co-construct strategic visions for the role of mining in their future development, while other countries note that this is a gap. Strategic planning should engage across departmental boundaries in the government and include stakeholders such as local communities, local and regional organizations and the industry. Plans need to develop goals for the short, medium and long term. Participants suggested that it would be important to investigate alternative forms of mine ownership for example, community co-operatives or joint-ventures between large scale miners and co-operatives.

It is particularly important that plans take into account the trends and developments in mining technologies. For example, trends in shorter-term mine life-cycles, automation, standards in tailings production and management, economic development expectations, and increasing obligations around human rights due diligence.



Illegal mining

A pressing challenge identified in the region regarding the governance of mineral resources is that of illegal mining. According to participants, illegal mining threatens biodiversity and exerts pressure on the ecosystems of countries in the Amazon basin, and at the national level, destroying large areas of forests, polluting water, even in areas of special management such as Ramsar sites, reserves forests, border areas and protected natural areas, putting their sustainability at risk, as well as the health and well-being of their inhabitants, particularly indigenous peoples and agricultural communities. This situation also harms the sustainable development of necessary productive activities such as tourism, aquaculture and agriculture, among others. Trans-border cooperation was thought to be essential.



Good practices

The second major question guiding the consultations was, "What are some examples of emerging, good, or best practices in your region?". This section provides a summary of responses that incorporates input from both the online consultations and written submissions. It should be noted that this report does not endorse the accuracy, impact or efficacy of the listed examples, instead it faithfully reports the information contributed by participants during the consultations.



Intergovernmental cooperation on the environmental governance of mining in Mexico (examples include coordination between the Federal Environment Agency and the agency dealing with hazardous or toxic materials; as well as local municipalities).



Inter-American Development Bank [gender parity task force](#).



A number of Latin American countries have domesticated the [ILO Convention 169 on Indigenous and Tribal Peoples](#), and involved Indigenous peoples in decisions around mining activities in their communities.



Mexico and Ecuador shared examples of the roll out of their National Action Plans as part of the implementation of the Minamata Convention on Mercury.



The Latin America region has also seen the successful operationalization of the [Basel Convention on the Transboundary Movement of Hazardous Wastes](#).



A good practice example of international level coordination from Argentina was shared on the export of hazardous waste from a mine in San Juan via Chile to Switzerland for stabilization and then for final disposal in Germany, all within the framework of the consent procedures and with the full coordination from the environment ministries of all countries involved in this movement.



In Argentina, a national mining plan is in place that has components related to financing of artisanal miners and supporting formalization of the artisanal mining sector. The plan caters for actions to maximize benefits to local communities, support artisanal and small-scale mining (ASM) and enhancing education at school level on geological knowledge and mineral use aspects. A training programme is also being rolled out on the need for personal protective equipment in the artisanal mining activities as well as other safety issues.



The bilateral coordination mechanisms that are being carried out between Peru with Bolivia, Colombia and Ecuador to fight against illegal mining, as well as at the Andean Community level with the Andean Committee against Illegal Mining.



Future action

Participants from the region shared a great range of ideas for future action, this section summarizes the main ideas.



Research / funding on Tailings Storage

Research / funding to adapt existing (legacy) tailings storage facilities to current design standards, particularly where climate change diminishes safety.



Development of mine closure legislation

Legal and technical assistance from other jurisdictions and or international organizations on development of legislation for mine closure. Participants suggested that this may be an area for future action, alluding to the need to establish legal mechanisms for development of rehabilitation bonds, mine closure plans (including economic, environmental and social concerns), public participation processes, relinquishment pathways, alternative land use options etc.



Capacity buildings on meaningful participation and inclusion in decision-making

Strengthening capacities to carry out meaningful participatory exercises with affected communities throughout the planning and development of a mining project, ensuring that communities are provided with appropriate information, advice and ongoing support. Domestication of international conventions such as ILO 169 and other standards would be part of this process.



Transboundary cooperation on challenging issues such as illegal mining

It is also recognized that illegal mining has a growing association with other crimes such as human trafficking, child labour, smuggling and money laundering, and with transnational organized crime networks. For this reason, a comprehensive and long-term perspective is essential, both nationally and internationally, based on sustainable development consistent with the 2030 Agenda.



Artisanal and small-scale mining (ASM)

A great deal of knowledge and experience exists on ASM within the region. A future step could be to promote spaces for the exchange of experiences among the ASM community. This would be particularly beneficial in relation to applying new technologies without the use of mercury.



Environmental protection

Participants identified environmental protection as a critical area for future work.

Suggested activities included:

- Capacity building/technical assistance for countries developing regulation of mining activities such as land use permits, water permits etc
- Capacity buildings about the inspection, enforcement and sanctions regimes available
- Encourage transparency, participatory monitoring and accountability within the industry.



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