ICMM PERFORMANCE EXPECTATIONS

Outcome of the public consultation
Every effort has been made to verify the accuracy of the information contained in this report. All information was believed to be correct as of September 2018. International Council on Mining and Metals cannot accept responsibility for the consequences of its use for other purposes or in other contexts.
In 2003, ICMM published 10 Principles for sustainable development to inspire change in the industry and promote improved performance across our membership. These set a standard of good practice for our members and in some respects also helped raise performance across the wider mining and metals industry.

Over time, we developed eight Position Statements on specific issues like biodiversity, water stewardship and revenue transparency that established more specific memberships requirements in each of the areas they address.

However, as the industry has improved its performance over time, societal expectations have continued to evolve. In 2017, our membership at the highest level engaged in a discussion on whether the expectations of ICMM members had kept pace with societal expectations and still represented a leadership position. The conclusion was that there were gaps, which started a robust process of debate about how best to strengthen the membership proposition.

The direction from our Council, comprising the CEOs of our member companies, was to develop a more comprehensive set of requirements for how members are expected to manage a broad range of sustainability issues, that could be validated at site level. They also directed us to engage external stakeholders to contribute to their development through a consultation process earlier this year.

We are extremely grateful for the time and thought that has gone into the feedback from the 263 interested parties on the draft performance expectations that is summarised in this paper. While we will carefully consider the views of respondents we will not be able to incorporate all of them. However, the feedback will help us to better frame the performance expectations and will also support us as we develop the guidance on implementation.

Ultimately, this feedback will help shape a revised benchmark for responsible mining practices that members, and other responsible mining and metals companies, can publicly commit to, which we expect to complete in the first half of next year.

Once again, we thank all respondents for their contribution to the process. We hope that you will continue to take a keen interest in our performance expectations and ICMM’s work more generally.

Aidan Davy
Chief Operating Officer
In early April 2018, The International Council on Mining and Metals (ICMM) launched a global public consultation on the introduction of new performance expectations that company members of ICMM can commit to. The objective of the consultation process was to obtain views from individuals and organisations to help us improve the environmental and social performance of the mining and metals industry.

An online survey was available in English, French, Portuguese, Spanish and Japanese and the consultation process closed on Friday, 18 May 2018. This short report summarises the feedback from the 263 respondents to that consultation process (or consultees).

**About ICMM**

ICMM is an international organisation dedicated to a safe, fair and sustainable mining and metals industry. Bringing together 27 companies – and over 30 regional and commodities associations – we support mining with principles to sustainably manage the natural resources of our planet, and enhance the wellbeing of local communities.

Every ICMM company member currently implements our 10 Principles and 8 Position Statements on specific issues such as water and Indigenous Peoples. These are recognised as a good practice framework for the mining and metals industry. Currently, company members report annually on their sustainable development performance, and their reports are independently assured to confirm that they meet our high membership requirements.

**Why did we launch the consultation?**

ICMM are considering how to further improve the membership requirements to provide greater confidence in the steps members take to implement our Principles at an operational level.

Through this consultation, which is directed at external stakeholders, we aim to develop a more comprehensive set of requirements for how members are expected to manage a broad range of sustainability issues with appropriate site level validation.

The consultation process was designed to obtain feedback from a broad range of external stakeholders on 38 discrete performance expectations (grouped under ICMM’s 10 Principles for sustainable development) that we hope will set a benchmark for responsible business practices in the mining and metals sector.
Who responded to the consultation process and how?

263 respondents from 30 countries completed the survey. We asked people to provide feedback on up to 38 performance expectations. Most provided feedback on all or many of the performance expectations, but others were more selective in providing feedback. The numbers of respondents on individual performance expectations ranged from 205 to 263.

In inviting people to provide feedback, we clearly stated ICMM’s objective was to set a benchmark for responsible mining practices that members, and other responsible mining and metals companies, can publicly commit to. In that context, consultees were asked to rate individual performance expectations as follows:

1 = Falls well-below my expectation of what a responsible mining company should be doing
2 = Falls below my expectation of what a responsible mining company should be doing
3 = Meets my expectation of what a responsible mining company should be doing
4 = Exceeds my expectation of what a responsible mining company should be doing
5 = Far exceeds my expectation of what a responsible mining company should be doing

Through this process the intention was to gauge the perceived adequacy of the performance expectations relative to stakeholder expectations of responsible mining and metals companies.

Overall, what was the tone of the feedback received?

Overall the feedback was positive and constructively critical. The average rating by all respondents on each individual performance expectation ranged between 2.9 and 3.2 (noting that a rating of 3 equates to ‘meets my expectation of what a responsible mining company should be doing’).

Most respondents did not self-identify with a particular organisational type (e.g. industry, NGO, international organisation, etc). However, where they did the results show differences in the average ratings between different categories of respondents. For example, 20 of the 263 respondents identified as non-member mining companies, 19 as international organisations, and 30 as NGOs/ not-for-profit organisations. The average ratings for these three groups respectively were 3.2, 2.9 and 2.8.

We did not analyse responses by every country, as we had responses from 30 countries – in some cases just 1 respondent per country. The countries with the
highest number of respondents were the United Kingdom (39), Canada (31) and Australia (21). The average ratings from these three countries were 3.1, 2.9 and 2.9 respectively.

For each of the 10 Principles, we have provided a figure that summarises the feedback from consultees on the performance expectations linked to the principle. This shows the percentage of respondents that rated each performance expectations as 1, 2, 3, 4 or 5. This shows at a glance whether the wording of a performance expectations was satisfactory (rated 3, 4 or 5) from the perspective of a clear majority of respondents (75 per cent or more). Where more than 25 per cent of respondents rated the wording of a performance expectation as ‘falling below their expectations’ (rated 2 or 3), this can also be seen at a glance.

Below the figures for each of the 10 Principles, we have provided the wording of the performance expectations as it appeared in the consultation draft, alongside a summary of the comments from consultees. Where only a single respondent made a comment, these are not presented. Where two or more consultees made a similar point, this is reflected. Where more than 25 per cent of respondents rated the wording of a performance expectation as ‘falling below their expectations’ we have made a specific note to this effect.

**What happens next?**

ICMM committed to compiling a summary of the feedback from external stakeholders and publishing it on the ICMM website. This document serves that purpose. We plan to email consultation participants with a link to the survey results.

We are now in the process of looking at the final wording of the performance expectations, especially where more than 25 per cent of respondents rated the wording of a performance expectation as ‘falling below their expectations’. In such cases (and conversely where less than 75 per cent expressed satisfaction), these draft performance expectations were flagged as meriting close attention in determining how best to respond. The feedback from the public consultation is being discussed at various levels within the membership, most importantly with ICMM’s Council, comprising the CEOs of our member companies. In addition, we are in the process of developing guidance to support implementation of the performance expectations – including support for companies to self-assess progress with implementing them, or to have an independent 3rd party undertake that assessment.

We expect the process to be completed in the first half of 2019 at which point the performance expectations should become part of the membership requirements of ICMM. Once they come into effect, the performance expectations should set a benchmark for responsible mining practices that ICMM members, and other responsible mining and metals companies, can publicly commit to.
PRINCIPLE 1

Apply ethical business practices and sound systems of corporate governance and transparency to support sustainable development.

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<tr>
<th>Performance expectations</th>
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| PE1.1 Establish systems to maintain compliance with applicable law. | Several consultees suggested that legal compliance is a minimum expectation, so this should be guaranteed, but they also would expect ICMM members to go beyond these basic requirements. Some recognised that law is inadequate in some countries – and therefore companies should comply with international best practice.  
**Note:** The consultation draft included a footnote to the effect that ‘ICMM’s member companies already comply with all applicable law in the countries that they operate in. However, many stakeholders say they want mining companies to show that they have strong systems that ensure legal compliance’. |
| PE1.2 Implement policies and practices to prevent bribery, corruption and to publicly disclose facilitation payments. | Some consultees requested further detail about the practices to prevent bribery and corruption and others also suggested complete prevention of facilitation payments. |
| PE1.3 Implement policies and standards consistent with the ICMM policy framework. | Some consultees encouraged extending this to include member management systems. |
| PE1.4 Assign accountability for sustainability performance at the Board and/or Executive Committee level. | Feedback was broadly positive, but it was suggested that this performance expectation would fit better elsewhere under a different principle. |
| PE1.5 Disclose the value and beneficiaries of financial and in-kind political contributions whether directly or through an intermediary. | Some consultees suggested revenue disclosure should also be included, but overall the response was positive.  
**Note:** Revenue disclosure is dealt with in PE10.2 |
PRINCIPLE 2

Integrate sustainable development in corporate strategy and decision-making processes.

Performance expectations

| PE2.1 | Integrate sustainable development principles into corporate strategy and decision-making processes relating to investments and to the design, operation and closure of facilities. |
| PE2.2 | Promote the adoption of responsible health and safety, environmental, human rights and labour policies and practices by joint venture partners, suppliers and contractors, based on risk. |

Summary of consultation feedback

Some consultees suggested stronger language be included than 'integrate' and that the principles 'should underpin the very fabric of good business decision-making' to result in more positive outcomes.

Some consultees felt that 'promote is a fairly weak aspiration' and suggested other language such as 'ensure', 'require' and 'mandate'. Some requested clarification on (or the removal of) 'based on risk' and broadening to include all business partners.

Note: PE 2.2 is one of seven PEs that fell below expectations for >25% of respondents.
Respect human rights and the interests, cultures, customs and values of employees and communities affected by our activities.

### Performance expectations

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<td><strong>PE3.1</strong> Support the UN Guiding Principles on Business and Human Rights by developing a policy commitment to respect human rights, undertaking human rights due diligence and providing for or cooperating in processes to enable the remediation of adverse human rights impacts that members have caused or contributed to.</td>
<td>Some consultees suggested strengthening the language since ‘the word ‘support’ is weak’ and consider alternatives such as ‘implement’ or ‘commit to’.</td>
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<td><strong>PE3.2</strong> Avoid the involuntary physical or economic displacement of families and communities. Where this is not possible apply the mitigation hierarchy and implement actions or remedies that address residual adverse effects.</td>
<td>Some consultees suggested strengthening wording from ‘avoid’ to ‘prevent’ or that it is ‘never acceptable’. It was perceived that addressing residual adverse impacts was ‘vague’ and required more clarity. The PE should also commit to leaving project-affected communities better off (in line with IFC’s Performance Standard 5). <strong>Note:</strong> PE 3.2 is one of seven PEs that fell below expectations for &gt;25% of respondents.</td>
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<td><strong>PE3.3</strong> Implement, based on risk, a human rights and security approach consistent with the Voluntary Principles on Security and Human Rights.</td>
<td>Some consultees requested further clarification or removal of ‘based on risk’ to extend the implementation of the Voluntary Principles ‘across all company operations’.</td>
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<td>PE3.4 Respect the rights of workers by: not employing child or forced labour; avoiding human trafficking; not assigning hazardous/dangerous work to those under 18; eliminating harassment and discrimination; respecting freedom of association and collective bargaining; and providing a mechanism to address workers grievances.</td>
<td>Some consultees suggested the wording should say elimination of child labour and forced labour. The focus on human trafficking should also apply to the supply chain. Others considered that 'it may be worth adjusting the 18-year threshold'.</td>
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<td>PE3.5 Remunerate employees with wages that equal or exceed legal requirements or represent a competitive wage within that job market (whichever is higher), and by assigning regular and overtime working hours within legally required limits.</td>
<td>Some consultees requested making reference to a 'living wage' and to specify the maximum number of working hours.</td>
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<td>PE3.6 Respect the rights, interests, aspirations, culture and natural resource-based livelihoods of Indigenous Peoples in project design, development and operation; apply the mitigation hierarchy to address adverse impacts; and deliver sustainable benefits for Indigenous Peoples.</td>
<td>Some consultees suggested that this PE should extend to all communities. Some concern was expressed over the use of the mitigation hierarchy in a social context which should be clarified.</td>
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<td>PE3.7 Work to obtain the free, prior and informed consent of Indigenous Peoples where significant adverse impacts are likely to occur, as a result of relocation, disturbance of lands and territories or of critical cultural heritage, and capture the outcomes of engagement and consent processes in agreements.</td>
<td>Some consultees requested that FPIC 'must’ always be obtained rather than the current wording of ‘work to’ obtain. Some consultees were concerned that ‘significant adverse impacts’ narrows the scope of FPIC and that it should be regardless of impact. Others suggested FPIC should be broadened to all project-affected communities. <strong>Note:</strong> PE 3.7 is one of seven PEs that fell below expectations for &gt;25% of respondents.</td>
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<td>PE3.8 Implement policies and practices to respect the rights and interests of women and support diversity in the workplace.</td>
<td>Some consultees suggested this should be strengthened, especially in relation to disclosure and addressing the gender pay gap. Some suggested a need for clarification as to whether the PE extends to all women or just workers.</td>
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**PRINCIPLE 4**

Implement effective risk-management strategies and systems based on sound science and which account for stakeholder perceptions of risks.

### Performance expectations

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<th><strong>PE4.1</strong></th>
<th>Undertake environmental and social impact assessments (ESIAs) as required for new projects or significant changes to existing operations in consultation with interested and affected stakeholders, and publicly disclose ESIA reports.</th>
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<td><strong>PE4.2</strong></td>
<td>Undertake risk-based due diligence on conflict and human rights that aligns with the OECD Due Diligence Guidance on Conflict Affected and High Risk Areas, when operating in, or sourcing from, a conflict-affected or high risk area.</td>
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<td><strong>PE4.3</strong></td>
<td>Implement risk-based controls to avoid/prevent, minimise, mitigate or remedy health, safety and environmental impacts to workers, local communities, cultural heritage and the natural environment, based upon a recognised international standard or management system.</td>
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<td><strong>PE4.4</strong></td>
<td>Develop, maintain and test emergency response plans. Where risks to external stakeholders are significant, this should be in collaboration with potentially affected stakeholders and consistent with established industry good practice.</td>
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### Summary of consultation feedback

Some consultees expressed concern over the qualifier ‘as required’ and emphasised the need for ESIAs to be in line with international best practice. Some encouraged strengthening disclosure, transparency, and emphasised accessibility of community communications. Some suggested explicitly including health to as part of the scope of ESIAs.

**Note:** The footnote to PE 4.1 states: These should cover issues such as air, water, biodiversity, noise and vibration, health, safety, human rights, gender, cultural heritage and economic issues. The consultation process should be gender sensitive and inclusive of marginalised and vulnerable groups.

Some consultees suggested that due diligence should be carried out regardless of the location of operation or origin of materials sourced.

Some consultees requested further clarification and a clear outcome from application of risk-based controls. Others suggested that ‘mitigate or remedy’ should be ‘mitigate and or remedy’.

Some consultees suggested considering climate risks in relation to emergency response plans. Others expressed concern that the determination risk enables the company to decide what is significant.
PRINCIPLE 5

Pursue continual improvement in health and safety performance with the ultimate goal of zero harm.

Performance expectations | Summary of consultation feedback
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PE5.1 Implement practices aimed at continually improving workplace health and safety, and monitor performance for the elimination of workplace fatalities, serious injuries and prevention of occupational diseases. | Some consultees suggested the wording should emphasise achieving a positive impact on workers’ wellbeing and go beyond zero harm. Others encouraged an explicit reference to a management system and or good practice.

PE5.2 Provide workers with training in accordance with their responsibilities for health and safety, and implement health surveillance and risk-based monitoring programmes based on occupational exposures | No recurring suggestions from consultees. One suggested introducing ‘competence-based training’.
## PRINCIPLE 6

Pursue continual improvement in environmental performance issues, such as water stewardship, energy use and climate change.

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| **PE6.1** Plan for closure in consultation with relevant authorities, internal and external stakeholders to address environmental and social aspects and make financial provision to enable agreed closure and post-closure commitments to be realised. | Some consultees indicated a need to focus on design, implementation and periodic review as well as planning. Others requested a commitment to specific outcomes (e.g. ecological, relinquishment, etc.) and to mention financial provisioning.  
**Note:** PE 6.1 is one of seven PEs that fell below expectations for >25% of respondents. |
| **PE6.2** Implement water stewardship practices that provide for strong and transparent water governance, effective management of water at operations, and collaboration with others to achieve responsible and sustainable water use. | Some consultees were concerned that aspects of the position statement have been downgraded and that the ‘language is not strong and clearly defined as in the other principles’.  
**Note:** PE 6.2 is one of seven PEs that fell below expectations for >25% of respondents. It is important to note that ICMM’s position statement on water stewardship will remain in effect. |
| **PE6.3** Design, construct, operate, monitor and decommission tailings disposal/storage facilities using comprehensive, risk-based management and governance practices in line with internationally recognised good practice, to minimise the risk of catastrophic failure. | Some consultees wanted to see discharge limits being specified. Others indicated that riverine tailings disposal should be prohibited.  
**Note:** PE 6.3 is one of seven PEs that fell below expectations for >25% of respondents. The footnote states that ‘Riverine tailings, freshwater lake and/or shallow marine tailings disposal may be considered only if deemed to be the most environmentally and socially sound alternative, based on an objective and rigorous environmental and social impact assessment of tailings management alternatives. The scope of the assessment should be agreed between the member company and the host government’. |
| **PE6.4** Apply the mitigation hierarchy to prevent pollution, manage releases and waste, and address potential impacts on human health and the environment. | Some consultees suggested specifying acceptable emission levels and a requirement to engage communities in monitoring.  
Mixed responses on whether the mitigation hierarchy incentivises environmental protection. |
| **PE6.5** Implement measures to improve energy efficiency and contribute to a low-carbon future, and report the outcomes based on internationally recognised protocols for measuring CO₂ equivalent [GHG] emissions. | Some consultees requested the inclusion of specific targets. |
**PRINCIPLE 7**

Contribute to the conservation of biodiversity and integrated approaches to land use planning.

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<td>PE7.1 Neither explore nor develop new mines in World Heritage Sites, respect legally designated protected areas, and design and operate any new operations or changes to existing operations to be compatible with the value for which such areas were designated.</td>
<td>Some consultees suggested that the no-go commitment should extend beyond WHSs to include other protected areas, KBAs, or special mention of protection for other areas. There were also requests for a stronger definition of 'respect', with some proposing this should reference 'No Net Loss' or 'Net Gain'.</td>
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<td>PE7.2 Address potential adverse impacts on biodiversity, in particular adverse impacts on Critical Habitat, through applying the mitigation hierarchy, supported by biodiversity action plans for sites with high conservation values.</td>
<td>Several consultees requested a more explicit reference to desired outcomes (e.g. No Net Loss or Net Gain), especially for natural habitat. Others requested specific emphasis on the ‘avoidance and restoration’ steps of mitigation hierarchy and the need to address impacts on ecosystem services. <strong>Note:</strong> PE 7.2 is one of seven PEs that fell below expectations for &gt;25% of respondents.</td>
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**PRINCIPLE 8**

Facilitate and support the knowledge-base and systems for responsible design, use, re-use, recycling and disposal of products containing metals and minerals.

**Performance expectations**

**PE8.1**  In project design, operation and de-commissioning, implement cost-effective measures for the recovery, re-use or recycling of energy, natural resources, and materials.

**PE8.2**  Assess the hazards of the products of mining according to UN Globally Harmonised System of Hazard Classification and Labelling or equivalent relevant regulatory systems and communicate through safety data sheets and labelling as appropriate.

**Summary of consultation feedback**

Some consultees suggested that ‘measures should not only be cost-effective but also effective’. Several observed that companies are not well-advanced in this area which requires innovative approaches. Others emphasised the need for this to be included in the corporate strategy, business model or concept phase.

Feedback from consultees included the need to address (rather than assess) hazards and questions concerning the credibility of the UN system.
### PRINCIPLE 9

**Pursue continual improvement in social performance and contribute to the social, economic and institutional development of host countries and communities.**

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<td>PE9.1 Implement inclusive approaches with local communities to identify their development priorities and support activities that contribute to their lasting social and economic wellbeing, in partnership with government, civil society and development agencies, as appropriate.</td>
<td>Some consultees suggested explicitly referring to ‘social and economic wellbeing post-closure’ and that local communities may need some capacity building to effectively participate in development planning. The need to recognise and mitigate unintended consequences from company economic and social investments was identified.</td>
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<td>PE9.2 Enable access by local enterprises to procurement and contracting opportunities across the project life-cycle, both directly and by encouraging larger contractors and suppliers, and also by supporting initiatives to enhance economic opportunities for local communities.</td>
<td>Several consultees suggested requiring capacity building/training and support (including financial), so local enterprises can take advantage of opportunities. Some requested incorporating the need to mitigate the risk of corruption, abuse and patronage in local procurement programmes.</td>
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<td>PE9.3 Conduct stakeholder engagement based upon an analysis of the local context and provide local stakeholders with access to effective mechanisms for seeking resolution of grievances related to the company and its activities.</td>
<td>Some consultees suggested stakeholder engagement should be throughout the project lifecycle. Others suggested that mechanisms for seeking resolution of grievances should be ‘effective’ and ‘culturally appropriate’.</td>
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<td>PE9.4 Collaborate with government, where appropriate, to support improvements in environmental and social practices of local Artisanal and Small-scale Mining (ASM).</td>
<td>Some consultees suggested explicitly requiring engagement with ASM miners, not just government. Others requested that companies should be required to help ASM miners formalise and ‘improve economically [incentivise legalisation]’.</td>
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PRINCIPLE 10

**Performance expectations** | **Summary of consultation feedback**
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PE10.1 Identify and engage with key corporate-level external stakeholders on sustainable development issues in an open and transparent manner. | No substantive comments received.

PE10.2 Publicly support the implementation of the Extractive Industries Transparency Initiative (EITI) and compile information on all material payments, at the appropriate levels of government, by country and by project. | Some consultees commented with discrete points.

PE10.3 Report annually on economic, social and environmental performance at the corporate level using the GRI Sustainability Reporting Standards. | Several consultees suggested reporting at the corporate level is insufficient and it should also be done at the project/asset level. Some suggested reporting to GRI is too low a bar as the requirements are not detailed enough. Others expressed concern that GRI reporting is aimed at ‘the wrong people’ and that it should be aimed at local people materially impacted by mines.

PE10.4 Each year, conduct independent assurance of sustainability performance following the ICMM guidance on assuring and verifying membership requirements. | Some consultees suggested that reporting on the assuring and verifying of membership requirements should be public and detailed enough to ‘improve transparency’.
ICMM is an international organisation dedicated to a safe, fair, and sustainable mining and metals industry. Bringing together 27 companies – and over 30 regional, national, and commodities associations – we support mining with principles to sustainably manage the natural resources of our planet, and enhance the wellbeing of local communities.