

Strengthening ASEAN Cooperation in Minerals

Assignment 2: *Enhancing Policy Prospectivity*

Workshop 3

Leading practice benchmarking

31 January 2022

Introduction

Welcome remarks

Chair, Working Group Trade and Investment on Minerals (WGTIM), Ms Liz Cherry Solijon

Purpose of workshop

1. Discuss the results of benchmarking AMS policies and approaches against leading practices
2. Seek feedback from AMS

Workshop proceedings

- ASEAN development and minerals
- Assignment 2 overview
- 1st poll
- Presentation Part 1 – Benchmarking results
- Discussion
- Presentation Part 2 – Sustainable Minerals Development; Regulation and Governance; ASM; Capacity Building
- Discussion
- 2nd poll
- Summary of outcomes and next steps

ASEAN development and minerals

AMMin, October 2021

8. The Meeting pledged to gear ASEAN minerals cooperation towards promoting the region as a minerals investment destination and building investments in all stages of the minerals value chain, commencing with focus on promoting investments into minerals exploration.

AMCAP-III Phase 2

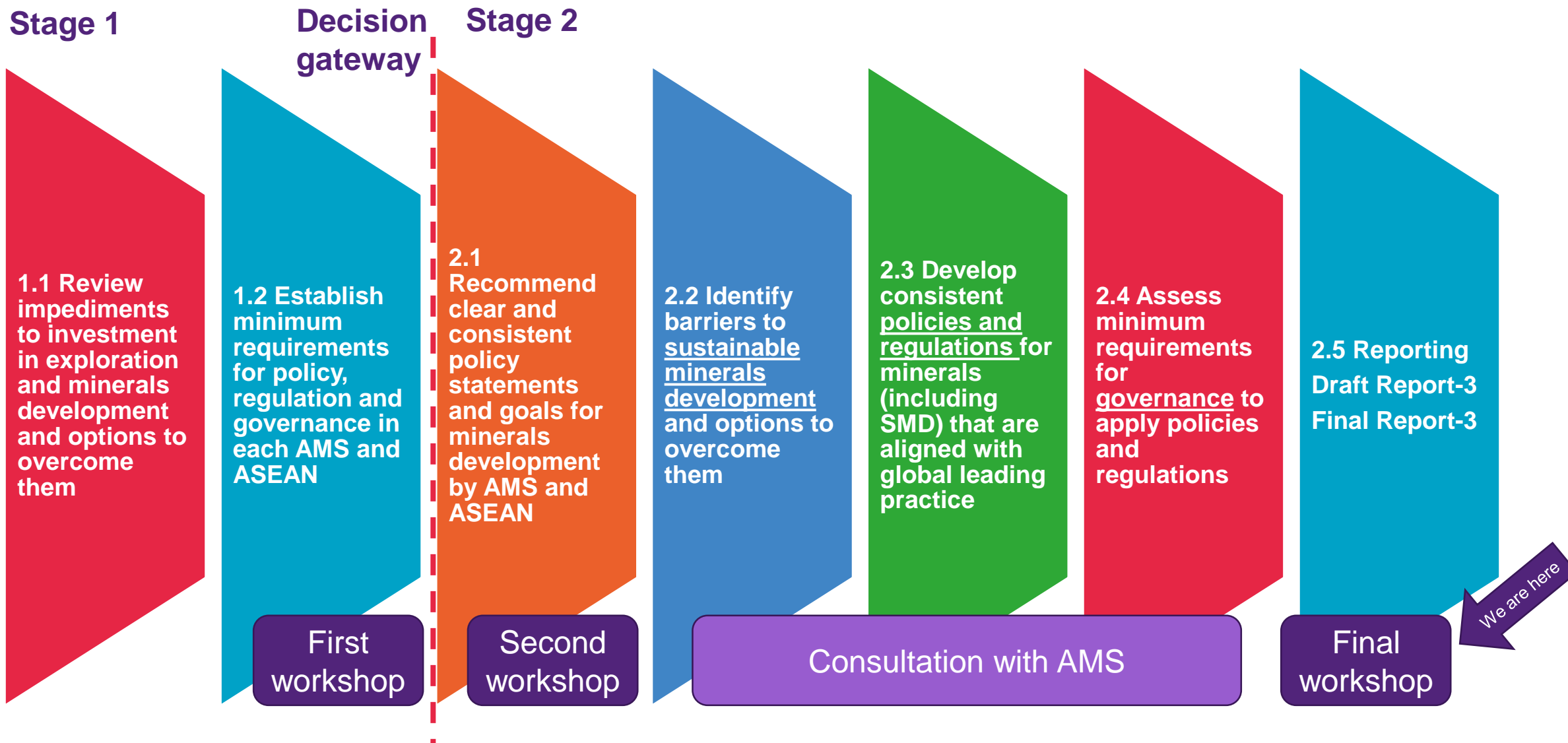
Focus is towards:

- (i) boosting domestic and international investments in all components of the minerals value chain
- (ii) adopting sustainable minerals development principles and working to expand stakeholder engagement and contribution
- (iii) building human, institutional and technical capacities in minerals governance
- (iv) developing new strategies and effective tools for collecting and processing data for the ASEAN minerals information system to drive investments and sustainable development.

Leaders at 38th and 39th ASEAN Summits, October 2021

*54. ...We welcomed minerals investments in all stages of the value chain to enable the implementation of leading practices in all aspects of mining policy, regulation and governance, including sustainable minerals development. **We therefore tasked the ASEAN Ministerial Meeting on Minerals (AMMin) and its senior officials to undertake preparatory studies and supportive activities under the newly adopted ASEAN Minerals Cooperation Action Plan III, Phase 2: 2021-2025.***

Components of Assignment 2: *Building Policy Prospectivity*



Themes for leading practices



Placing
minerals near
the centre of
economic
policy



Attracting
minerals
investment;
growing
production
and trade



Setting and
striving for
sustainable
minerals
development
objectives



Building
community
understanding
of, and
support for
mineral
development



Ensuring
regulations
and
governance
are efficient,
effective and
transparent



1st poll

Question 1

How close is your AMS to leading practices in:

1. Inclusion of mineral development in national economic policy?
2. Policies for mineral investment and development?
3. Sustainable minerals development?
4. Building community understanding and support?
5. Effective and efficient regulation?
6. Effective and efficient governance, including enforcement?

Question 2

What are your top three priorities for improvement to your policies and practices?



Presentation Part 1: Benchmarking

Themes

1. Economic and development policies
2. Policies for minerals investment and minerals development
3. Sustainable minerals development policies
4. Approaches to community engagement, understanding and support
5. Effective and efficient minerals regulation and governance

1. Economic and development policies

Recommendation: ASEAN and each relevant AMS should develop and issue policy statements that place minerals as a key pillar of economic development, and state how governments will facilitate investment and responsible development

Recognise importance of minerals sector to the economy and society	Seek to expand minerals sector	Welcome responsible investment	State how government will facilitate investment and generate positive outcomes
Identify the minerals sector as a current and /or future important component of the economy and important to national and/or sub-national development	Explicitly seek to expand minerals sector and its economic contribution, as a core contributor to economic development	State that investment by local and foreign companies is vital to economic development and welcomed by government	Identify what government does to facilitate investment, build community support, ensure there are strong value flows and achieve sustainable development outcomes

Benchmarking summary

- ASEAN minerals PED not matched by many AMS
- Minerals not a key economic pillar for some AMS now and in the future; and/or minerals development at early phase and more important in future; and/or minerals important for some AMS to financial and economic recovery
- **Malaysia:** near the forefront of leading practice: National Mineral Industry Transformation Plan 2021-2030; Twelfth Malaysia Plan 2021-2025
- **Philippines:** identified minerals as a key to economic and financial recovery
- **Lao PDR:** minerals economically important but concern about negative impacts if not managed well; 9th Five-Year National Socioeconomic Development Plan (2021-2025)
- **Vietnam:** minerals important to the Vietnam economy and seek to expand; National Mineral Resources Strategy to 2020 with a vision to 2030
- Several AMS do not focus on full mineral value chain

2. Policies for minerals investment and development

Recommendations:

- Seek capable and responsible investment, to discover new resources, grow mineral output, tap new market opportunities, and deliver benefits to AMS and their people
- Seek investment in all components of minerals value chain, commencing with exploration

Increase investment across the value chain	Diversify investment to access capital, capability and supply chains	Create a competitive operating environment	Deliver strong value flows to host nations and their regions
Increase investment in all parts of the minerals value chain, focusing in particular on exploration required to discover new resources, increase reserves and sustain and grow the minerals industry	Seek to attract investment from a diverse range of domestic and international firms to enable capital to flow, technical and development capacity to be tapped, supply chains to be accessed, and to raise overall industry performance	Contribute to competitiveness of the minerals industry by ensuring that policies, regulations and governance operate effectively and efficiently and to attract responsible investment from firms with strong capabilities	Ensure that minerals development results in strong and lasting value in all dimensions delivered to nations, regions and communities

Benchmarking summary

- Most AMS have adequate exploration and mining legislation and regulations, if not at leading practice.
- Implementation and enforcement of regulation is often inadequate according to some AMS and investors.
- **Malaysia:** near the forefront of leading practice: National Mineral Industry Transformation Plan has priorities that address all leading practice themes above.
- **Philippines:** commenced a journey, with lifting of a ban on open-pit mining and liberalisation of production sharing agreements. More to be done.
- **Vietnam:** legislative and regulatory changes of in 2011 and 2012 to define a long-term strategy for discovery and exploitation of minerals.

3. Sustainable minerals development policies

Recommendation: Adopt sustainable minerals development principles and practices as the keys to progressively improve minerals governance and outcomes strengthen community support; and attract investors that share SMD objectives and have strong commitment to high standards of ESG performance

Integrate sustainable development into all mineral development policies and practices by government and industry	Engage with sub-national governments, investors in minerals and non-government and civil society organisations to implement SMD	Take a comprehensive, outcomes-based approach to achieving sustainable minerals development	Build-in continual improvement to the SMD framework
Implement a framework for sustainable minerals development, based on Sustainable Development Goals and minerals-specific principles	Build support and capacity for implementation of sustainable minerals development practices, with all stakeholders committing to cooperate to progressively improve governance and economic, social and environmental outcomes	Facilitate sustainable minerals development through a mix of guidelines, capacity-building, incentives and regulation	Monitor, measure, evaluate, and learn from outcomes and impacts of implementation of SMD

Benchmarking summary

- All AMS seek to apply UN Sustainable Development Goals to national development.
- But implementation of SMD by AMS is inconsistent.
- **Malaysia:** National Mineral Industry Transformation Plan and Twelfth Malaysia Plan prioritise sustainable development and state how SMD to be implemented.
- No other AMS has a comprehensive SMD approach.

4. Community engagement, understanding and support

Recommendation: Seek to improve outcomes from minerals development for communities and the operating environment for minerals investors through stronger engagement between communities, governments and industry

Achieve stronger engagement of communities affected by minerals development	Ensure strong flows of benefits to communities	Build community understanding of, and support for mining
Work with the minerals industry to engage more closely with communities and understand their aspirations, needs and concerns	Work with the minerals industry to deliver lasting benefits to communities, through employment, training, economic and social development, and infrastructure	Work with the minerals industry to explain the minerals value chain, minerals regulation, industry performance and community benefits

Benchmarking summary

- All AMS agree that better community engagement is needed to achieve social licenses to operate.
- Many AMS say performance by government and companies is not close to leading practices and needs to improve.
- No AMS have community engagement policies that are leading practice, though there are some examples of good practice in ASEAN, as well as examples of poor practice.

5. Effective and efficient minerals regulation and governance

Recommendation: Seek to improve regulation to make it more effective, efficient, certain and transparent; with responsibility and accountability clearly assigned and understood by industry participants, government agencies and the community; and high standards and capacity for governance to ensure that regulations are enforced and that approved outcomes are achieved.

Regulation is effective and efficient	Accountability is clear and understood	Governance and enforcement achieve objectives and build trust	Engagement of all stakeholders
Implement streamlined, fit for purpose, regulatory approach, appropriate for the circumstances, to achieve clearly identifiable outcomes	Ensuring responsibility and accountability are clearly assigned and understood by explorers, miners and the community	Having the governance capability to ensure explorers and miners achieve outcomes that are approved and/or specified by regulation	Valuing the informed involvement of communities and other stakeholders in processes leading to decision-making and achievement of a social licence to operate

Benchmarking summary

- Most AMS have regulation which is adequate but not leading practice.
- Most AMS also have identified shortcomings or anomalies in regulation.
- Investors identify regulation in ASEAN generally as being over-complex and/or lacking transparency.
- Inconsistencies between regulation of different government agencies and/or differences between regulation at national and sub-national levels.
- Governance is the area with the biggest shortcomings. No AMS that hosts a mineral sector regarded its governance as adequate.



Discussion on benchmarking

1. Economic and development policies
2. Policies for minerals investment and minerals development
3. Sustainable minerals development policies
4. Approaches to community engagement, understanding and support
5. Effective and efficient minerals regulation and governance



Presentation Part 2

Sustainable Minerals Development

Regulation

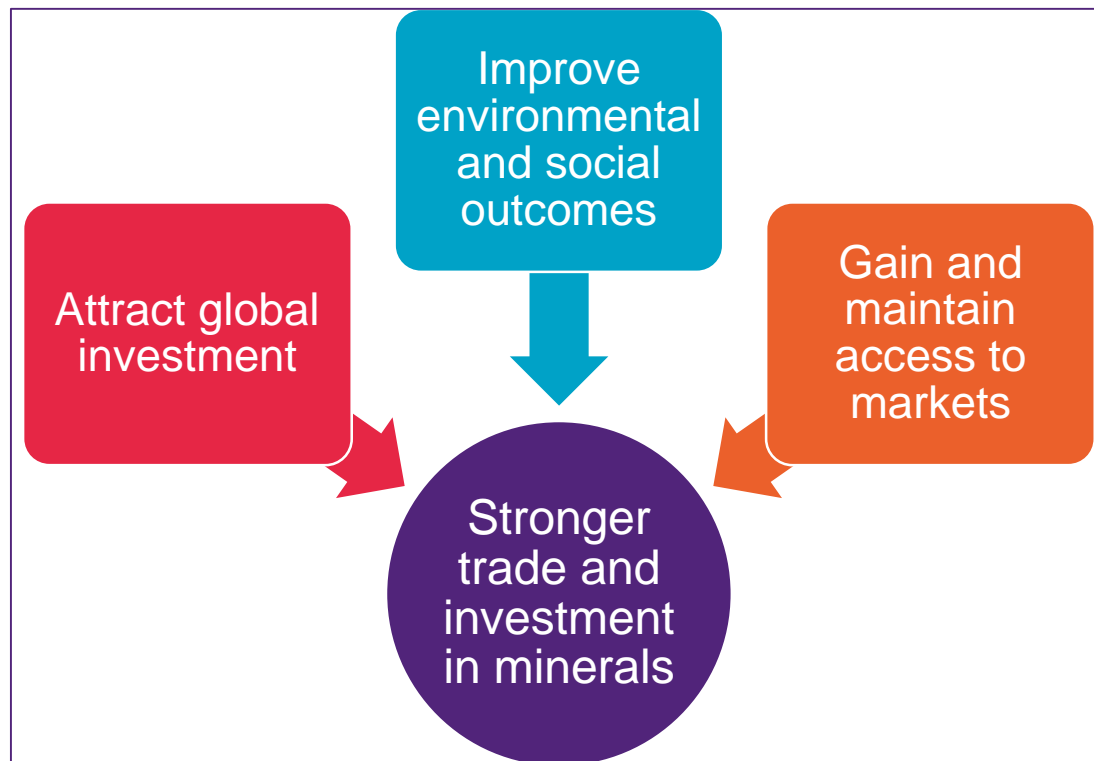
Governance

Artisanal and Small-scale Mining

Implementing sustainable minerals development

Using leading practices to fast track implementation of AMCAP SMD commitment* and beyond

Strong business case for SMD



Several leading practice SMD frameworks to adapt

For nations

IGF Mining Policy Framework

- allow mining to make its maximum contribution to sustainable development of developing countries

For nations *and* industry

Australian Government *Leading Practice Sustainable Development Program for the Mining Industry*

World Bank *Climate-Smart Mining: Minerals for Climate Action* (specifically on climate and environment)

For industry

ICMM Mining Principles (linked to UN SDGs)

MAC Towards Sustainable Mining

MCA Enduring Value Framework

* develop and adopt a set of regional principles for sustainable minerals development to underpin the progressive development of a more comprehensive SMD framework and an “ASEAN Mining Vision”

Implementing leading practice in regulation

Adapting practices of leading jurisdictions and advocacy bodies

Leading practice jurisdictions

South Australia

- high level principles; clear accountabilities; inter-agency collaboration;

British Columbia, Canada

- cross-ministry and cross-jurisdictional collaboration

Western Australia

- inter-agency coordination underpinned by protocols

Alberta, Canada

- public information and community engagement

Chile

- comprehensive, ground-up change to minerals regime

Leading practices promoted by advocacy bodies

Natural Resource Governance Institute

- *Natural Resource Charter*
- *Benchmarking Framework*

Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development (IGF)

- *Mining Policy Framework*
- *Environmental management and mining governance*

World Bank

- *Oil, Gas, and Mining: a sourcebook for understanding the extractive industries*
- *Mining Sector Diagnostic*

Extractive Industries Transparency Initiative

- *EITI Standard* (“*The global standard for the good governance of oil, gas and mineral resources*”)

Mineral governance – it matters

What AMS told us

Better implementation of regulation (is needed). ...sometimes government officials do not understand the purposes and intentions of the regulations and implement according to their intention. So do companies, which led to implementation errors.

Need better coordination between national and provincial governments.

Better cooperation among government agencies to enforce the laws and ensure that requirements under various laws are complied.

Top changes to governance needed

- *Capacity building*
- *Regulatory framework*
- *Enforcement of the law*

There are different approaches to investment across agencies, which is why stable guidelines and SOPs are needed.

The laws, regulations, and frameworks are there but the challenge lies in their application and enforcement.

Mineral governance – it matters

AMS and international organisations agree

Governance deficits, and weak environmental, social, legal and policy frameworks and coordination mechanisms between and within sectors and between national and local levels, are ...a particular concern to export-dependent countries.

United Nations Environment Program

The prudent use of natural resource wealth should be an important engine for sustainable economic growth that contributes to sustainable development and poverty reduction, but if not managed properly, can create negative economic and social impacts

The Extractive Industries Transparency Initiative

Without good governance many, perhaps most of the benefits of extractive resource development are unlikely to be gained

...good governance requires getting the rules right and getting the implementation right

World Bank

The higher the quality of governance, the stronger the socio-economic progress

Mining regulations and frameworks alone are insufficient conditions for good socio-economic outcomes – proper implementation is key

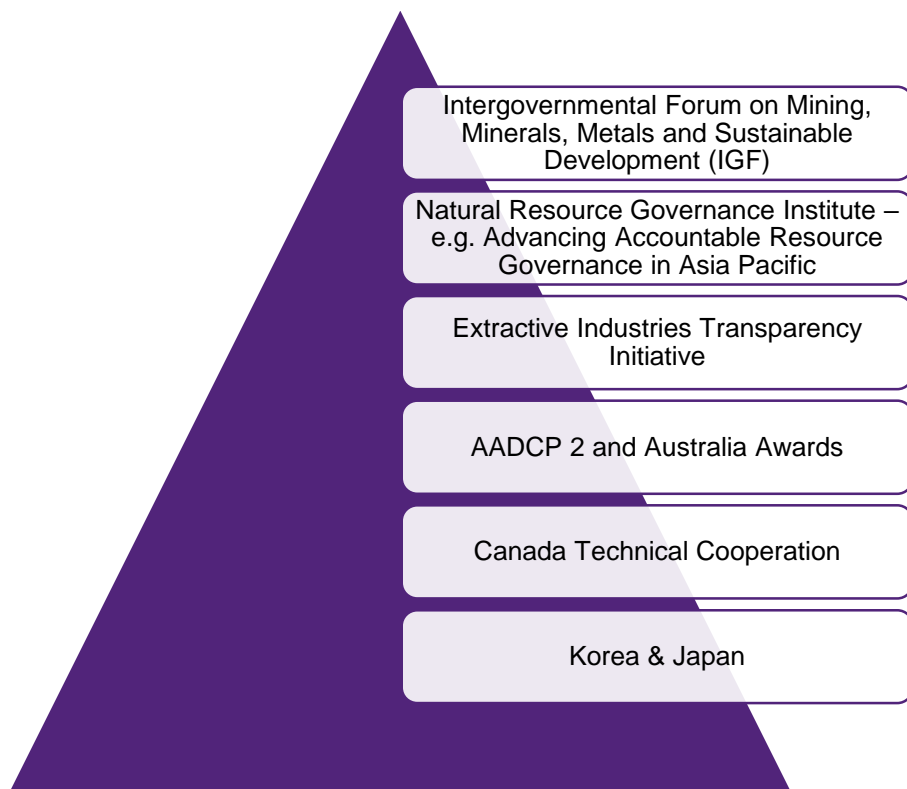
While many ... countries have invested time and effort in adopting clear and modern legislative frameworks, actual implementation is proving more challenging

International Council on Mining and Metals

Building capacity in minerals governance

Many AMS need higher capacity to supervise minerals development and enforce regulations

Better coordination also required within government and between levels of government



Capacity-building offered by partners



Partnerships with mining industry and NGOs

Managing artisanal and small-scale mining (ASM)

Learning from global experience and adapting successful approaches

Profile

ASM makes up the world's largest mining workforces, employing an estimated 44.75 million people

60 percent of ASM countries do not have published data on female participation in the sector – women remain largely invisible

The world's large-scale mining industry was once as unsafe as artisanal and small-scale mining, so health and safety improvements are possible

Priorities

Improve occupational health and safety

Stimulate economic growth

Make production sustainable and eliminate mercury

Ensure gender equality

Eradicate child labour and create decent youth employment

Question: Is better managing ASM a priority for ASEAN Member States?



Discussion on leading practices and capacity-building

1. Sustainable minerals development
2. Mineral regulation
3. Mineral governance
4. Managing artisanal and small-scale mining



2nd poll

Question 1

What are the priorities for capacity-building to move towards leading practices?

1. Development of better policy
2. Sustainable minerals development
3. Building community understanding and support
4. Effective and efficient regulation
5. Effective and efficient governance, including enforcement

Question 2

In the field of governance, what are the priorities for capacity-building?



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Summary of outcomes and actions – UQ Final comments – AMS / ASEC / AADCP



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Thank you

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