Transparency of Mineral Revenues

Position Statement
ICMM company members are committed to contributing to the sustainable development of the countries and communities in which they operate. A major focus of ICMM’s work is to explore ways to enhance the development contribution of member companies, by enabling the potential social, economic and institutional benefits of mining to be realised. ICMM considers that transparency of mineral revenues should be integral to such efforts.

ICMM respects the ultimate right of sovereign governments to make decisions regarding revenue transparency, and recognises the contribution that greater transparency can make to enhanced governance, combating corruption and ensuring that mineral revenues foster more sustainable growth and reduce poverty. Given the importance of revenue transparency for well-functioning economies and good governance, ICMM members will strive to positively engage with governments and civil society organisations that are committed to revenue transparency.

The Extractive Industries Transparency Initiative (EITI) has established a global standard for monitoring and reconciling tax revenues paid by oil, gas and mining companies. It also provides for disclosure of information on licences, contracts, production and other key elements around resource extraction, with the oversight of national multi-stakeholder groups. In doing so, it supports improved governance in resource-rich countries. EITI is a coalition of governments, companies, civil society groups, institutional investors and international organisations. ICMM is supportive of the EITI and of the EITI Principles, established in 2003, that are the cornerstone for the initiative.
The EITI is now supported by complementary laws in several jurisdictions requiring public disclosure of payments on a company-by-company, country-by-country and project-by-project basis.

In October 2021, ICMM updated this position statement with enhanced member commitments around contract disclosure (commitment 6). The update brought ICMM policy in line with, and went beyond requirement 2.4 of the 2019 Extractive Industries Transparency Initiative (EITI) Standard. The position statement goes beyond EITI’s requirement 2.4 which only requires the disclosure of contracts granted, entered into or amended from 1 January 2021 onwards in the countries that implement the EITI. This position statement commits ICMM members to disclose mineral development contracts granted or entered into from 1 January 2021 in all countries in which ICMM members operate. Members are also encouraged, but not required, to disclose contracts granted, entered into or amended prior to January 2021. It is expected that members will implement Commitment 6 by January 2022.

Relationship between the ICMM Mining Principles and Position Statements

All ICMM company members are expected to implement ICMM’s Mining Principles as a condition of membership. Incorporating comprehensive environmental, social and governance requirements, robust site-level validation of performance expectations and credible assurance of corporate sustainability reports, ICMM’s Mining Principles seek to maximise benefits to host communities and minimise negative impacts to effectively manage societal challenges.

Principles of particular relevance to revenue transparency are:

— **Principle 1**: Apply ethical business practices and sound systems of corporate governance and transparency to support sustainable development.

— **Principle 10**: Proactively engage key stakeholders on sustainable development challenges and opportunities in an open and transparent manner. Effectively report and independently verify progress and performance.

Since 2003, Position Statements have been developed to clearly articulate member commitments on a number of critical industry challenges. Position Statements are endorsed by the ICMM Council and include specific commitments that members must implement, alongside the Performance Expectations.

This Position Statement sets out ICMM members’ approach to revenue transparency. It builds upon, and replaces, four earlier ICMM statements on the EITI (dating from 2003, 2005, 2006 and 2009).

---

1. This commitment on contract disclosure was approved by ICMM’s Council on 1 September 2021. From this date onwards, ICMM decisions are adopted on a ‘conform-or-explain’ basis where at least 75 per cent of its members commit to conform with the position in the stated timeframe at the time of approval. There may be reasonable grounds why certain ICMM members cannot commit to positions at the time of approval. Those members have 12 months (in this case, by 31 August 2022) to either adopt the approved position or publicly explain the reasons why they cannot.
ICMM members recognise:

— ICMM research conducted in partnership with the World Bank and UNCTAD, has demonstrated that mining investments can help trigger economic growth and poverty reduction in developing countries, if pursued in parallel with appropriate policy and institutional reforms. Conversely, a high level of dependence on natural resource revenues can present significant governance and macro-economic management challenges.

— ICMM’s research has demonstrated that targeted macro-economic reforms and improved mining legislation can enhance the development impact of mining investments at the national and local levels. Transparency should be an important part of these reforms and transparency of revenue payments to governments is a necessary, although only partial, condition for development effectiveness.

— Increased transparency is most beneficial when pursued as part of broader governance improvement programmes in order to deliver long-term economic growth and poverty alleviation. A related aspect is the implementation of policies and procedures to ensure that revenues are managed effectively.

— The current country-level focus of initiatives such as EITI is an important step towards improving transparency. In the longer term, ICMM members are willing to work with others to build on national initiatives to broaden the coverage and spread of good governance.

— Where there are provisions for a proportion of mineral revenues to be returned to specific mining regions and this does not then occur, or is perceived not to have occurred, it can lead to a decline in trust and deterioration in the investment environment. Where such arrangements exist and returns take place without adequate capacity at the appropriate administrative level for the management of such revenues, this can also adversely affect trust and the investment environment.
In addition to existing commitments under the ICMM Mining Principles, ICMM company members commit to:

1. Include a clear endorsement of efforts at the international level to enhance the transparency of mineral revenues, including EITI, on their website and/or in their sustainable development reports. To submit a completed international-level self-assessment form to the EITI Secretariat for posting on the EITI website.

2. Engage constructively in countries that are committed to implementing EITI, consistent with the multi-stakeholder process adopted in each country.

3. Compile information on all material payments by country and by project at the appropriate levels of government. In the case of EITI implementing countries, this should be provided to the body assigned responsibility for reconciling details of payments by companies and revenue data provided by government according to the agreed national template. Material payments by companies are expected to have been independently audited, applying international standard accounting practices.

4. Support the public disclosure (ie publication) of material payments by country and by project. For EITI, this should be in line with the implementation approach adopted in-country.

5. Engage constructively in appropriate forums to improve the transparency of mineral revenues – including their management, distribution or spending either individually or collectively through ICMM.

6. Disclose all mineral development contracts granted or entered into from 1 January 2021 that they have signed with host governments, where such disclosure is not prohibited by law or regulation.

2. At a minimum, the mineral development contract should be published in an official language of the host country. If authorised translations of the mineral development contract exist in other languages, the company member is encouraged to publish those translations.

3. The term mineral development contract means:
   i. The full text of any contract, concession, production-sharing agreement or other agreement granted by, or entered into by, the government which provides the terms attached to the exploitation of mineral resources.
   ii. The full text of any annex, addendum or rider which establishes details relevant to the exploitation rights described in (i) or the execution thereof.
   iii. The full text of any alteration or amendment to the documents described in (i) and (ii).

4. Joint venture companies that are majority owned by ICMM members (either singly or jointly) are encouraged to implement this commitment.

5. Where there is an explicit confidentiality agreement or contractual provision, prohibiting the disclosure in whole or in part of the contract, any disclosure shall be subject to prior written consent from the counterparty to such agreement. In such case, company members will encourage the government, the counterparty, its partners, shareholders, or any other third party also covered by the confidentiality agreement, to provide consent to the company member for the contract to be disclosed. If consent is granted, company members will publish links to their mineral development contracts in an accessible place and format. Redactions to provisions in contracts on the basis of commercial or technical confidentiality or sensitivity may be justified in limited circumstances. If made, such redactions should be clearly marked with the reason for such redaction.
This publication contains general guidance only and should not be relied upon as a substitute for appropriate technical expertise. Although reasonable precautions have been taken to verify the information contained in this publication as of the date of publication, it is being distributed without warranty of any kind, either express or implied. This document has been prepared with the input of various International Council on Mining and Metals (ICMM) members and other parties. However, the responsibility for its adoption and application rests solely with each individual member company. At no stage does ICMM or any individual company accept responsibility for the failures or liabilities of any other member company, and expressly disclaims the same. Each ICMM member company is responsible for determining and implementing management practices at its facility, and ICMM expressly disclaims any responsibility related to determination or implementation of any management practice.

Each ICMM member company is responsible for determining and implementing management practices at its facility, and ICMM expressly disclaims any responsibility related to determination or implementation of any management practice. Moreover, although ICMM and its members are committed to an aspirational goal of zero fatalities at any mine site or facility, mining is an inherently hazardous industry, and this goal unfortunately has yet to be achieved.

In no event shall ICMM (including its officers, directors, and affiliates, as well as its contributors, reviewers, or editors to this publication) be liable for damages or losses of any kind, however arising, from the use of or reliance on this document, or implementation of any plan, policy, guidance, or decision, or the like, based on this general guidance. ICMM, its officers, and its directors expressly disclaim any liability of any nature whatsoever, whether under equity, common law, tort, contract, estoppel, negligence, strict liability, or any other theory, for any direct, incidental, special, punitive, consequential, or indirect damages arising from or related to the use of or reliance on this document.

The responsibility for the interpretation and use of this publication lies with the user (who should not assume that it is error-free or that it will be suitable for the user’s purpose) and ICMM. ICMM’s officers and directors assume no responsibility whatsoever for errors or omissions in this publication or in other source materials that are referenced by this publication, and expressly disclaim the same.

Except where explicitly stated otherwise, the views expressed do not necessarily represent the decisions or the stated policy of ICMM, its officers, or its directors, and this document does not constitute a position statement or other mandatory commitment that members of ICMM are obliged to adopt.

ICMM, its officers, and its directors are not responsible for, and make no representation(s) about, the content or reliability of linked websites, and linking should not be taken as endorsement of any kind. We have no control over the availability of linked pages and accept no responsibility for them.

The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of ICMM, its officers, or its directors concerning the legal status of any country, territory, city or area or of its authorities, or concerning delimitation of any frontiers or boundaries. In addition, the mention of specific entities, individuals, source materials, trade names, or commercial processes in this publication does not constitute endorsement by ICMM, its officers, or its directors.

This disclaimer should be construed in accordance with the laws of England.

ICMM stands for mining with principles.

We bring together a third of the global metals and mining industry, along with key partners to drive leadership, action and innovation for sustainable development, ultimately delivering a positive contribution to society.

Through collaboration, ICMM member companies set the standard for responsibly produced minerals and metals in a safe, just and sustainable world.