

Submission to UN Secretary General's Special Representative on Human Rights and Business

Clarity and consensus on legitimate human rights responsibilities for companies could accelerate progress

March 2006

1. Introduction

As the mining industry's leadership group on sustainable development, ICMM believes that the work of the Special Representative of the UN Secretary General on human rights and business (SRSG), Professor John Ruggie, has the potential significantly to advance the debate around business and human rights. Fostering clarity and consensus on legitimate human rights responsibilities for companies could accelerate progress. ICMM also believes the SRSG's work needs to be well grounded in fact and evidence (rather than drawing inferences based on politically-motivated campaigns or media coverage), to reinforce the central role of governments in upholding human rights, and to develop greater clarity around human rights to ensure that consistent standards are applied by all companies within each sector. Contrary to the impression created by some comments in the SRSG's interim report, we would submit that leading companies in the mining sector are amongst the most advanced in their commitment to improving their social, economic and human rights impacts. The sector is often one of very few sources of investment in the poorest countries and can play a crucial role in sparking wider development – thereby helping to realise many economic and social rights.

This submission provides a factual summary of the work undertaken by ICMM member companies in human rights, as well as of some of the human rights challenges and dilemmas faced by the mining sector. It was developed by ICMM and its members whilst the SRSG's Draft Interim Report¹ was itself being developed. Thus, it is not intended as a detailed response to this, and nor as a set of detailed recommendations, but rather to provide some industry context for the SRSG's work going forward.

ICMM would nonetheless make two brief and broad points as an initial reaction to the Draft Interim Report (as well as to the remarks made by the SRSG at the World Mines Ministries Forum). First, many of the points made by the SRSG encouragingly parallel the main points in this submission – both in terms of recognising progress made so far, and in pinpointing challenges which remain to be tackled. According to the SRSG, for example, 'Individual firms and industry associations, such as the ICMM, have worked to improve company performance, and that progress not only should be recognized but also emulated.'²

Secondly, however, there are a number of areas where the SRSG's draft report risks fuelling misconceptions. For example:

- The survey of 65 NGO-reported instances of alleged abuses, referred to by the SRSG (albeit with caveats) does not provide a balanced or systematic fact base for differentiating the performance

¹ Draft Interim Report of the SRSG, February 2006

² Plenary Remarks by SRSG at World Mine Ministries Forum, March 3 2006

of different sectors. Any overall judgement regarding the extractive sector needs much better substantiation (similarly the decision to lump mining together with oil and gas may need to be unpicked).

- More emphasis ought to be given to the fact that initiatives supported by leading companies across the extractive sector – such as the Kimberley Process, the Voluntary Principles on Security and Human Rights and the Extractive Industries Transparency Initiative – represent global best practices which could be emulated by other sectors. There also needs to be more focus on differentiating leaders and laggards within each sector.
- Moreover, the SRSG's report fails to draw a clear distinction between issues of poor corporate performance and of abuses of human rights by host governments.
- We would argue that insufficient recognition is also given to the fact that mining, arguably more than any other sector, has the potential to spread some of the benefits of globalisation to some of the poorest countries in the world. For such countries, and the poorest regions within such countries, mining is one of very few potential major sources of foreign investment. If the underlying conditions are right, it can help kick start economic growth and poverty reduction. ICMM's 'Challenge of Mineral Wealth' project (section 3 below) is aimed precisely, as the SRSG suggests, at pinpointing ways to 'translate the curse of natural resources into a blessing'.³

These are some important and strongly held points of difference. However, much of the rest of this submission supports other aspects of the SRSG's approach – for example, the SRSG's emphasis on encouraging the further development of voluntary initiatives and of best practices, on the need to clarify boundaries of responsibility between companies and governments, and on seeking ways to improve governance and to ensure that governments 'become more actively engaged'⁴.

2. Overview

The basic argument of this submission is that, whilst recognising that important challenges remain for all stakeholders, significant progress has been made by leading firms in the mining industry in recent years.

As a starting point, it needs to be recognised that the very nature of the mining industry – often involving large-scale, fixed investments, some of them in the world's least developed countries, and with significant localised social and environmental impacts – creates both potential constraints and opportunities for enhancing human rights performance. The large, long-term, and immobile nature of many mining projects, for example, creates an unusually strong incentive for firms, compared with those in other sectors, to develop positive relations with local communities (by mitigating environmental impacts, for example, and creating local economic benefits). It also means that sensitivity to the concerns of host governments can be particularly important for companies if they are to protect their investments for the long term.

At the root of the progress achieved over the last decade by the major mining firms has been a variety of voluntary, and usually multi-stakeholder, initiatives. These include efforts by individual companies (and some of ICMM's members have recently won external recognition as leaders in corporate responsibility), mining sector voluntary programmes (ICMM's sustainable development principles, for example, help set the basis for performance improvement across its membership), and initiatives which go beyond mining to span other sectors (examples include the Global Compact, the Extractive Industries Transparency Initiative, as mentioned, and the Voluntary Principles on Security and Human Rights). Within the mining sector, it is often ICMM members that have led on such programmes. More detail and examples are contained later in this submission.

At the root of the challenges facing the leading companies, meanwhile, are a number of critical issues which could help unlock future progress and the spread of best practice. These are issues on which most

³ Plenary Remarks by SRSG at World Mine Ministries Forum, March 3 2006

⁴ Plenary Remarks by SRSG at World Mine Ministries Forum, March 3 2006

stakeholder groups – not just industry – would welcome progress. One example is the current lack of clarity over the boundaries between companies and states in upholding human rights (while seeking to uphold human rights within their legitimate ‘sphere of influence’, for example, companies also clearly need to avoid becoming political actors, or interfere in the political affairs of host countries.) Another challenging issue is that there is currently less external scrutiny of smaller, low-profile, or state-owned companies regarding human rights issues than, say, of high-profile, private sector firms. Yet another issue is that there is lack of broadly recognised and well-tested management tools and methodologies which companies can use to reinforce implementation of their human rights policies.

These issues are discussed in more detail later. In general, though, ICMM members believe that progress is more likely to be achieved through the potential strengthening of existing voluntary initiatives and the clearer definition of human rights expectations of companies, rather than the promulgation of a detailed set of mandatory rules (such as the draft UN norms on business and human rights) which seek to extend international conventions directed at governments (and often ratified by relatively few countries) to companies. ICMM believes by focusing on building a deeper, multi-stakeholder consensus on what should be fairly expected of all companies, the SRSG can significantly strengthen the momentum that has been achieved by some of the leading companies. This might, for example, include the ICMM’s mandatory sustainable development framework comprising top-level principles, independent assurance and detailed reporting requirements. Moreover, it is important that companies be supported in relation to investing in difficult countries rather than being led to conclude that they should only invest in low-risk environments, thereby reinforcing the exclusion of the poorest countries from the global economic mainstream.

ICMM acknowledges that there have been and still are human rights issues in the mining industry, just as there are in other industries. Nonetheless ICMM members are committed to a leadership role in the sector across the range of social (and also environmental) issues relevant to mining. The rest of this submission summarises, first, the efforts and progress of ICMM members on human rights, and following that (section 4), some of the human rights challenges and dilemmas faced by the mining sector. The annexe provides additional information on company and ICMM initiatives.

3. Action by ICMM and its members

‘It is generally believed that economic development coupled with the rule of law is the best guarantor for the entire spectrum of human rights’, the SRSG has noted⁵. In this way, whatever the criticisms made of some firms, the mining industry (as with other productive sectors of the economy) contributes to the realisation of a key aspect of human rights by creating wealth, jobs and other benefits. The major firms have also had long-standing programmes, such as to develop positive relations with local communities and to invest in local training, education and welfare programmes which in many cases have helped to uphold various rights outside their core economic contribution.

What has happened in recent years is the development of more specific human rights policies and supporting management systems by major companies (albeit these have sometimes also been labelled ‘corporate responsibility’ or ‘sustainable development’ rather than ‘human rights’). Also, as mentioned, a number of voluntary initiatives have helped drive progress in this area.

At the industry level, ICMM was set up in 2001 with the explicit mandate to help develop the leadership of its member companies on sustainable development, of which human rights is a key element. ICMM came into being following a major independent research and stakeholder engagement initiative (the Mining, Minerals and Sustainable Development project – see case study 8 in annexe) which the companies established and sponsored to examine ways to enhance the sector’s sustainable development contribution, and which explored the responsibilities of a range of actors, including governments, donors and civil society as well as companies. Based on a process of stakeholder consultation in different parts

⁵ Draft Interim Report of the SRSG, February 2006

of the world, this sort of voluntary critical appraisal is an approach which has since been followed by some other sectors.

ICMM members agreed, on establishing and becoming part of ICMM, to measure their performance against a set of ten sustainable development principles. As well as various principles relating indirectly to human rights (for example, avoidance of bribery and corruption), these include the commitment to:

Uphold fundamental human rights and respect cultures, customs and values in dealings with employees and others who are affected by our activities.

In practical terms, this principle is defined as meaning members will:

- Ensure fair remuneration and work conditions for all employees and do not use forced, compulsory or child labour.
- Provide for the constructive engagement of employees on matters of mutual concern.
- Implement policies and practices designed to eliminate harassment and unfair discrimination in all aspects of our activities.
- Ensure that all relevant staff, including security personnel, are provided with appropriate cultural and human rights training and guidance.
- Minimise involuntary resettlement, and compensate fairly for adverse effects on the community where they cannot be avoided.
- Respect the culture and heritage of local communities, including Indigenous peoples.

ICMM, in conjunction with the Global Reporting Initiative, has recently developed a set of guidelines and indicators for members to report against and which reflect its principles. Among the indicators to be applied by the companies relating to human rights are: support for human rights in their rules of conduct for security personnel, for example, and the alignment of their resettlement practices with the World Bank directive on involuntary resettlement. ICMM is also in the process of developing a system for independent assurance of member's reports. The underlying idea is to demonstrate and ensure that the ICMM principles, though themselves a voluntary initiative, are put into very practical effect by members.

ICMM is also undertaking a variety of discrete projects with its members that will contribute to improved awareness of human rights issues. For example, the 'Challenge of Mineral Wealth' project as mentioned above is identifying ways to enhance long-term socio-economic benefits from mining projects in developing countries, focusing not just on the role of companies but also on actions needed from governments, donors and other organisations (see case study 14 in annex).

A review has also been undertaken of the issues facing indigenous people around mining projects, with a recent roundtable on this subject convened with the IUCN, the World Conservation Union, in the context of a on-going dialogue on biodiversity protection. ICMM is also working with its members on projects to help improve safety and environmental performance.

There has also been significant relevant activity by individual member companies. The annex contains the results of a sample survey conducted by independent consultants for ICMM of nine of its member firms, comprising the bulk of its corporate membership. This shows that all have put in place human rights policies or principles (most making an explicit commitment to uphold the Universal Declaration on Human Rights). A number of different tools are being used to implement these policies, including human rights training for key personnel and human rights impact assessments for particular projects. This comes against the background of generally-strengthened member company approaches to community relations, Health Safety and Environment management, and policy compliance (for example, through employee whistleblower systems), all of which again overlap with and feed into the human rights agenda.

In terms of the on-the-ground impacts of such efforts, the annex also contains some case studies of individual company projects. ICMM members have also won external recognition, including awards from corporate social responsibility bodies, such as UK Business in the Community. More details are available on our members' respective websites.

Also important has been ICMM and its members' leading involvement in voluntary initiatives aimed at tackling particular issues. To give just a few examples, some of which were cited before:

- ICMM was on the core group of the *Extractive Industries Transparency Initiative*, and its corporate members have committed to regular publication of all payments made to governments which are implementing EITI. ICMM members are thus helping drive progress on the critical (and human-rights related) issue of corruption.
- All of the five mining companies which are participants in the *Voluntary Principles on Security and Human Rights* are ICMM members. This multi-stakeholder initiative commits companies to, among other things, use their influence to ensure human rights are respected by state security forces guarding their operations (thus in effect widening their 'sphere' of the responsibility).
- The *Kimberley Process Certification Scheme* to combat trade in conflict diamonds is another landmark voluntary initiative on a human rights issues, and has been developed with the active support of De Beers, the world's leading diamond producer, and an associate company of ICMM corporate member Anglo American. With some 45 governments participating, the Kimberley Process has had significant successes in curtailing the flow of conflict diamonds.
- Many ICMM members abide by *IFC and World Bank standards* on social and environmental issues such as, for example, standards on involuntary resettlement – which have also helped advance industry performance. In this respect too, the standards adopted by many large financial institutions under the *Equator Principles* have created further incentives for strong social and environment standards in the mining sector given that these will now be a condition for investment for many projects.
- Also worth mentioning is the involvement of a number of ICMM members in the *Global Compact*. Among them is Rio Tinto, which has highlighted how its development of human rights guidance for its managers (see box in annexe) has supported the Compact principles on human rights.

In terms of conceptual underpinnings, in the absence of clear consensus on the boundaries of companies' human rights responsibilities, a number of ICMM members have framed their approach to this area as a set of concentric circles – or the 'onion skin approach', to borrow a metaphor from Sir Mark Moody-Stuart, chairman of Anglo American. At the centre (of the onion) lie issues on which companies have clear accountability or responsibility for upholding human rights. These include issues traditionally relating to the core running of a business such as the rights of their employees (for example, to safe working conditions, and fair and equal treatment) as well as many of the rights of local communities (for example, companies have a clear responsibility to minimise – or provide local people with fair compensation for – negative environmental impacts).

Further outwards from the core – in a middle layer - lie issues on which companies have less ability to control or influence outcomes, and hence their responsibility diminishes. The behaviour of major business partners is arguably an issue in one of the onion's middle rings: companies should encourage such partners to uphold rights, but may not always have the power to insist on doing so. Various indirect impacts may also fall within this area – for example, the impact on existing communities of an influx of outsiders drawn to the area by a new mine as they search for economic opportunities. An example of an issue on the outer ring, it is often suggested, are human rights abuses taking place in a part of the host country distant from operations of the company. In such cases the company may be encouraged by activists to pressure the host government to stop such abuses, and it may seek ways to do so diplomatically, but as noted before, it needs to be careful not to become politically involved beyond its legitimate role.

Such difficult issues are discussed further in the next section. For the moment, though, it should be noted that some ICMM members, by using such conceptual devices and giving them practical effect through their policies and management systems, have taken on a broader view than before of their own sphere of responsibility. In this way, they have pushed the envelope of the industry on human rights (and also, arguably, set themselves ahead of a number of other sectors too).

4. Challenges and dilemmas

Without doubt, the mining sector has not yet met all the challenges posed by human rights. Across a number of issues, including security, indigenous rights, resettlement, and payments to governments, there are ongoing difficulties and dilemmas. Four cross-cutting themes are worth highlighting here:

1. *Practical implementation challenges*

The survey of ICMM members indicated that many see their main human rights challenge as improving on-the-ground performance, including building a broader understanding among staff about what human rights entail. A variety of policies and implementation tools have been developed. However, it often remains unclear how exactly these should be integrated with longer-standing, overlapping management systems (such as on community relations). There is also a lack of a universally-accepted methodology for human rights impact assessment or of well recognised training systems in this area (though some companies have been developing their own versions of both of these). Similarly, there is scope for improving internal assurance and control systems on human rights. This is a relatively new area for large global organisations, with understanding of what works and what doesn't and identification of best practice at an early stage. Finally, in terms of the potential role of companies in exerting pressure on other parties, such as governments or joint venture partners, there is a lack of tried and tested (or at least well-known) management tactics for exerting this pressures in non-political or non-confrontational ways. One potential route for this, of course, is via third parties, such as home government's embassies in the country concerned. In general, the SRSG's ongoing work to identify best practice on implementation should be helpful (and ICMM may be able to provide assistance to the SRSG here if useful).

2. *An un-level playing field*

The fact that human-rights campaigners have often focused their scrutiny on large, or at least western, firms has sometimes helped drive the human rights performance of such firms further ahead. This has certainly been the case when the views of outside campaigners have genuinely reflected the interests of local communities. However, while this dynamic may have had many some positive elements, it does not necessarily create the best incentives for further progressive moves across the corporate sector. For example, leading mining firms which voluntarily avoid or restrict investment in countries with poor human rights record may put themselves at a competitive disadvantage compared with lower profile firms which are able to avoid much scrutiny (either because they are privately held or have their home base in countries where the expectations of the private sector are significantly different). Many of the largest untapped, and potentially profitable, mineral deposits, now lie in countries which are not highly developed and some of which have less-than-positive human rights records. More even-handed scrutiny and external pressures could lead to the adoption of similar approaches by a broader range of firms, creating fewer disincentives for the industry leaders to continue pushing ahead.

3. *Unintended consequences*

In the same way that current patterns of scrutiny may not create the best incentives for further corporate advances, they can potentially lead to negative consequences for countries too. Less investment by responsible mining firms in poorer, less stable developing countries may harm these countries' economic interests (and as mentioned, research from ICMM's 'Challenge of Mineral Wealth' initiative indicates that, under the right conditions, mining can kick-start broad based development for such countries). It may also hold back progress on human rights: if less responsible companies take the place of the western, more intensely-scrutinised firms (as has sometimes been the case recently), this may weaken pressure on the host countries to promote human rights, and also lead, for example, to lower standards for treatment of workers.

4. *Blurred boundaries*

Challenges also often arise because the extent of companies' responsibilities is unclear: they may be encouraged to intervene more over human rights concerns, but doing so raises fresh dilemmas.

- On both security and transparency issues, for example, companies can, and should be encouraged to, participate in initiatives such as EITI and the Voluntary Principles on Security and

- Human Rights. For example, companies should rightly expect army or police personnel forces guarding mines to uphold human rights. However, what influence should they have on the behaviour of such government-employed forces operating elsewhere in the country?
- On the issue of indigenous peoples, demands that companies only develop projects with the 'free, prior, informed consent' of communities potentially also pits the firms against governments which may want projects to proceed for legitimate national economic reasons. ICMM's members all undertake extensive local consultation before projects are developed. But are they obliged to provide communities with an effective power of veto in cases where a host government is urging them, in light of broader development goals, to proceed with the investment? There are actually very few developed countries in which central government does not have such an ultimate say; should different standards apply in the developing world?
 - On the issue of women's rights, there is no doubt that – for a heavily male-dominated industry such as mining – significant improvements can be made in employment equity and diversity. To what extent, though, should companies actively promote women's rights in mining regions where these are restricted by law or cultural custom? Some would argue companies ought to push ahead in this respect, while others would place limits on their freedom to meddle in host countries' cultures and traditions. The boundary is once again unclear.
 - Finally, with regard to demands that companies provide health, education, and other aspects of social provision often framed in terms of rights, many mining companies recognise they have at least partial responsibility for these issues in areas in which they operate. But, equally, governments must take ultimate responsibility for them (basic welfare provision, after all, is a core task for the state) and the division of responsibility between governments and companies is once again often ill-defined.

Indeed one uncontroversial point highlighted again by all these dilemmas is the need for more effective government action on human rights. Debates over the boundaries of companies' responsibilities would never arise in the first place if governments ensured rights were upheld.

Governments also have a critical role in pushing forward voluntary initiatives in this area: EITI, for example, could benefit from more support from both home and host governments, as could the Voluntary Principles. In fact the greater the number of states which support such initiatives, the more they will become a standard operating requirement for companies, and hence the less participating firms within any industry will find themselves at a competitive disadvantage against non-participating firms. This in turn will encourage new participants to join.

These are precisely the sort of voluntary, but positive dynamics which ICMM would encourage the SRSG to seek to foster and accelerate.

ANNEXE: Human rights policies, management practices, and case study examples from ICMM member companies

Excerpted, adapted and edited from a report by Futureye Pty Ltd, independent consultants, commissioned by ICMM to undertake a business and human rights 'issues review'

A. POLICIES & MANAGEMENT PRACTICES

Methodology

Information on company policies, management standards and tools was gathered through a questionnaire survey of ICMM member companies. Nine ICMM member companies were asked to complete a survey that had been sent to all Fortune 500 companies by SRSG Professor Ruggie, as well as a more detailed supplementary survey prepared by Futureye that focussed on policies and management practices. For almost all companies, survey responses were also discussed over telephone interview. Broader industry perspectives on critical issues were gained through a brief telephone roundtable discussion set up with some ICMM member companies.

Overview

ICMM member companies have made a number of serious commitments, both as a group, through the ICMM Sustainable Development Framework, and as individual companies, to address key human rights responsibilities within their respective spheres of influence. The following provides an overview of the human rights policies and management practices of ICMM member companies.

ICMM Sustainable Development Framework

ICMM member companies have committed to seek continual improvement in their performance and contribution to sustainable development, while enhancing shareholder value. This is being achieved through the ICMM Sustainable Development Framework - an integrated package of fundamental principles, supported by public reporting, verification systems and the dissemination of good practice examples. As part of the Framework requirements, ICMM members have endorsed the Extractive Industries Transparency Initiative and have agreed to report on their performance in accordance with the Global Reporting Initiative (GRI) framework.

ICMM: Commitment to Public Reporting in Accordance with GRI

The ICMM Council has mandated that all corporate members report their performance against the ICMM Principles. In December 2004, ICMM members agreed to report on their performance using the GRI Framework to fulfil this commitment. The target date for achieving this is 2007 with a possible extension to 2008. Accordingly, ICMM has worked with the Global Reporting Initiative, through a multi-stakeholder process, to develop a Mining and Metals Sector Supplement to accompany the GRI 2002 Sustainability Reporting Guidelines. Recently completed, the draft Supplement is now being pilot tested. Together with the GRI Guidelines, the reporting framework includes indicators to allow tracking of performance against the ICMM Sustainable Development Principles, including those related to human rights. With the reporting framework now in place, work has been initiated to develop an independent assurance process. Based on a review of current approaches, it appears that ICMM members are among one of the first industry groups to seek to develop, and eventually adopt, a common approach to assurance.

The key commitments under the ICMM Principles made in regard to human rights are:

Uphold fundamental human rights and respect cultures, customs and values in dealings with employees and others who are affected by our activities.

- *Ensure fair remuneration and work conditions for all employees and do not use forced, compulsory or child labour.*
- *Provide for the constructive engagement of employees on matters of mutual concern.*
- *Implement policies and practices designed to eliminate harassment and unfair discrimination in all aspects of our activities.*
- *Ensure that all relevant staff, including security personnel, are provided with appropriate cultural and human rights training and guidance.*
- *Minimise involuntary resettlement, and compensate fairly for adverse effects on the community where they cannot be avoided.*
- *Respect the culture and heritage of local communities, including Indigenous peoples.*

The ICMM Principles also require members to introduce policies and practices that seek to prevent bribery and corruption. They further require members to strive for continuous improvement in their health, safety and environmental performance and contribute to the social, economic and institutional development of the communities in which they operate. See also case studies in part B of this annexe.

ICMM Member Company Human Rights Policies and Practices

Results of the survey of ICMM member companies are summarised in the Key Findings Summary Table below.

ICMM member companies attach a high priority to human rights. All companies surveyed have put in place human rights policies or principles governing the conduct of their operations and most companies have made an explicit commitment to uphold the Universal Declaration on Human Rights within their respective spheres of influence.

Policy coverage of major issues for the sector is generally good. Where key issues are not covered by some companies, it is generally because the nature of their operations does not require it. Thus, for example, some companies which do not employ armed guards, nor operate in high conflict-risk areas, may not have extensive policy coverage on security issues.

All companies work with key stakeholders in developing human rights policies and procedures, with most including government, labour unions, industry associations and NGOs in these consultations. Several have also involved either the UN or other intergovernmental organisations, and some have also included key contractors and educational institutions.

Decision-Making Processes and Management Systems

All companies reported a significant degree of integration of human rights issues into decision making processes, through methods such as country risk assessments prior to exploration or investment, ongoing risk assessment, or due diligences. Human rights policies are firmly integrated into company management systems including those related to community relations as well as human resources, environmental management, health and safety and security. All companies except one (which noted it felt it had a low exposure to any significant human rights risks) reported developing strategies to address human rights risks in consultation with stakeholders, and revising strategies to reflect emerging issues. Most also set targets and goals, and monitored progress.

Risk Assessment Tools

Human rights impacts assessments are carried out by all companies, though the terms in which this is described varies. Stakeholder engagement is used as a regular, ongoing risk-management tool to evaluate human rights risks and opportunities. Human rights risk or impact assessments, and conflict analyses and impact assessments are also used by most companies, though not all. Other methods of human rights risk analysis include the engagement of external consultants to conduct site assessments, and the use of socio-economic baseline analysis.

Despite the widespread use of human rights risk or impact assessments, only two companies reported having a documented process for undertaking such assessments. One of these companies has created

a Human Rights Self Assessment tool for application at the site level. It has been rolled out at selected sites, with training provided, but remains a draft document, in development.

Information, Training and Other Change Management Initiatives

At all companies, security personnel are required to undergo basic human rights training, and in almost all companies some form of training or assessment is conducted to ensure that senior managers understand overall obligations and required performance standards in regard to human rights. All companies have in place feedback systems such as hotlines, speak out systems, whistleblower protection, and employee surveys, in order to identify areas of poor compliance, and to inform remedial action.

Alcoa: Ethics and Compliance Line

The Alcoa global Ethics and Compliance Line provides employees and other concerned parties an anonymous channel for expressing concerns and raising issues about workplace activities and business practices. Employees are also encouraged to use the line to obtain an interpretation of laws or regulations, seek clarification of Alcoa policies or procedures, or simply ask for advice on proper actions. The compliance line is available to Alcoa employees worldwide, with the local toll-free compliance lines answered in the caller's native language.

Alcoa also offers an ethics and compliance e-mail address (anonymous, if desired) and a postal mail address for submission of written inquiries. Every concern or request for advice is addressed and responded to without reprisal, and Alcoa has a target response date of 18 calendar days contingent upon the seriousness and number of issues raised. Our goal is to resolve 90% of cases within 12 working days by 2009.

When an employee calls or sends written notice, the issue is reviewed immediately. Those that are felt to pose an immediate threat to the personal safety of employees, Alcoa property, or the community are sent to pre-determined emergency contacts, who begin an immediate investigation and institute corrective action when necessary. Non-emergency issues are sent to a regional liaison for review and forwarding to the appropriate location or business unit for investigation. Once an issue is resolved, a written report on the investigation and any corrective actions is submitted to the regional liaison, who then provides a response to the employee.

Other areas in which a number of ICMM member companies are taking action to create change, and improve human rights performance include:

- Overall 'change management' planning.
- Active identification of current knowledge and skills, and areas where gaps exist.
- Provision of education and training to fill gaps.
- Allocation of internal human resources to meet human rights management needs.
- Use of external resources and expertise to fill knowledge and skills gaps.
- Use of Key Performance Indicators (KPIs) to evaluate the performance of managers against benchmarks and targets.
- Linking executive performance incentives to progress against these KPIs.
- Allocation of appropriate management responsibilities for specific human rights issues.
- Establishment of conflict resolution systems and processes.
- Reporting on progress against voluntary human rights initiatives to which companies have committed, or against particular internal performance indicators.
- Ensuring relevant managers have competencies in relation to human rights risk assessment and mitigation.
- Ensuring relevant managers have competencies in stakeholder engagement on human rights issues.

Reporting, monitoring and review mechanisms

Through their commitment to GRI reporting, all ICMM member companies gather data internally, and report externally on their human rights performance using both print and web-based reports.

A smaller number of companies have also put in place external verification systems, including on-the-ground site-based compliance audits, conducted by external auditors.

Freeport-McMoRan: Human Rights Policy and Accountability Systems

Freeport-McMoRan Copper & Gold, Inc. and its subsidiary PT Freeport Indonesia (PTFI) operate one of the world’s largest copper and gold mines in the province of Papua, Indonesia. The Papuan region has had a history of political unrest with local tribes seeking independence from Indonesia. PTFI has been criticised by some local tribes, and also by some international human rights groups, for cooperating with the Indonesian security forces and thereby allegedly becoming involved in human rights abuses.

Freeport has developed a Social, Employment, and Human Rights Policy that commits the company, its affiliates, and its employees to ensuring that its operations are conducted in a manner that respects the Universal Declaration on Human Rights (UDHR), the Voluntary Principles on Security and Human Rights, other applicable international standards of human rights, the laws and regulations of the host country, and the culture of the people who are indigenous to the areas in which the Company operates.

Freeport has instituted several methods of accountability. Under the annual certification process, senior Staff employees, all security employees, and all community development employees are required to submit a Human Rights Assurance Letter stating that they understand the Company’s Social, Employment, and Human Rights Policy and that they have neither taken part in any activities that would violate human rights nor have they witnessed any such activities. Based on these letters, the Corporate Human Rights Compliance Officer (HRCO) makes a report to the Public Policy Committee of the Freeport Board of Directors each year about human rights and compliance with the Company’s Social, Employment, and Human Rights Policy.

On a periodic basis, the Company engages an independent firm to conduct an audit of the Company’s implementation of its Social, Employment, and Human Rights Policy to assess its effectiveness and the extent of the Company’s compliance. The findings are expected to note areas for improvement to which the Company will respond with a plan for implementing recommended improvements.

The first such audit was conducted by the International Center for Corporate Accountability, Inc. (ICCA). The scope of the audit included: protection of human rights, hiring and employment opportunities for the Papuan people, and social and economic development of the Papuan community. Both the audit report and the Company’s response are publicly available.

KEY FINDINGS- SUMMARY TABLE

POLICY FRAMEWORK	Yes	POLICY FRAMEWORK	Within overall corporate code or principles	Within overall risk assessment processes	Within operational guidance notes	Specific corporate human rights principles
Does your company have principles and/or management practices in place regarding the human rights implications of its operations?	9/9	How does your company take human rights into account?	8/9	9/9	7/9	4/9

POLICY FRAMEWORK	Yes, including monitoring and enforcement for all major suppliers and contractors	POLICY FRAMEWORK	Government	Industry Associations	Labour Unions	NGOs	United Nations or other IGOs
Do you have a policy on the extension of company human rights requirements to contractors and suppliers?	7/9	Which stakeholders does your company work with in developing and implementing policies and procedures?	8/9	9/9	7/9	9/9	4/9

DECISION MAKING Processes	Country risk assessments to determine 'go' and 'no go' areas	Human rights issues are examined in all due diligences	Ongoing risk assessments	Human rights records of partners examined before establishing joint ventures	Potential exit strategies developed for sites where issues are beyond resolution
How does the company factor human rights issues into corporate decision-making?	9/9	9/9	8/9	7/9	4/9

MANAGEMENT SYSTEMS	Human resource management	Environmental management	Health and safety	Community relations	Security
Are human rights integrated into existing management systems?	8/9	8/9	8/9	9/9	6/9

MANAGEMENT SYSTEMS	Security personnel have undergone basic human rights training	Senior management understand overall obligations and required performance standards	Relevant managers have competencies in human rights risk assessment and mitigation	Relevant managers have competencies in stakeholder engagement on human rights
Are training and/or competency assessments undertaken?	9/9	8/9	6/9	6/9
RISK ASSESSMENT TOOLS	Routinely (including through social impact assessment)	Occasionally (on sites of particular relevance)		
Does your company carry out human rights impact assessments for particular projects?	6/9	3/9		

RISK ASSESSMENT TOOLS	Stakeholder engagement	Conflict analysis and impact assessments	Specific human rights impact assessments	Specific human rights risk assessments	Other
What tools does your company use to evaluate human rights risks and opportunities?	9/9	6/9	6/9	5/9	3/8

REPORTING AND REVIEW MECHANISMS	Internal in regard to compliance with human rights principles and practices?	Periodic external reporting through website	External reporting through a periodic publication	External reporting through third party medium (ie Global Compact, GRI)
Does your company have systems of reporting?	9/9	9/9	9/9	9/9

REPORTING AND REVIEW MECHANISMS	That includes site audits, etc, to provide 'on the ground' compliance performance measures?	That is focussed on policies and systems?
Does the company have an external verification program...?	6/9	5/9

B. ADDITIONAL CASE STUDY EXAMPLES

The case studies in this part of the annexe provide a few illustrations of the practical reality for ICMM members and other organisations of various of the points and principles within ICMM's Sustainable Development Framework, as well as illustrating some ongoing challenges and debates. Starting with the specific human rights commitment, principle 3 of the ICMM Principles, the case studies (broadly) match to the points as follows:

3. Uphold fundamental human rights and respect cultures, customs and values in dealings with employees and others who are affected by our activities.

- Ensure fair remuneration and work conditions for all employees and do not use forced, compulsory or child labour.
- Provide for the constructive engagement of employees on matters of mutual concern. **See case studies 1 & 2**
- Implement policies and practices designed to eliminate harassment and unfair discrimination in all aspects of our activities. **See case study 3**
- Ensure that all relevant staff, including security personnel, are provided with appropriate cultural and human rights training and guidance. **See case study 4**
- Minimise involuntary resettlement, and compensate fairly for adverse effects on the community where they cannot be avoided. **See case study 5**
- Respect the culture and heritage of local communities, including indigenous peoples. **See case study 6**

In terms of the high-level ICMM Principles themselves, the case studies match as follows (though with some overlap between the different points):

1. *Implement and maintain ethical business practices and sound systems of corporate governance. See case study 7*
2. *Integrate sustainable development considerations within the corporate decision-making process. See case studies 8 & 9*
3. *Uphold fundamental human rights and respect cultures, customs and values in dealings with employees and others who are affected by our activities.*
4. *Implement risk management strategies based on valid data and sound science.*
5. *Seek continual improvement of our health and safety performance. See case studies 10 & 11*
6. *Seek continual improvement of our environmental performance. See case study 12*
7. *Contribute to conservation of biodiversity and integrated approaches to land use planning. See case study 13*
8. *Facilitate and encourage responsible product design, use, re-use, recycling and disposal of our products.*
9. *Contribute to the social, economic and institutional development of the communities in which we operate. See case studies 14 & 15*
10. *Implement effective and transparent engagement, communication and independently verified reporting arrangements with our stakeholders.*

The remainder of the annexe contains the case studies themselves.

Case study 1

Placer Dome: HIV/AIDS Programming Leadership

Placer Dome's commitment to the people and communities where it operates has placed it at the forefront of HIV/AIDS programming. The company's approach is two-pronged: on a micro-level, to take action that will serve to mitigate the human and economic impact on people and families, and, on a macro-level, to work with partners to demonstrate leadership to help transform national and regional approaches in addressing the crisis.

In South Africa, where the HIV/AIDS pandemic is at a more advanced stage, the Placer Dome Western Areas Joint Venture South Deep mine has developed a wide-ranging suite of prevention and treatment programs at the mine site, in the surrounding communities, and in the mineworkers home communities that are scattered throughout a 4,000 by 800 kilometre swath of five Southern Africa countries (South Africa, Lesotho, Mozambique, Botswana and Swaziland).

Placer Dome and its South Deep mine developed the Care project for retrenched mineworkers and families of medically repatriated mineworkers with support to enable them to identify and develop economic opportunities.

The project incorporated training of 'proxies' such as other family members of mineworkers too ill from HIV/AIDS to participate. The project is a partnership with TEBA, a South African NGO and the Canadian International Development Agency (CIDA). The project was selected as one of the most innovative international development projects in the world, winning a Development Innovation Award and a People's Choice Award at the World Bank's 2002 Development Marketplace competition (the first private sector project to be nominated for a World Bank award).

The project was expanded to include a Home Based Care element that provides counselling, training and medical supplies to mineworkers and their families who are no longer able to work due to HIV/AIDS and other medical challenges. The project is a model for the entire mining industry to mitigate the economic impact of HIV/AIDS at the family and community level.

Case study 2

Sir Mark Moody-Stuart (Chairman, Anglo American): A Perspective on Labour Challenges⁶

Employment Equity

“One might think that employment equity was one of the relatively easy goals for a well-run company to achieve. However, few countries are ethnically uniform and it is unlikely that history, colonial or otherwise, has impacted all groups equally in matters of employment, education and wealth distribution, let alone matters of gender equity. Governments often introduce regulation to correct past injustices. This can lead to positive discrimination and pressure on meritocratic systems. Equally some governments apply pressure to discriminate against perceived political opponents. Companies need to maintain very clear and transparent processes to avoid injustices.”

Union activity

“The third principle of the UN Global Compact states that ‘Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining’. In countries where the right of free association is restricted or unions banned, companies should express support for the establishment of such human rights and take steps within their own organisations to make sure that there is free expression of the views of all employees, individually or collectively. Some people have, however, argued that Principle 3 of the UN Global Compact means that companies should positively encourage the formation of unions in their own operations. This, in my view, is not the case. While the right to associate and form a union should be inviolable, so too should be the right of employees to sign individual contracts outside a union and for all parties to argue freely for their preferred solution.”

⁶ Moody-Stuart, MD 2005, paper presented at the Geneva consultation on Human Rights and the Extractive Industries
http://www.unglobalcompact.org/NewsAndEvents/news_archives/2005_11_17.html.

Case study 3

Minerals Council of Australia: Tackling Gender Diversity

In Australia, women comprise 18% of minerals industry workforce (both sites and corporate) compared to a national participation rate of 45%. At mine sites and mineral processing operations, women represent just 3% of all employees. Indigenous women represent 12% of all Indigenous employees. Key barriers to female participation in the minerals industry workforce include:

- The high percentage of full-time positions (83%) relative to part-time jobs in the mining sector, given that 40% of female employment nationally is part-time;
- Women who work in the industry are a much younger cohort than the cohort of men which may reflect the lack of part time work and the need for flexible work arrangements for parenting;
- Workplace culture and hours of work in the industry make it difficult to both attract and retain women in the minerals industry.

The Minerals Council of Australia has established a Women and Mining Steering Committee, chaired by Christine Charles of Newmont Australia to assist the Council in developing practical strategies to increase the effective participation and contribution of women in, and their engagement with, the minerals industry and its communities. An initial program of research will be undertaken to identify the key demographic issues around women's education, employment and geographic distribution. Importantly this research should acknowledge that women are a diverse group and, wherever possible, provide data specific to key groupings including Indigenous women, women from cultures that have been historically disadvantaged, or older women.

At the corporate level, policies and practices are being developed to eliminate discriminatory behaviours and to create workplaces free from harassment. Such initiatives recognise the costs of losing highly skilled and experienced staff and the benefits of workplace diversity. Continued progress, however, will require visible leadership to achieve cultural change within companies. To succeed, industry leaders recognise that gender equality must become an organisational function as regular as annual reporting, and be included in performance review and reward processes.

Case study 4

Rio Tinto: Implementing the Voluntary Principles

Rio Tinto actively participated in the development of the Voluntary Principles which were made public in December 2000. Rio Tinto subsequently started work on integrating its key elements into the Group's internal procedures. The most significant product was the publication in April 2003 of a revised version of The Way We Work - the Group's statement of business practice. It incorporates specific references to a number of points emerging from the Voluntary Principles. This was followed by the publication in October 2003 of a complementary document, Human Rights Guidance, to provide direction for managers in the field on implementing Rio Tinto's human rights policy.

Electronically cross-referenced to the Voluntary Principles, the Guidance covers directly employed security personnel and security contractors, as well as government security forces or guards and contractors employed by associate companies. It provides detailed guidance on hiring, daily conduct of security personnel, use of force and arms, use of facilities and equipment, procedures for consultation and complaint, and provisions to be applied in relation to personnel under contract to associated companies or joint venture partners.

Compliance with the Human Rights Guidance by Rio Tinto managers and staff is mandatory. Performance is monitored and acted upon in standing internal control procedures. For example, the annual Internal Control Questionnaire for 2005 asks each business in the Group whether it has adopted a local code that includes the Principles in The Way We Work, whether it has communicated the guidance to all employees, and whether it has informed associated companies, joint venture partners, contractors and suppliers accordingly. There are further questions about the way business units conduct their security operations which seek to expose any hidden problems.

Businesses are also required to confirm that they have implemented the confidential whistle blowing program Speak-OUT, which provides an obvious avenue for complaints regarding allegations of abuse of human rights by security personnel. It is also intended to pick up any incidents that might have escaped the Internal Control Questionnaire.

As part of the Group's compliance programme, web based training procedures have been introduced covering specific areas of law or regulation and a number of Rio Tinto's key policies, including The Way We Work and the Human Rights Guidance. All Group employees are required to be trained on the former. General managers and above are required to be trained on the latter. General managers are also encouraged to train staff on the basic precepts of the Human Rights Guidance, including guidelines and restrictions on the use of force.

Case study 5

BHP Billiton: Resettlement of the Village of Montevideo, Colombia

In order to allow the extension of mining into an area of additional resources at BHP Billiton's Cerro Matoso operation in Colombia, the company engaged in consultations with the local community regarding the proposed relocation of the village of Montevideo. The village comprised 25 hectares and 135 people from 25 families of low education level with rudimentary housing (wood construction, dirt floors, no indoor toilet facilities) and limited work opportunities in neighbouring cattle ranches. Only four families owned small land plots. The remainder were renting or had no formal title to land.

To ensure the integrity of the consultative process, BHPB followed the World Bank Directive on Involuntary Resettlement. The World Bank process provided a rigorous framework to ensure proper consultation and implementation of the scheme. Whilst there was, as expected, initial hostility to the idea of relocation, BHP Billiton was able to gain the full support of the community (both those being resettled and other people in the area), and voluntary resettlement was achieved.

Key elements of the approach taken by BHP Billiton regarding the resettlement included:

- Undertaking extensive consultation with the community during all phases of the process to ensure compatibility with their cultural preference, understanding and experience.
- Ensuring that the relocation led to real improvement in living standards, economic development opportunities and social well being.
- Providing the new village with good quality services including water, sanitation, electricity and education
- Ensuring economic sustainability through programs in traditional activities which the community knows and understands (e.g., fishing and farming)
- Encouraging leadership by the Municipality mayor and ensuring the community achieves stability, ownership and self-sufficiency.
- Good planning, allowing sufficient time for consultation and a complete understanding by the community of what the scheme would involve, and by the company of the needs of the community.

The consultative process proved to be highly successful. The staged participative process gave confidence to community members that the end result would be beneficial to them and led to a high degree of ownership. As a result, the community itself formally requested resettlement to the Municipality mayor. That is, they accepted to relocate on a voluntary basis.

Today, New Montevideo has been formally recognised by the regional government as an official community. Each family has an 8 hectares plot with a 72m² house with water, electricity and sanitation. The school is equipped for 60 students and is included in the municipal educational system. Sustainable agri-projects have ensured stability, permanency and sustainability of the new village. New Montevideo will continue to benefit from social programs of the San Isidro Foundation (a local social development organisation supported and partly funded by BHP Billiton) with credits and advice for individual and community micro-economic projects including commercialisation of local produce production.

Case study 6

Falconbridge: The Raglan Agreement

To support securing its social license to construct and operate the Raglan mine in northern Quebec in the mid 1980's, Falconbridge developed a stakeholder engagement approach, involving local Indigenous communities, the Makivik Corporation and three levels of government.

Falconbridge met regularly to discuss how the concerns of the Inuit would be addressed to clarify expectations and to establish levels of performance. This led to the signing of an impacts-benefits agreement between the parties in 1995.

Known as the Raglan Agreement, the document commits the company to meeting environmental performance objectives that go beyond regulatory requirements, providing profit-sharing initiatives for the benefit of the local communities, and priority employment contracts for qualified Inuit. The agreement also provides for special training programs to increase the level of job-ready skills among the local population and a number of measures to deal with the cultural issues identified by the Inuit.

Quarterly meetings are held to monitor implementation of the agreement and resolve any new or outstanding issues. Should mitigating measures not be acceptable to the parties, the matter is referred to a process involving third-party arbitrators.

The involvement of the Nunavik Inuit in drafting the agreement and their participation in the Raglan Committee has given all parties a sense of ownership of the outcomes and the trust needed to work out problems as they arise.

Case study 7

ICMM: Sustainable Development Framework and its EITI Commitment

ICMM respects the rights of sovereign governments to make their own decisions regarding revenue transparency, but recognises the contribution that greater transparency can make to combating corruption and stimulating discussion on the sustainable uses of such revenues. Under ICMM's Sustainable Development Framework, ICMM members are committed to implement policies and practices that seek to prevent bribery and corruption. ICMM members have also endorsed the Extractive Industries Transparency Initiative (EITI) and have committed to the following actions:

- Regular publication of all payments made to governments implementing EITI;
- Support the credible, independent and published audit of these payments;
- Support civil society's engagement in this process; and
- Contribute to the implementation of an agreed public, costed, time-bound action plan, and measure achievements against targets set on the plan on a regular basis.

The commitment to GRI reporting also imposes a number of additional reporting requirements on ICMM member companies, including providing a breakdown of all taxes paid by jurisdiction, all subsidies received, and all donations to community civil society and other groups.

Case study 8

ICMM: The Mining, Minerals and Sustainable Development project

The Mining, Minerals and Sustainable Development (MMSD) project was a key industry initiative which help set the basis for the creation of ICMM in 2001. It was established and sponsored by a number of major mining companies to examine ways to enhance the sector's sustainable development contribution at the global, national, regional and local levels.

Based on an independent two-year process of research, and on a series of consultations held with stakeholders across multiple regions, it also explored the responsibilities of range of actors, including governments, donors and civil society as well as companies.

MMSD was managed by the respected [International Institute for Environment and Development](#) (IIED) in London, under contract to the [World Business Council for Sustainable Development](#). The project began in April 2000 and was designed both to produce concrete results - a final report and a series of working papers - and to create a dialogue process that could be carried forward into the future.

The general objectives of MMSD were as follows:

- First, to assess global mining and minerals use in terms of the transition to sustainable development. This was to cover the current contribution – both positive and negative – to economic prosperity, human well-being, ecosystem health and accountable decision-making, as well as the track record of past practice.
- Second, to identify how the services provided by the minerals system could be delivered in accordance with sustainable development in the future.
- Third, to propose key elements of an action plan for improving the minerals system.
- Fourth – and crucial for long-term impact – to build platforms of analysis and engagement for ongoing cooperation and networking among all stakeholders.

In a project limited in time and resources, these objectives had to be implemented realistically. MMSD did not exist to solve or even to address all the issues that will ever be faced by the mining and minerals industries. Even so, MMSD proposed a clear agenda for global change in the minerals sector - an agenda based on careful analysis, understood and supported by many key stakeholders, and with clear mechanisms for moving forward. In a number of ways its work is now being taken forward by ICMM through the ICMM Sustainable Development Framework and related ICMM projects.

The final report of the MMSD project, *Breaking New Ground* (released in May 2002) is available in hardcopy from [Earthscan Publications](#). Online downloads (as well as other details on the project) are available at www.iied.org/mmsd

Case study 9

AngloGold Ashanti: Exploration in DRC

AngloGold Ashanti has recently faced a significant NGO campaign in regard to its exploration activities in DRC. The company commenced drilling in early 2005, believing that the peace process and the presence of the UN would soon bring positive results to the region of exploration. The company has since been accused by Human Rights Watch (HRW) of having

... established relations with the FNI, an armed group responsible for serious human rights abuses including war crimes and crimes against humanity, and who controlled the Mongbwalu area. In return for FNI assurances of security for its operations and staff, AngloGold Ashanti provided logistical and financial support – that in turn resulted in political benefits – to the armed group and its leaders. The company knew, or should have known, that the FNI armed group had committed grave human rights abuses against civilians and was not a party to the transitional government.

AngloGold Ashanti has publicly refuted many of the allegations raised against it by Human Rights Watch. Whilst it has acknowledged the extorted payment by local representatives of a sum totalling \$8,000 and payments of \$1,100 in landing taxes to the FNI, it has noted that this was in contravention of the company's principles and values, and "in mitigation, it should be noted that as soon as it came to our attention we publicly acknowledged it, condemned it and said it would not happen again." As a commitment to ensuring that this will not reoccur, the company has further stated that "should we find ourselves in a situation where there is pressure on our staff again to yield to extortionate demands, we will consider that to be grounds for our withdrawal from the exploration project".

The company remains actively engaged with Human Rights Watch and other NGOs in working to address human rights issues surrounding its operations in the DRC and elsewhere. As part of its exploration activities in the DRC, it has worked with local stakeholders to establish priorities for development initiatives in the areas of infrastructure redevelopment, education and health. The company is also working on programs to better manage the relationship between large scale mining operations and artisanal and small-scale miners.

The company's public statements present a useful example of the dilemmas posed by operations in conflict zones:

... in contemplating whether to operate in a conflict zone, we believe we have a moral right to do so only if, after due consideration, we can honestly conclude that, on balance, our presence will enhance the pursuit of peace and democracy... We believe that, if our exploration programme does yield a mine, it will be of significant benefit to the DRC government and local communities, by providing revenue, employment and access to social development opportunities... For us, the key is whether we continue to believe that our presence... enhances or obstructs the peace process. We believe that the opening up of economic activity is more likely to enhance it.

Case study 10

BHP Billiton: 'Zero Harm' in Workplace Safety

BHP Billiton owns and operates a diverse range of businesses in different countries and cultures around the world that, by their nature, may affect the health and safety of people, the environment or communities. As stated in the BHP Billiton Charter, the company has an overriding commitment to sustainable development that is pursued through the effective management of Health, Safety, Environment, Community (HSEC) risks. BHP Billiton aspires to Zero Harm and seeks to ensure that its businesses contribute lasting benefits to society through the consideration of health, safety, social, environmental, ethical and economic aspects in all Company decisions and activities.

In the safety area, a review of past fatalities and significant incidents has led to the development of Fatal Risk Control Protocols. The objective of these procedures is to eliminate both fatalities and incidents that could, in slightly different circumstances, cause fatalities. The Protocols are mandatory to all BHP Billiton-controlled sites and operations. Their application must meet the requirements of the company's hierarchical HSEC management system. Achieving Zero Harm in safety is based on the following principles:

- The safety of our people is a value which is not compromised
- Safety excellence is recognised as good business
- Leaders at all levels are safety role models
- Effective safety leadership is a prerequisite for promotion
- People are aware of the hazards and risks in their workplace and act accordingly
- Compliance with safety standards and procedures is absolute
- "At risk" behaviours are not acceptable and are addressed when observed
- Effective skills to lead and work safely are developed through ongoing training and mentoring
- Repeat incidents are evidence of an out of control operation.

Case Study 11

AngloGold Ashanti: Artisanal and Small Scale Mining around Geita Gold Mine

AngloGold Ashanti and the UK's Department for International Development (DfID) have started a new joint initiative attempting to manage the social and environmental problems associated with artisanal and small-scale mining (ASM). The pilot project focuses on Geita Gold Mine in Tanzania and adjacent ASM operators. This partnership and joint initiative is a test case initiative and forms a critical part of developing a broader ASM management strategy for AngloGold Ashanti and its partners.

DfID's involvement in this initiative is in line with the United Nation's Millennium Development Goals (MDGs) of alleviating extreme poverty, reducing child labour and combating HIV/AIDS - problems typically associated with ASM, in addition to those associated with the unsafe use of mercury, environmental degradation, exploitive labour practices and lack of political recognition of ASM operators. Key business drivers for the Geita Gold Mine include: the safety of mine personnel and the public; the environmental and legal protection of the mining lease area; and, the importance of fostering mutually beneficial and trusting relations with host communities.

Case study 12

Newmont Mining Corporation : Public Participation in Independent Environmental Audits

In addition to requiring compliance with applicable laws and regulations, whether local, regional, national or international, Newmont Mining Corporation has also adopted a policy, with defined standards, to provide a globally consistent level of protection for both human health and the environment. These standards cover releases from facilities to ground or surface waters, air emissions, and the protection of terrestrial and aquatic environments, and apply in any country Newmont operates.

To substantiate its commitment to environmental protection, and to demonstrate transparent engagement with stakeholders, Newmont Mining Corporation's Minera Yanacocha operation in Peru agreed to two independent audits of its operations, one conducted under the auspices of the United Nations, the second conducted at the request of local communities through the World Bank Group's Compliance Advisor/Ombudsman (CAO).

In the first instance, an independent environmental audit was requested by the participants in a government-sponsored dialogue process between Minera Yanacocha, civil society, and government. Yanacocha committed to full cooperation with and financing of the audit, with the terms of reference to be developed by the Peruvian Ministry of Energy and Mines. The audit focused on Yanacocha's compliance with applicable Peruvian laws and regulations and with industry good practice from an environmental and socio-environmental perspective. The UN facilitated the audit and managed the selected consultant to complete the work scope; the UN did not engage in the issue resolution process.

An almost parallel audit was conducted based on the recommendation of a mediated dialogue table established by the CAO in response to a formal complaint filed by a local community organization. The dialogue table, comprised of various local stakeholders, requested a water quality and quantity study to be conducted by an independent consultant. The consultant selection and the audit terms of reference were managed by the CAO on behalf of the dialogue table. The consultant conducted an independent scientific study in and around the Yanacocha project area to determine the impact of mining activities on water quality and quantity, as well as water uses by the various communities. The study was based on the collection of environmental media samples (water, soil, etc.) and laboratory analysis and interpretation. Results were evaluated against risks to specific uses.

Both audits, while conducted by separate, independent teams under the direction of different entities, arrived at very similar conclusions: while Yanacocha's mining activities have altered water quality and quantity in some cases, they have not resulted in adverse impacts to any intended uses of water. The audits found that Yanacocha is in general compliance with applicable laws and regulations, but they subjectively identified best practice inconsistencies and recommended some changes to practices and procedures. In both audits, significant emphasis was placed on public involvement, consultation, and participation in recommendation follow-up and verification. These audits led to an improved environmental monitoring and study process, involving public participation, currently in use at Yanacocha today.

Case Study 13

Prospectors and Developers Association of Canada (PDAC)⁷ and Integrated Landscape Management

PDAC was a founding partner in 2003 of the Canadian Integrated Landscape Management Coalition along with the NGO Wildlife Habitat Canada and the Biodiversity Department of the federal Ministry of the Environment (Environment Canada). The coalition now includes representatives of the conservation community, anglers and hunters, resource industries (including mining, forestry and energy), aboriginal peoples, academia, provincial and federal government agencies. The Canadian Integrated Landscape Management Coalition (ILMC) is committed to promoting Integrated Landscape Management (ILM) as a more balanced, practical approach to achieving conservation and development objectives in Canada.

ILM takes traditional approaches, recent progress and the most current identified conservation and development needs and combines them all into a powerful, integrated concept of applying sustainable development to land use.

Current resource management systems have not been especially successful in balancing land and resource use with the need to protect and conserve the natural resources and land base. Instead, resources are generally allocated for development without considering other resources, users or the capacity of the land. There is limited application of time and space considerations, and inadequate assessment and management of cumulative effects.

ILM promotes progressive change that enables significant improvements to systems, delivers results on the land, and provides certainty for improved resource management. It approaches planning from the point of view of whole landscapes, which sets it apart from current systems. ILM optimizes a broad range of economic, social and environmental objectives, and addresses a multitude of industrial, recreational, cultural and other activities. Using ecological thresholds to define limits on impacts or on the intensity of activity is not widely used today but is an essential aspect of ILM. Establishing thresholds is necessary for successfully managing cumulative environmental effects. This is particularly important where these effects result from individual activities of small to modest impact.

All benefits cannot be delivered at all times from a single land base. There will be circumstances where one choice will have to be made at the expense of another. Through the ILM process, such choices are guided by decisions made at the policy and planning stages, before the allocation (disposition) of resources. ILM can also help address situations where conflicts arise among rights that have already been allocated. ILM enables increased integration among departments, allowing for a coordinated, multi-sectoral rights disposition process to determine what rights may be disposed over the geographic area in question, and how the collective rights of various land users could be managed to ensure sustainability.

As a first step to embracing ILM in Canada, the Government of the Yukon Territory in Canada, along with other stakeholders, have agreed to utilize Integrated Landscape Management as part of their land management process, encompassing dialogues with all stakeholders – including communities, Aboriginal or otherwise, and the resources industries.

⁷ The PDAC is an association member of ICMM. The association, in existence since 1932, represents some 4,600 individual members and 560 corporate members involved in the exploration and development stages of the mining industry. The association's annual convention is the largest of its type in the world, with over 14,000 attendees from over 95 countries in 2006.

Case study 14

ICMM: The Challenge of Mineral Wealth initiative

ICMM launched The Challenge of Mineral Wealth initiative with the specific aim of transcending the well-trodden debate about the alleged 'resource curse' by better understanding some clear instances in which mining has had a positive socio-economic impact so that lessons of experience can be identified and disseminated. The project was structured to ensure the independence and credibility of its findings, building on the multi-stakeholder model successfully pioneered by the Mining and Minerals Sustainable Development (MMSD) initiative (**see case study 8**).

First and foremost the design process involved a broad range of stakeholders: NGOs, governments, companies, equator banks, donor agencies, and labor unions. The research was conducted at arms length from ICMM. It was overseen by an independent advisory group, which included government representatives, academics and the UN Global Compact. Two consultancy firms were commissioned to undertake the research in partnership with the United Nations Conference on Trade and Development and the World Bank Group.

Second, the research adopted a rigorous, fact-based approach that documented both successes and failures from mining activity in the selected countries. Phase 1 of the study concentrated on the development of an Analytical Framework focussing on governance processes, including the underlying factors and rules of the game that affect social and economic interactions and outcomes. These aspects were incorporated into a practical Toolkit to assess the impacts (both good and bad) of individual mining projects at local, regional and national levels. Phase 2 applied the Toolkit to four countries (Peru, Chile, Ghana and Tanzania).

Third the research invited the views of a broad range of actors. Two multi-stakeholder workshops were held in London, attended by representatives from NGOs, governments, companies, donor agencies, and unions – and from both developing and developed countries. The feedback received in these workshops was substantive and it influenced the approach and the methods used for the research.

The study has demonstrated conclusively that mining can kick start economic growth in weak or poorly managed low income countries. In countries with weak governance, mining may be the only large private sector activity that can get off the ground in the early years of recovery. The reasons are explained in ICMM's Synthesis Report. The study also found that for two of the four countries: Chile and Ghana, the rate of poverty reduction was significantly faster in those regions where mining activity was concentrated. In Tanzania, the researchers concluded that the period of the mining boom was still too short to reach firm conclusions, while in Peru, the poverty record is generally poor across the country due to poor social development policies. Third, benefits from mining can be significantly enhanced if donors help to build competent local and regional authorities that can interface effectively with companies and communities to ensure that public and private spending is effective at the local level and creates broader socio-economic development.

A recurrent theme of the stakeholder consultations was a call for translating the research recommendations into on-the-ground action. This is now foreseen for Phase 3 of the initiative. This will require action not just from companies, but also from governments, donors and civil society, working together in partnership.

Case study 15

Anglo American's Socio-Economic Assessment Toolbox (SEAT)

As part of its 'Good Citizenship' Business Principles, Anglo American 'seeks to make a contribution to the economic, social and educational well-being of the communities associated with its operations'. To assist operations in meeting this commitment, Anglo American has developed a socio-economic assessment tool box (SEAT).

SEAT equips an operation better to understand the dynamics of its impacts and, having measured them, to manage them creatively. It is also a valuable aid in the task of developing a social dimension to long-term mine closure planning. It enables operations to meet the reasonable expectations of their key stakeholders. Where operations deplete a natural resource, SEAT enables operations to balance this consumption with an enhancement of the human and social capital of the places in which they work. The SEAT process is divided into four key stages, each comprised of a number of steps and associated tools:

- Stage 1: Profiling the Anglo operation and associated communities and identify key issues (positive and negative)
- Stage 2: Identifying and assessing socio-economic impacts and sharing results with stakeholders. This process should include impacts that can be measured in both quantitative and qualitative terms.
- Stage 3: Developing management responses to key issues, including planning for eventual closure.
- Stage 4: Reporting the results of the assessment.

Over 20 separate tools have been developed to help operations implement the SEAT process. Stakeholder engagement is a vital part of the SEAT process and, as such, features in many of the tools. The results of the SEAT process are intended to inform the development of Community Engagement Plans at operations. The establishment of key performance indicators in management plans enables Anglo operations to track performance and provide valuable information in preparing the company's sustainability reports.

The SEAT process is aimed at existing operations. For new operations and major expansions, Anglo American requires full Social Impact Assessments (SIA) to be undertaken as required by legislation in many countries. The SEAT process mirrors the basic structure of a full SIA. The key difference lies in the level of detail undertaken for each stage within this basic process. While not explicitly identified, the SEAT process is also able to identify human rights risks as well as opportunities for Anglo American to contribute to the promotion of human rights within the sphere of influence of its operations. Through the implementation of the SEAT process, Anglo American aims to enhance the long-term economic and social sustainability of the communities around its operations and to establish the basis for more sustainable partnerships.