

To: Michael Rae, Fiona Solomon and CRJP members
Re: Comments on CRJP Mining Supplement, Initial Draft, August 2008
October 17, 2008

Dear Michael, Fiona, and CRJP members,

Thank you for the opportunity to provide comments on these draft standards and to attend the meeting in Denver on October 9. Please find attached EARTHWORKS' comments on the CRJP draft mining supplement. In addition, we would also like to share a few general comments regarding the standards, and the process for developing and reviewing them.

1) Need for civil society participation in developing the standards and verification process

We appreciate your effort to seek input from stakeholders. We would urge you to not only seek out comments from additional civil society members, but also, to ensure that NGOs, community representatives and labor representatives are an integral part of the process of **developing** these standards, as well as in developing a third-party verification approach. Such an effort will boost the robustness of the process, as well as add credibility to the final outcome. We would also caution against representing the existing process as a third-party process, as discussed at the Denver meeting.

2) We would recommend **making the stakeholder input process far more inclusive**, with representatives of communities affected by mining, labor unions, and NGOs involved in such a process.

3) **Need to streamline inefficiencies and coordinate with IRMA process:** Nearly all of the industry participants in IRMA are also members of CRJP. Both processes (the CRJP mining supplement and IRMA) are aiming to develop a robust standards and verification process for mining and minerals, and both are taking place on a parallel track. It is extremely inefficient for all concerned to be duplicating efforts – whether as active participants or simply as reviewers. Ultimately, with such a degree of overlap in terms of players involved as well as goals, it makes sense to bring the two together on the same track and timeline.

And some more specific comments on the text:

4) Need for **more detailed action points and verifiable criteria by which to measure performance**, rather than just over-arching principles. We understand this will come at a later stage in the standards process, at which point we would hope there would be more coordination between the IRMA and CRJP processes.

5) **Key points missing:** Your questionnaire asks whether any key points are missing from the draft standards. We have noted most of these in the text, but these include: financial guarantees for reclamation and closure; free, prior, informed consent of affected communities; sub-aqueous or water-based tailings disposal; air and water emissions of chemicals such as mercury; renewable energy and climate change; conflict zones; human rights; freedom of association and safe working conditions (recognizing that the last 3 are partly covered in the broader CRJP Principles, and that some of the others are on your list of issues to tackle in the next phase of this process).

We would be happy to provide any clarifications, or discuss any questions you may have about our comments, or about ways in which IRMA and CRJP might collaborate more directly. Thank you.

Sincerely,

Payal Sampat
EARTHWORKS

Council for Responsible Jewellery Practices (CRJP)
Mining Supplement Initial Draft – Version 1

Please note: EARTHWORKS' comments (October 2008) are marked using "track changes."

1.x Extractive Industries Transparency Initiative (new provision in Business Ethics section in COPS)

a. Members with mining Facilities will be signatory to and implement the Extractive Industries Transparency Initiative process. Members will encourage host Governments to sign and implement the EITI where they have not done so, and will commit to publishing revenues regardless of whether Facilities are located in EITI signatory countries. Members will also commit to contract transparency (as per IMF Revised Code of Good Practices on Fiscal Transparency).

[Source: Wal-Mart criteria 4; ICMM Principle 10(a) and (b), IMF Revised Code of Good Practices on Fiscal Transparency (2007)]

1.4 Emergency and crisis management (under existing Health and Safety provision in COPS)

a. Mining Facilities will develop and maintain an Emergency Response Plan, in collaboration with local communities and relevant agencies, pursuant to guidance provided by Awareness and Preparedness for Emergencies at the Local Level (APELL).

[Source: Wal-Mart criteria 22; GRI MM12]

2.x Indigenous peoples

a. Mining Facilities will recognise and respect the rights of Indigenous peoples as defined within applicable national and international laws. This includes the right to Free, Prior and Informed Consent.

b. Mining Facilities will seek agreement with Indigenous peoples on partnerships and programs to generate net benefits (social, economic, environmental and cultural) for affected Indigenous communities.

[Source: ICMM Position Statement – Indigenous Peoples, May 2008; CRJP Principles, 2006; ICMM SD Principle 3(f), 2003; UN Declaration on the Rights of Indigenous Peoples (2007), ILO Convention 169]

2.11 Community engagement and development (under existing provision in COPS, renamed)

b. Mining Facilities will have appropriate systems in place for early and ongoing interaction with affected parties, making sure that minority and other marginalised groups have equitable and culturally appropriate means of engagement.

[Source: ICMM SD Principle 9(a) and (b), 2003]

c. Mining Facilities will seek to ensure that the interests and development aspirations of affected communities are considered and will ensure that their free, prior, and informed consent is obtained in major mining decisions, from earliest exploration activities, prior to commencement of mining, during mine operations and through to closure.

[Source: Wal-Mart criteria 9 and 10.]

d. Mining Facilities will avoid resettlement. Where resettlement is unavoidable, it will occur with the free, prior, and informed consent of affected individuals. A detailed displacement impact assessment that assesses all possible costs to communities and individuals (affected directly and indirectly) will precede resettlement. Members will compensate fairly and appropriately for adverse effects on individuals and communities. Resettlement must include an independent complaint and dispute resolution mechanism. Resettlement insurance or performance bonds must be provided in case resettlement does not provide better livelihoods in the timeframe agreed upon.

[Source: ICMM SD Principle 3(e), 2003; Framework for Responsible Mining 3.II.H; World Bank Safeguard

[Policy on Involuntary Resettlement, The Report of the World Commission on Dams](#), and Wal-Mart criteria 11]

e. Mining Facilities will provide affected communities with access to appropriate [third-party, independent](#) grievance mechanisms for raising and resolving disputes.

[Source: GRI MM7 and MM11; Wal-Mart criteria 10]

2.x Artisanal and small-scale mining

f. Mining Facilities will support programs that assist with the formalisation of legal artisanal and small-scale mining (ASM), where it occurs within their areas of operation.

[Source: GRI MM8]

3.x Impact assessment

a. Mining Facilities will consult with interested and affected parties, including those with land and customary rights, to complete an environmental and social impact assessment, including an analysis of mine closure.

[Source: ICMM SD Principle 4(a), 2003; Wal-Mart criteria 12; and GRI MM11]

b. [From the earliest stages of exploration and project development](#), Mining Facilities will inform potentially affected parties of significant risks from mining, minerals and metals operations and of the measures that will be taken to manage the potential risks effectively.

[Source: ICMM SD Principle 4(c), 2003]

3.x Biodiversity (under new Environment Protection provision in COPs) – Biodiversity; protected areas; rehabilitation; closure planning and funding

a. Mining Facilities will not explore or mine in World Heritage Sites, [in legally designated protected areas, \(including IUCN-designated protected areas, designated protected areas established by national, regional, or local governments, Ramsar sites, and UNESCO Man and the Biosphere Programme Biosphere Reserves\), in NatureServe ecosystems rated Imperiled or Critically Imperiled, or in BirdLife International Important Bird Areas.](#)

[b. Mining Facilities will not explore or mine in official buffer zones of the above areas. If no official buffer zones exist, or in cases in which exploration or mining occurring outside official buffer zones could impact the area, the Mining Facility will ensure that negative impacts on the biodiversity of the protected area do not occur because of exploration or mining activity.](#)

[c. Mining Facilities are not located in an area that is part of a Global 200 Ecosystem listed as Critical or Endangered \(WWF\), that is part of a Biodiversity Hotspot or Wilderness Area \(Conservation International\), or part of an Endemic Bird Area \(BirdLife International\) if national conservation priorities have not been assessed and received protection in the country of operation in that area.](#)

[d. Mining Facilities will adopt practices in land-use planning and operations that protect, manage and where appropriate enhance biodiversity and ecosystem function.](#)

[Source: ICMM SD Principle 7(a), (b) and (c), 2003; ICMM Position Statement Mining and Protected Areas, 2003; Wal-Mart criteria 19, 20 and 21]

c. Mining Facilities will rehabilitate land disturbed or occupied by operations in accordance with appropriate post-mining land uses with [the objective of](#) restoring or enhancing the original biodiversity and ecosystem function.

d. Mining Facilities will design and plan all operations so that adequate [and guaranteed](#) resources are available to meet the closure and reclamation requirements of all operations.

[Source: ICMM SD Principle 6(c) and (e), 2003; Wal-Mart criteria 15]

[We recommend splitting Financial Guarantees as a separate point:](#)

[3.x Closure and Financial Guarantees](#)

[a. Mining Facilities shall develop a reclamation plan before operations begin that includes detailed cost](#)

estimates for closure. Financial sureties should be placed to guarantee adequate closure and reclamation activities. Financial sureties should be independently guaranteed, reliable, and readily liquid. Mining Facilities shall reclaim and rehabilitate all disturbed areas so that they are consistent with future uses.

3.2.2. Air and Water Emissions

b. Mining Facilities will use best available technology to minimize mercury and other emissions. Mining Facilities will minimize risks of Acid Mine Drainage and will treat any such drainage to prevent contamination of water bodies with acid, heavy metals, or other toxic substances. Cyanide must be eliminated prior to release of wastes to a waste-holding facility.

3.3 Tailings and mine waste (under existing Emissions and Waste provision in COPS, renamed)

Mining Facilities will provide for safe storage and disposal of overburden, tailings, process residues and other mine wastes. Environmental impact of tailings management practices, structural stability of storage facilities, metal leaching potential and other hazardous properties of wastes must be assessed, monitored and reduced to as low as reasonably practicable. Cyanide must be eliminated prior to release of tailings to tailings storage facility. Sub-aqueous tailings disposal will not be used.

[Source: ICMM SD Principle 6(d), 2003; Wal-Mart criteria 18; GRI MM6]

3.4 Energy Use and Natural Resources and Impacts on Climate Change

Mining Facilities will seek to use renewable energy sources.

We would recommend setting a target for renewable energy sources, such as 50% of energy through renewable, non-nuclear sources, or equivalent carbon offsets.

4.x Public reporting (under new provision in new Management Systems section in COPS)

a. Members with mining Facilities will annually publish an independently verified environmental and social performance report, using the Global Reporting Initiative guidelines and Mining and Metals sector supplement, and AA1000 Assurance Framework, or equivalent process. Members Facilities will be independently verified for compliance by a third-party body.

[Source: ICMM SD Principle 10(a) and (b), 2003; Wal-Mart criteria 7; GRI]

References

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