

Bettercoal Code 2.0 Guidance

January 2021



Working towards a
global *responsible* coal
supply chain

Bettercoal Code 2.0 Guidance

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01 Introduction

BACKGROUND

Bettercoal is a global not-for-profit membership-based organisation set up to promote the continuous improvement of sustainability performance in the mining and sourcing of coal. Bettercoal is working towards a coal supply chain that protects the environment, respects the rights of the people, and contributes to the livelihoods of workers and communities.

PURPOSE

The Bettercoal Code 2.0 Guidance document accompanies the Bettercoal Code 2.0 and was developed to help Bettercoal Suppliers (referred to in this document as companies) and Bettercoal Assessors understand and interpret the requirements of the Bettercoal Code 2.0 and the steps needed to implement it, also enabling a consistent approach from one Site-Assessment to another.

SCOPE

This guidance document is relevant for any company being assessed under the Bettercoal Code 2.0. The document addresses and provides guidance on each of the 144 provisions of the 12 principle Bettercoal Code, with explanations on the requirements themselves and how the Assessment Team decides on which performance determination to rate the provision, along with explained means of verification.

In terms of structure, each principle is presented as follows:

1. Principle introduction.
2. Principle category (sub-heading) introduction.
3. Provisions within category – each with an explanation and guidance on how the Assessor determines the performance against the provision (the ‘performance determination’).
4. Verification methods for category, with guidance on how the Assessment Team would verify the performance determination for the provision, including data collection method, examples, and types of evidence and information collected during the Site-Assessment.
5. Reference to other Code principles and provisions for the category.
6. Further information for entire category with relevant and useful references with weblinks.

PERFORMANCE DETERMINATION METHODOLOGY

The company’s performance against the Bettercoal Code 2.0 is rated according to its level of conformance with each Provision of the Code, as follows:

Meets

- › The company has developed, documented, and fully implemented the system (including policies, processes and procedures) needed to meet the expectations of the Bettercoal Code, as reflected in the Provision.
- › Where the Provision requires conducting specific activities (e.g. communication and public endorsement, risk and impact assessments, stakeholder engagement, etc.), the company can provide evidence of such activities being undertaken, in accordance with all requirements defined in the Provision.
- › The company’s system covers 100% of the workforce / business partners / stakeholders / operations in scope of the Provision.

- › Where the Provision includes multiple sub-requirements, all of the sub-requirements are met. For example, see [Provision 6.3 on Employment Terms](#).
- › No findings are identified.

Substantially Meets

- › The company has developed the system (including policies, processes and procedures) needed to meet the expectations of the Bettercoal Code, as reflected in the Provision. The system is sufficiently detailed or requires only minor improvements, but the implementation of the system is not fully complete.
- › The company's system covers at least 75% of the workforce / business partners / stakeholders / operations in scope of the Provision.
 - › For example, [Provision 1.4 on Whistle-Blowing Mechanism](#): at least 75% of the company's employees and other stakeholders sampled should be informed about the whistle-blowing mechanism and whistle-blower protection, in order for the company to achieve a rating of 'Substantially Meets'.
- › Where the Provision requires conducting specific activities (e.g. communication and public endorsement, risk and impact assessments, stakeholder engagement, etc.), non-systemic isolated incidents of gaps or lapses in implementation are identified.
- › Where the Provision includes multiple sub-requirements, the majority but not all of the sub-requirements are met.

Partially Meets

- › The company has developed the system (including policies, processes and procedures) needed to meet the expectations of the Bettercoal Code, as reflected in the Provision. However, the implementation of the system has not started or is not complete. In particular, the implementation of the system covers less than 75% of the workforce / business partners / stakeholders / operations in scope of the Provision.
- › The company is in the process of developing a system, but the system is not yet complete, not sufficiently detailed and needs significant improvements.
- › Where the Provision requires the company to conduct specific activities (e.g. communication and public endorsement, risk and impact assessments, stakeholder engagement, etc.), systemic incidents of gaps or lapses in implementation are identified.
- › Where the Provision includes multiple sub-requirements, the majority of the sub-requirements are not met.

Misses:

- › The company has not started developing the system (including policies, processes and procedures) needed to meet the expectations of the Bettercoal Code, as reflected in the Provision.
- › Where the Provision requires the company to conduct specific activities (e.g. communication and public endorsement, risk and impact assessments, stakeholder engagement, etc.), the company cannot provide any evidence of such activities being undertaken.

For all provisions, there are either three or four performance determination options, with the exception of [Provision 8.18](#) for which there are only two options.

NON-APPLICABILITY

Some Provisions in the Code may not be applicable to the company. Credible and verifiable reasons should be provided to support the determination that the Provision is not applicable. Instances of 'non- applicability' accepted by Bettercoal include:

- › Instances where the Provision applies to companies depending on the outcome of previous Provisions. For example, [Provision 5.13 on Conflict-Affected and High-Risk Areas](#), does not apply to companies that did not identify red flags of potential or actual risks as per Provision 5.12.

- › Instances where the company does not intend to conduct specific actions. For example, [Provision 6.3 on Employment Terms](#) does not apply to companies that do not intend to carry out collective dismissals.
- › Instances where the company being assessed is an already existing mining operation. For example, the requirements of [Provision 8.4 on Stakeholder Engagement](#) related to stakeholder engagement prior to or during the mine planning stage will not apply.
- › Instances where the company is already at the closure stage of the mine lifecycle. For example, [Provision 8.13 on Sustainable Development](#) requires companies that have not yet reached the closure stage to promote access to employment for local communities.

VERIFICATION METHODOLOGY

Verification of the company's compliance against the requirements of each Provision is carried out through: document review; interviews with the company's management team, employees, contracted workers and other stakeholders; and observation, as appropriate. The appropriate verification methodology is specified throughout the Guidance, for each sub-heading or category.

Evidence is collected and verified on a sampling basis. This includes evidence needed to determine a rating as 'Substantially Meets' or 'Partially Meets'. For example, conformance with [Provision 1.4 on Whistle-Blowing Mechanism](#) will be verified by confirming that at least 75% of the company's employees and other stakeholders interviewed, selected through sampling, are informed about the whistle-blowing mechanism, in order for the company to achieve the rating 'Substantially Meets'.

Conformance with the Provisions, where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

SCORING

The company's performance against the Bettercoal Code is scored according to the performance determination of each Provision. More information on this is found in the [Bettercoal Assessment Manual](#).

HOW TO USE THIS DOCUMENT

We realise that this is a long and detailed document, so encourage users to use the contents page and use the **Control+F** look up function, to find the principle, category or provision you are looking for and seeking guidance on.

02

The Code

The Bettercoal Code 2.0 has a total of 12 principles, which can be divided by topic into three main areas: governance, social and environment. Within each principle, there are numbered provisions (144 in total), grouped under principle sub-headings called ‘categories’.

The principles are presented in Figure 2 and a breakdown to category and provision level can be found thereafter.

GOVERNANCE



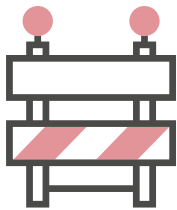
PRINCIPLE 1
Business Integrity



PRINCIPLE 2
Policy and Management

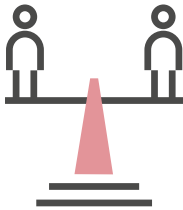


PRINCIPLE 3
Transparency

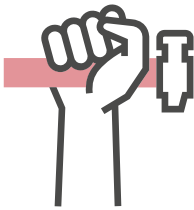


PRINCIPLE 4
Mine Rehabilitation and Closure

SOCIAL



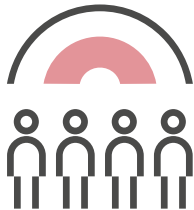
PRINCIPLE 5
Human Rights



PRINCIPLE 6
Labour Rights

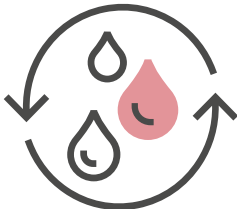


PRINCIPLE 7
Occupational Health and Safety (OHS)

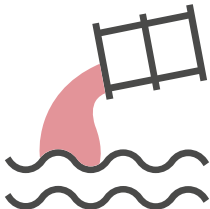


PRINCIPLE 8
Communities and Stakeholders

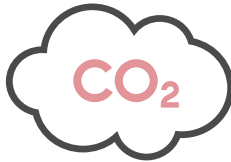
ENVIRONMENT



PRINCIPLE 9
Water Stewardship



PRINCIPLE 10
Management of Emissions and Waste



PRINCIPLE 11
Greenhouse Gas Emissions



PRINCIPLE 12
Biodiversity and Land Use

Figure 2: The Bettercoal Principles

PRINCIPLE

01

BUSINESS INTEGRITY

Companies will conduct their business to a high level of integrity and compliance.



Introduction

Integrity is generally defined as acting consistently with one's own values and moral compass, or, in loose terms, 'doing the right thing, because it is the right thing to do'. *Business integrity* is compromised when companies engage in any corporate misconduct that violates local, national, or international laws, including but not limited to, laws and regulations on anti-trust/competition, corruption, money-laundering, terrorism financing, sanctions and export controls, fraud, securities and finance, tax, data protection and privacy, intellectual property, industrial relations, labour, workplace safety, human rights, product/service safety, and the environment.

In business, both leadership and employees are faced with integrity-based choices or dilemmas every day. Integrity-based decisions are reflected in the way leadership and employees react when identifying misconducts or non-compliance. While choices made in the workplace may often require personal judgement, and could be underpinned by individuals' different cultural outlooks and personal values, companies have a role to play in ensuring that all employees are aware of companies' shared values and principles, and have the tools they need to identify critical decisions and the best course of action.

Business integrity is the foundation for any sustainable business. A company acting with integrity normally benefits from stronger reputation and stakeholder trust, employees' and customers' satisfaction, and a clearer path forward. Where the company is able to nurture a culture of integrity, employees will make better decisions, with a view to the companies' and customers' long-term interests and will favour collaboration and teamwork over costly disputes.

Bettercoal expectations on Business Integrity include Provisions on:

- > [Legal Compliance \(Provision 1.1\)](#)
- > [Anti Corruption and Anti-Money Laundering \(Provisions 1.2 - 1.3\)](#)
- > [Whistle-Blowing Mechanism \(Provision 1.4\)](#)



Legal Compliance (Provision 1.1)



I. INTRODUCTION



The rule of law is a key enabler for businesses. It serves as a norm of conduct for citizens, governments, and businesses. Where the rule of law is strong, businesses can feel confident about investing in the future. It is also for this reason that legal *compliance* is one of the basic elements for ensuring business integrity.



In addition to being detrimental to society, non-compliance with legal requirements can result in a number of negative consequences for companies including financial penalties or fines; civil or criminal liability; disqualification of directors; or even losing the license to operate.



II. PROVISIONS AND PERFORMANCE DETERMINATION



- > **Provision 1.1** Companies will develop, document and implement systems aligned with the requirements of [Provisions 2.1](#) and [2.2](#) of this Code to maintain awareness of, and ensure compliance with, applicable standards, laws and regulations.
-



Explanation

- Companies should ensure compliance with all *applicable laws* and regulations, including:
- > international declarations, conventions, and treaties, in particular, those listed in Annex B;
 - > national, sub-national, regional, and local regulations; and
 - > decisions, directions, rulings, or interpretations issued by relevant courts and tribunals.



See [Annex B](#) for a list of key international declarations, conventions, treaties, and standards related to the Principles of the Bettercoal Code.



Applicable national, subnational, regional, and local regulations vary depending on the company type and jurisdiction. It is important that companies have a system in place to know which laws and regulations are applicable across all areas of their operations, and to be up to date with potential legal developments.



Companies should demonstrate that they are aware of and understand the laws and regulations that are applicable to them, across all areas of operation. Companies should have a system in place (see [Provisions 2.1 and 2.2 on Management Systems](#)) to identify, monitor, and regularly review applicable laws and regulations, monitor legal developments, identify evolving areas of legal risk, and their relevance for, and potential impact on the companies' operations.

Compliance with specific laws and regulations related to the principles of the Bettercoal Code will be addressed through the relevant provisions (see [IV Reference to other Principles and Provisions](#)). For example, a company's compliance with the legal requirements concerning working hours will be covered by [Provisions 6.16 - 6.20 on Working Hours](#).

To identify, monitor, and regularly review applicable laws and regulations, companies should maintain a legal compliance register, collecting key information regarding relevant laws and

regulations. To carry out this exercise, companies may rely on external sources including, but not limited to, subscriptions to legal databases, newsletters, and magazines. Where relevant, companies should seek the legal advice of consultants and legal professionals.



Legal compliance is a collective effort. To ensure compliance with all applicable legal requirements, companies should raise awareness and clearly communicate to their employees their own responsibilities.



Where potential acts of non-compliance are identified, companies should implement corrective measures and maintain a record of the actions taken.



It may happen that applicable national or regional legal requirements differ from the requirements of the Bettercoal Code. In such cases, companies should comply with the requirements which are more stringent. Where the application of legal requirements may be open to interpretation, companies should submit and/or present to the Bettercoal assessors any available government-issued guidance or legal opinions used to interpret the law.



Companies should also maintain a record of all permits and licenses needed, as well as the timeline and requirements for reapplication. Where a company is in the process of renewing a permit or license but is still in the process of being renewed by the relevant authorities, the assessor will review the documentation submitted during application to determine conformance with this provision.



In addition to the requirements established by the law, companies may have to comply with additional obligations set, for example, by:



- > agreements entered into between the company and public authorities, customers, *contractors*, non-governmental organisations, or other parties;
- > voluntary standards;
- > industry associations; and
- > the company's own commitments.



Finally, companies should maintain financial accounts that properly and fairly document all business transactions where required by applicable law and in accordance with national or international accounting standards. These accounts should be independently certified and/or audited by a qualified auditor, who is appointed free of any bias or influence.



Performance Determination

Meets:

The company has developed and implemented a legal compliance system.

Substantially Meets:

The company has developed a legal compliance system, however, there are isolated incidents of gaps or lapse in implementation that are non-systemic.

Partially Meets:

The company:

- > has developed a legal compliance system, however, implementation has not started or is incomplete; or
- > is in the process of developing such a system, but the system is not yet complete.

Misses:

The company does not have a legal compliance system in place.

Site Walk-Through

During the Site Walk-Through, the assessor observes:

- > applicable standards, laws, and regulations posted prominently in designated locations, where required by law.

IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Companies should ensure legal compliance with all applicable standards, laws and regulations covering the Principles and Provisions of the Bettercoal Code.

V. FURTHER INFORMATION

- > ILO, *NATLEX* (available [here](#)). A database maintained by the International Labour Organisation (ILO) of national labour, social security, and related human rights legislation across 196 countries and more than 160 territories and subdivisions.

Anti-Corruption and Anti-Money Laundering (Provisions 1.2 - 1.3)

I. INTRODUCTION

Corruption is an umbrella term used to describe the misuse of entrusted power for private gain. Corruption may take many forms, among the most typical are *bribery*, *facilitation payments*, and *extortion*. A *bribe* occurs when one person offers, promises, gives, solicitates, or accepts an undue advantage, for example, money or a valuable item, to or by a public official; a political candidate, party, or other official in charge of a public or legal duty; or a person who directs or works for a private sector enterprise in any capacity.

Facilitation payments are a specific type of bribe; they occur when an *incentive* or unofficial payment is made to secure or expedite the performance of a routine or necessary action, of which the payer has legal or other entitlement. For example, a mining company may offer a bribe to a local authority to obtain a mining license, which may have otherwise been awarded to a different company; or a mining company may offer a facilitation payment to a local authority to shorten the bureaucratic process of receiving a mining license. Facilitation payments are considered illegal and punishable by law in most countries.

Finally, *extortion* is defined as the act of utilising, either directly or indirectly, one's access to a position of power or knowledge to demand unmerited cooperation or compensation as a result of coercive threats.

The issue of corruption is often linked with *money laundering*, the illegal process of concealing the origins of money that are generated by criminal activity by passing it through a complex sequence of bank transfers or commercial transactions to hide the origin of the funds.



These criminal activities cause serious social harm by contributing to economic underdevelopment and instability, a deteriorating public revenue base, the misallocation of resources, and the undermining of democracy and the rule of law. From a company's perspective, like all illegal activities, corruption, and money laundering represent significant legal, reputational, and financial risks resulting in the deterioration of business relationships, mistrust from the company stakeholders, legal action, and fines.

While corruption may occur in any sector, the extractive industry is particularly vulnerable to this issue. In fact, corruption may occur at various stages in the decision-making chain, from the allocation of licenses and contracts for exploration and production, to the allocation of revenues and social and economic spending. In addition, it should be noted that poor *governance* and systemic corruption are known to be prevalent in many resource-rich countries, where the mining industry can generate the kind of political and private incentives that favour rent-seeking and institutional capture beyond the mining sector alone. For these reasons, it is important that companies take appropriate action to prevent and manage all risks of corruption and money laundering.

II. PROVISIONS AND PERFORMANCE DETERMINATION

- > **Provision 1.2** Companies will develop, document, and implement systems aligned with the requirements of [Provisions 2.1](#) and [2.2](#) of the Code, to prohibit and prevent all forms of corruption, including bribery, bribe solicitation, facilitation payments and extortion, as well as money laundering, by employees and contractors, and business partners.

Explanation

To effectively prevent and manage risks of being associated with corruption and money laundering, companies should set up a management system (see [Provisions 2.1 and 2.2 on Management Systems](#)).

A culture of integrity starts at the top. For this reason, as part of the anti-corruption and anti-money laundering system, it is important that companies commit to zero tolerance of these criminal activities, and communicate such commitment via public communications, including a publicly available anti-corruption and anti-money laundering policy. Such commitment should also be reflected into leadership communications and actions, for example during meetings, keynote speeches, and interviews.

Additionally, more detailed anti-corruption policies, procedures, and practical measures will be necessary to actually implement the anti-corruption and money laundering programme on a daily basis. Examples of practical measures that companies can take are:

- > establishing clear criteria and procedures for the approval of gifts offered and received, taking into account thresholds that are acceptable, given the local context of customary exchanges;
- > establishing a clear criteria and procedure for the approval of charitable donations and political contributions;
- > conducting Know Your Counterparty (KYC) checks on all *business partners* (see [Provision 2.8 on Business Partners](#)) and adopting documented criteria for the selection of agents and contractors.

Companies should conduct a *risk assessment* to identify those parts of the business and/or positions that are exposed to a higher risk of bribery, depending on, for example: whether they are in a position to influence or to be influenced; proximity to so-called *Politically Exposed Persons* (PEP); the geographical location. At-risk areas and positions should be monitored closely.



Companies should ensure that clear roles and responsibilities are defined for management and employees that participate in the system, and that, at a minimum, relevant employees and contractors participating in the system that are determined to be at higher risk of exposure to bribery, are trained on the anti-corruption and money laundering policy and procedures. Companies should have the system regularly reviewed by competent and independent management in order to address identified risks and improve the overall performance where gaps in the system may be identified. An important instrument for ensuring that the company is able to identify risks of corruption and money laundering is the whistle-blowing mechanism (see [Provision 1.4 on Whistle-Blowing Mechanism](#)).

Corruption is a complex social, political, and economic phenomenon. For this reason, companies should not limit their anti-corruption activities to their own internal business alone. Instead, companies should address corruption at the systemic level, by assessing and responding to risks of corruption within their supply chain (for example, risks of bribery and extortion), in their market environment (for example, risks of collusion) and in the society where they operate. Companies are encouraged to promote good governance, by raising awareness through education and the dissemination of principles of integrity, and, where possible, by working together with the local government and other stakeholders, including non-profit organisations and civil society.

BOX 1: FOCUS ON THE UNITED NATIONS (UN) CONVENTION AGAINST CORRUPTION*

The UN Convention Against Corruption is the only legally binding universal anti-corruption instrument, ratified by the vast majority of United Nations Member States (at the time of writing, August 2020, by 187 parties). The Convention covers five main areas: preventive measures, criminalisation and law enforcement, international cooperation, asset recovery, and technical assistance and information exchange. The Convention contains a number of provisions that, although addressed to States, have an impact on companies.

Among preventive measures, initiatives to be undertaken by States for preventing corruption in the private sector include:

- Promoting transparency, including the disclosure of the identity of those who manage corporate entities;
- Strengthening accounting and auditing standards;
- Adopting civil, administrative, or criminal sanctions to punish corporate wrongdoing;
- Disallowing tax deductions for expenses that constitute bribes;
- Adopting measures that prohibit the private sector from establishing off-the-books accounts; etc.

The Convention emphasises the opportunities for cooperation between the authorities and the private sector, including through private sector reporting on corruption (see [Provision 1.3 on Anti-Corruption and Anti-Money Laundering](#)) and the protection of whistle-blowers, witnesses, experts, and victims.

The Convention also sets forth specific measures to prevent money laundering and the obligations of the private sector to combat it, including through the disclosure of beneficial ownership (see [Provision 3.2 on Company Ownership and Payment Transparency](#)). Where instances of corruption are identified, the Convention requires States to establish measures to allow for corporate liability for participation in corruption offences; while it allows entities that have suffered damages to have the right to seek compensation.

Last, but not least, the Convention introduces measures to protect public procurement by requiring States to adopt systems of public procurement based on transparency, competition, and objective criteria in decision-making.

*United Nations Office on Drugs and Crime, *The United Nations Convention Against Corruption – On the Level: Business and Governments Against Corruption*, Vienna, Accessed online: August 2020, <https://www.unodc.org/documents/corruption/Publications/Toolkit_of_Private_Sector_Outreach_Materials/Toolkit_of_Private_Sector_Outreach_Materials.pdf>.



Performance Determination

Meets:

The company has developed and implemented a system to prohibit and prevent all forms of corruption and money laundering.

Substantially Meets:

The company has developed a system to prohibit and prevent all forms of corruption and money laundering, but there are isolated incidents of gaps or lapse in implementation that are non-systemic.

Partially Meets:

The company:

- > has developed a system to prohibit and prevent all forms of corruption and money laundering, but implementation has not yet started or is incomplete; or
- > is in the process of developing a system to prohibit and prevent all forms of corruption and money laundering, but such system is not yet complete.

Misses:

The company does not have a system in place to prohibit and prevent all forms of corruption and money laundering in place.

-
- > **Provision 1.3** Companies will publicly disclose measures taken to prevent and fight all forms of corruption, including bribery, bribe solicitation, facilitation payments and extortion, as well as money laundering.
-

Explanation

In the fight against corruption and money laundering, corporate transparency through public disclosure, or reporting, is key. The benefits provided by public reporting on anti-corruption and anti-money laundering are: first, the presentation of information in a structured way and in a common language to measure, compare, and improve anti-corruption and anti-money laundering measures; second, it allows them to meet growing stakeholder demand for reporting on non-financial information, enhancing reputation and stakeholder confidence; third, it contributes to strengthening internal systems by raising awareness among employees and providing a means of *control* and *discipline* for management; and finally, it allows companies to share their *best practices* and learn from each other.

Due to their complex nature, corruption and money laundering remain challenging topics for organisations to report on, however, there are steps that companies can take to ensure greater transparency in this area. When reporting on anti-corruption and anti-money laundering, companies should take into consideration the following key elements:

- > commitment and policy: how the company has committed to a zero-tolerance of corruption and money laundering;
- > implementation: how the company's commitment has been put into practice through the anti-corruption and anti-money laundering system(s); and
- > monitoring: how the company monitors progress and maintains a continuous improvement process.

To ensure that public reporting is reliable and comprehensive, companies should have a system in place to for the collection, analysis, compilation, and reporting of relevant information and data (see [Provision 3.1 on Sustainability Reporting](#)).



Performance Determination

Meets:

The company publicly discloses measures taken to prohibit and prevent all forms of corruption and money laundering.

Substantially Meets:

The company has developed a system to collect information on the measures taken to prohibit and prevent all forms of corruption and money laundering, but public reporting is incomplete.

Partially Meets:

The company:

- > has developed a system to collect information on the measures taken to prohibit and prevent all forms of corruption and money laundering, but public reporting has not yet started; or
- > is in the process of developing the system to collect information on the measures taken to prohibit and prevent all forms of corruption and money laundering for public reporting, but such system is not yet complete.

Misses:

The company does not have a system in place to collect information on the measures taken to prohibit and prevent corruption and money laundering for public reporting.

III. VERIFICATION

Data Collection Method

Conformance with the provisions on anti-corruption is assessed through document review and through interviews with the company's employees and management team.

Conformance with the provisions, where corrective actions are required, may be assessed remotely through document view or through an on-site visit, as indicated in the continuous improvement plan.

Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
1.2		✓	✓	✓		
1.3		✓	✓	✓		

Examples and Types of Evidence

- > Corporate or site-level anti-corruption policy and anti-money laundering policy;
- > anti-corruption and anti-money laundering management system documentation, including procedures for reporting instances of corruption and suspicious transactions;
- > third-party certificate or validation document of the anti-corruption and anti-money laundering system;
- > site-level audit report of implementation of the anti-corruption and anti-money laundering system;
- > evidence of training of relevant personnel;
- > qualifications and job descriptions of management;
- > corruption risk assessment;



- > gift register;
- > register of charitable donations and political contributions;
- > evidence of court cases and dispute resolutions;
- > corporate or site-level assurance report including reporting on anti-corruption qualitative and quantitative information;
- > corporate or site-level assurance claim of membership in a recognised initiative covering anti-corruption and/or money laundering; and
- > corporate or site-level assurance claim of compliance with guidelines of an international framework covering anti-corruption and/or money laundering, such as the UN Global Compact.¹

Site-Assessment

Interviews

During interviews with management, managers can demonstrate or describe:

- > a good understanding of the company’s anti-corruption and anti-money laundering policy and procedures;
- > where to find a formal electronic copy of the policy and procedures;
- > the procedure for reporting and investigating episodes of corruption and money laundering;
- > the lines of accountability and responsibility for the oversight and implementation of the anti-corruption and anti-money laundering system;
- > the training programme in place to raise awareness on anti-corruption and money laundering and communicate anti-corruption and anti-money laundering procedures to employees;
- > evidence of action taken to investigate and, where relevant, manage anti-corruption and money laundering risks and whistle-blower reports; and
- > the oversight mechanisms, checks and balances in place for identified employees in high-risk positions (e.g. those with financial authority; those who interact with government officials).

During interviews with workers (employees and contracted workers), they can demonstrate or describe:

- > a basic understanding of the company’s anti-corruption and anti-money laundering policy and procedures;
- > where to find a copy of the company’s anti-corruption and anti-money laundering policy and procedures;
- > the training received on anti-corruption and anti-money laundering and on the company’s anti-corruption and anti-money laundering procedures; and
- > how to file a report or allegation of corruption or money laundering.



IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
2 Policy and Management	2.1 and 2.2: Companies should develop anti-corruption and anti-money laundering systems that meet the requirements of <u>Provisions 2.1</u> and <u>2.2</u> on Management Systems.
	2.9 – 2.10: Companies should communicate and require business partners to implement an anti-corruption and anti-money laundering system in line with the requirements of <u>Provisions 2.1 and 2.2 on Management Systems</u>

1. United Nations Global Compact, *United Nations Global Compact: Uniting business for a better world*, [website], Accessed online: November 2020 <<https://www.unglobalcompact.org>>.

3 Transparency **3.1:** When reporting on their anti-corruption and anti-corruption measures, companies should meet the requirements of Provision 3.1 on Sustainability Reporting



V. FURTHER INFORMATION

- › Transparency International, *Anti-Corruption Toolkits for Business* (available [here](#)). The Toolkits offer key resources and tools to develop an anti-corruption system and to make anti-corruption a key component of the business strategy.
- › Transparency International, *Business Principles for Countering Bribery* (available [here](#)). A framework for companies to develop comprehensive anti-bribery programmes.
- › International Chamber of Commerce, *Rules on Combating Corruption* (available [here](#)). A tool for self-regulation by business and as a roadmap for governments in their efforts to fight extortion and bribery.
- › UN Global Compact, Transparency International *The Reporting Guidance on the 10th Principle Against Corruption* (available [here](#)). Guidance to help businesses to report their anti-corruption system by providing a comprehensive set of reporting indicators.

Whistle-Blowing Mechanism (Provision 1.4)

I. INTRODUCTION

Whistle-blowers are individuals who expose information or activities that are deemed illegal, unethical, or reflecting malpractice, wrongdoing, or improper behaviour within the company. For example, a whistle-blower may expose a company's violation of the companies' policies and rules, a non-compliance with applicable laws and regulations, or episodes of illegal activities such as corruption and money laundering.

Whistle-blowers play a key role in a company's efforts to ensure legal compliance and business ethics and integrity. In fact, by speaking out against such wrongdoings, whistle-blowers protect the interests of the company, alerting top management to potential or actual misconduct which the company can investigate and, where relevant, address, before they escalate.

For this reason, companies should provide employees – as well as other relevant stakeholders – with access to an effective *whistle-blowing mechanism*.

Because reporting this type of information or activities may put the employee in a difficult position; often in a position where they are forced to choose between doing the right thing or maintaining the security of their job; companies should take all necessary actions to ensure that their whistle-blowing mechanism protects the whistle-blower from any harassment, retaliation, victimisation, or discrimination.

II. PROVISIONS AND PERFORMANCE DETERMINATION

- > **Provision 1.4** Companies will provide to employees and other stakeholders access to an effective ‘whistle-blowing’ mechanism for reporting concerns about actual or alleged malpractice, wrongdoing, or unethical, unsafe, illegal, or improper behaviour. Companies will ensure effective whistle-blower protection, including the right to keep whistle-blower identity confidential and will not tolerate any harassment, retaliation, victimisation, or discrimination of whistle-blowers.

Explanation

Companies should provide employees and other relevant stakeholders (such as contractor companies, supplier companies, or service providers) access to a whistle-blowing mechanism. A *whistle-blowing mechanism* is a set of policies or procedures designed to collect, retain, and treat complaints received by a whistle-blower which, to be effective, should include the following three elements:²

- > the provision of accessible and reliable reporting channels;
- > robust protection from all forms of retaliation; and
- > mechanisms for disclosure that promote reforms that correct policy or procedural inadequacies and prevent future wrongdoing.

To this end, companies should adopt a management systems approach (see [Provisions 2.1 and 2.2 on Management Systems](#)).

Companies should protect whistle-blowers from any form of harassment, *bullying*, retaliation, victimisation, and discrimination, which could take the form of, for example, dismissal, probation, punitive transfers, withholding of promotions, loss of status and benefits, reduction of pay and work hours, isolation, blacklisting, and threats of such actions. To protect whistle-blowers, companies should treat any of these forms of harassment, retaliation, victimisation, and discrimination as a disciplinary matter, with penalties up to and including dismissal. Companies should also consider a whistle-blower’s right to confidentiality and provide for the option of anonymous reporting.

Companies should extend whistle-blower protection to whistle-blowers who may make an inaccurate report in honest error, to ensure not to deter whistle-blowers who make reports in good faith, even where these may turn out to be unsubstantiated. Instead, companies should establish appropriate sanctions for whistle-blowers who knowingly make a false report. In certain jurisdictions, companies may be required to comply with specific whistle-blowing laws and regulations, for example, the *US Sarbanes-Oxley Act* in the United States, and the *EU Whistleblower Protection Directive* affecting companies with more than 50 employees across all EU member states. The Directive takes effect in 2021.

Performance Determination

Meets:

The company has developed and implemented an effective whistle-blowing mechanism for employees and other stakeholders, including measures for whistle-blower protection.

2. Transparency International, *Internal Whistleblowing Mechanisms – Topic Guide*, Germany, June 2017, Accessed online: November 2020, <<https://knowledgehub.transparency.org/assets/uploads/kproducts/Whistleblowing-Topic-Guide.pdf>>



Substantially Meets:

The company has developed a whistle-blowing mechanism for employees and other stakeholders, including measures for whistle-blower protection, but implementation is incomplete (at least 75% of employees and other stakeholders are informed).

Partially Meets:

The company:

- > has developed a whistle-blowing mechanism for employees and other stakeholders, including measures for whistle-blower protection, but implementation has not yet started or is incomplete (less than 75% of employees and other stakeholders are informed); or
- > is in the process of developing a whistle-blowing mechanism, but it is not yet complete.

Misses:

The company does not have a whistle-blowing mechanism in place.

III. VERIFICATION

Data Collection Method

Conformance with the provision on the whistle-blowing mechanism is assessed through observation, document review, and through interviews with the company’s employees, contracted workers, and management team, and with other stakeholders.

Conformance with the provision, where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
1.4	✓	✓	✓	✓	✓	✓

Examples and Types of Evidence

- > Corporate or site-level policy articulating top management support for the whistle-blowing mechanism;
- > whistle-blowing mechanism documentation, including policies, procedures, and evidence of how whistle-blowing complaints are handled;
- > third-party certificate or validation document of the whistle-blowing mechanism;
- > site-level audit report of implementation of the whistle-blowing mechanism;
- > evidence of training of relevant personnel;
- > evidence of communication of the whistle-blowing mechanism to employees and other stakeholders; and
- > qualifications and job descriptions of management with responsibility to oversee the implementation of the whistle-blowing mechanism.



V. FURTHER INFORMATION

- > Transparency International's, *Internal Whistleblowing Mechanisms – Topic Guide* (available [here](#)). Guidance on how to establish an effective whistle-blowing mechanism.
- > Organisation for Economic Co-operation and Development (OECD), *Committing to Effective Whistleblower Protection* Report (available [here](#)). Report analyses whistle-blower protection frameworks in OECD countries, identifies areas for reform, and proposes next steps to strengthen effective and comprehensive whistle-blower protection laws in both the public and private sectors.



02

POLICY AND MANAGEMENT

Companies will develop, document and implement management systems that cover the Principles of the Bettercoal Code, and will support continuous improvement throughout their operations and with business partners.



Introduction

A company's culture of integrity and compliance starts at the top. However, while a company's commitments are fundamental for establishing unity of direction and purpose, motivating employees, and giving them a clear sense of focus and priorities, once a commitment is made, it is important that the company develops appropriate processes, resources, and management structures to support it.

Management systems, including policies, processes and procedures, represent the framework upon which a company's culture and operations are built. Management systems provide guidance, consistency, accountability, and certainty on how a company operates, in any given area of business.

Bettercoal expectations on Policy and Management include provisions on:

- › [Management Systems \(Provisions 2.1 – 2.2\)](#)
- › [Risk and Impact Assessments \(Provisions 2.3 – 2.7\)](#)
- › [Business Partners \(Provisions 2.8 – 2.12\)](#)



Management Systems (Provisions 2.1 - 2.2)



I. INTRODUCTION

A *management system* is a set of documented policies, processes, and procedures, that collectively provide a systematic framework for ensuring that tasks are performed correctly, consistently, and effectively to achieve the desired outcomes and to drive continual improvement in performance. Management systems document the repeatable steps to be implemented by management and employees given specific circumstances or to achieve a certain outcome.

It is important to note that management systems should be more than just paperwork. A management system is only effective where the company is able to communicate and implement its policies and procedures.

II. PROVISIONS AND PERFORMANCE DETERMINATION

- > **Provision 2.1** Companies will develop, document and implement integrated and/or standalone management systems to effectively manage the Principles of the Bettercoal Code. The systems will incorporate, at a minimum, policies, procedures, clearly defined roles and responsibilities, financial and human resources, controls, monitoring protocols, training programmes, and internal and external communication, and reporting requirements.
-

Explanation

While it is acknowledged that the complexity and level of formalisation of a company's management system might vary depending on the company's size, culture, and circumstances, essentially, management systems are based on a 'plan, do, check, and act' cycle, applicable across all economic sectors, various types and sizes of organisations and diverse geographical, cultural, and social conditions.

Core standard elements of a management system include:

- > during the 'plan' phase, the development of documented policies, which clearly state the company's values, objectives, and strategic direction;
- > during the 'do' phase, the development of documented procedures, which provide clear instructions and guidance to management and employees on how to carry out the activities necessary to pursue the stated objectives;
- > clearly defined roles and responsibilities;
- > the identification and making available of the financial and human resources needed for implementing the system;
- > the development of training programmes, targeted, at a minimum, to relevant management and employees participating in the system as well as, where relevant, the entire workforce;
- > during the 'check' phase, the development of systems of controls and the implementation of monitoring protocols, for collecting and analysing information to evaluate the performance of the system in light of the company strategies pursued; and
- > during the 'act' phase, the evaluation of any potential gaps identified in the system and the implementation of *corrective actions*.

When developing management systems, companies should identify the best available technologies or techniques, meaning, the technology approved by legislators or regulators for meeting output standards for a particular process, such as emissions reduction, and make resources available for their effective implementation.

The management system should be communicated internally and externally, as appropriate, to all relevant stakeholders. Specific public reporting requirements may apply.

Performance Determination

Meets:

The company has developed and implemented systems to effectively manage the environmental, social, and governance practices covered in the Bettercoal Code.

Substantially Meets:

The company has developed systems to effectively manage the environmental, social, and governance practices covered in the Bettercoal Code, but there are isolated incidents of gaps or lapse in implementation that are non-systemic.

Partially Meets:

The company:

- > has developed systems to effectively manage the environmental, social, and governance practices covered in the Bettercoal Code, but implementation has not started or is incomplete; or
- > has developed systems to effectively manage some environmental, social, and governance practices, but the systems do not cover all practices covered in the Bettercoal Code; or
- > is in the process of developing such systems, but the systems are not yet complete.

Misses:

The company does not have systems in place to effectively manage the environmental, social, and governance practices covered in the Bettercoal Code.

> **Provision 2.2** Companies’ senior management will publicly endorse the policies relevant for the implementation of the Bettercoal Code and ensure they are reviewed and amended regularly, communicated to employees and other stakeholders, and made publicly available.

Explanation

A company’s culture of integrity comes from the tone at the top. For this reason, it is important that leadership publicly endorses the company’s commitments, as reflected in the company’s policies. Public commitment may be expressed in a number of ways, for example, by publishing the relevant policies on the company’s website in a way that is easily accessible to employees and other stakeholders, and reinforcing them during public meetings, annual shareholder meetings, interviews, meetings with suppliers and other business partners, keynote speeches, etc. A company may also publish relevant policies as part of its sustainability reporting obligations (see [Provision 3.1 on Sustainability Reporting](#)).

The company’s senior management should review and amend the company’s policies regularly, to ensure they remain relevant and up-to-date, in accordance with any relevant internal and/or external changes, including legislative developments.



Performance Determination

Meets:

The company’s senior management publicly endorses, regularly reviews, communicates, and makes publicly available the policies established by the company as part of its systems to effectively manage the environmental, social, and governance practices covered in the Bettercoal Code.

Substantially Meets:

The company’s senior management endorses, regularly reviews, and communicates the policies established by the company as part of its systems to effectively manage the environmental, social, and governance practices covered in the Bettercoal Code, but communication does not address all relevant stakeholders, and/or not all relevant policies are publicly available.

Partially Meets:

The company’s senior management endorses the policies established by the company as part of its systems to effectively manage the environmental, social, and governance practices covered in the Bettercoal Code, but the policies are not communicated to relevant stakeholders, and/or they are not integrated in a continuous cycle of review and improvement.

Misses:

The company’s senior management does not endorse nor regularly review its environmental, social, and governance policies.

III. VERIFICATION

Data Collection Method

Conformance with the provisions on management systems is assessed through observation, document review, and through interviews with the company’s employees and management team. Conformance with the provisions, where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
2.1	✓	✓	✓	✓		
2.2	✓	✓	✓	✓		

Examples and Types of Evidence

- > Corporate or site-level policies covering the environmental, social, and governance practices of the Bettercoal Code;
- > management systems documentation, including management systems procedures;
- > organisational charts or other documentation of the management structure;
- > third-party certificates or validation documents of the management systems;
- > site-level audit report of implementation of the management systems;
- > evidence of training of relevant personnel;



- > evidence of management regular reviews and updating of the management systems;
- > qualifications and job descriptions of management with responsibility to oversee the implementation of the management systems;
- > documentation of communication of policies to employees and other stakeholders;
- > publication and accessibility of relevant policies to employees and other stakeholders;
- > corporate or site-level assurance claims of membership in a recognised initiative covering the environmental, social, and governance practices of the Bettercoal Code;
- > corporate or site-level assurance claims of compliance with guidelines of an international framework, such as the UN Global Compact,⁴ covering the environmental, social, and governance of the Bettercoal Code.



Site Assessment

Interviews

During interviews with management, managers can demonstrate or describe:

- > a good understanding of the company's management systems, including the company's policies and procedures covering the governance, social, and environmental practices of the Bettercoal Code;
- > where to find company's policies and procedures;
- > the lines of accountability and responsibility for the oversight and implementation of the management systems;
- > the training programmes in place to raise awareness on and communicate the management systems to employees.

During interviews with employees, employees can demonstrate or describe:

- > a basic understanding of the company's management systems, including the company's policies and procedures covering the governance, social, and environmental practices of the Bettercoal Code;
- > an understanding of their own roles and responsibilities related to implementing the management system;
- > where to find company's policies and procedures;
- > the training received on the company's management systems.

Site Walk-Through

During the Site Walk-Through, the assessor observes:

- > relevant documentation related to the management systems, such as policies and/or procedures, posted prominently in designated locations, where necessary.

IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
1 Business Integrity	1.1: The development, documentation and implementation of a management system is a specific requirement for meeting the expectations of <u>Provision 1.1 on Legal Compliance</u> .
	1.2: The development, documentation and implementation of a management system is a specific requirement for meeting the expectations of <u>Provision 1.2 on Anti-Corruption and Money Laundering</u> .

4. United Nations Global Compact, *United Nations Global Compact: Uniting business for a better world*, [website], Accessed online: November 2020 <<https://www.unglobalcompact.org>>.

2 Policy and Management

2.10: The development, documentation and implementation of management systems covering environmental, social, and governance practices of the Bettercoal Code is a requirement that should be extended to the company’s business partners.



3 Transparency

3.1: Public reporting on the management approach to environmental, social, and governance topics is a specific requirement for meeting the expectations of Provision 3.1 on Sustainability Reporting.



5 Human Rights

5.3: The development, documentation and implementation of a management system is a specific requirement for meeting the expectations of Provision 5.3 on Indigenous and Tribal Peoples on the rights and interests of Indigenous and Tribal Peoples.



5.6: The development, documentation and implementation of a management system is a specific requirement for meeting the expectations of Provision 5.6 on Women’s Rights.



5.7 – 5.10: The development, documentation and implementation of a management system is a specific requirement for meeting the expectations of Provision 5.7 - 5.10 on Security Personnel.



5.11: The development, documentation and implementation of a management system is a specific requirement for meeting the expectations of Provision 5.11 on Conflict-Affected and High-Risk Area on due diligence in relation to minerals originating from CAHRAs.



6 Labour Rights

6.5: The development, documentation and implementation of a management system is a specific requirement for meeting the expectations of Provision 6.5 on Child Labour on minimum age for employment.



6.6: The development, documentation and implementation of a management system is a specific requirement for meeting the expectations of Provision 6.6 on Child Labour for preventing the worst forms of child labour.



6.8: The development, documentation and implementation of a management system is a specific requirement for meeting the expectations of Provision 6.8 on Child Labour.

6.13: The development, documentation and implementation of a management system is a specific requirement for meeting the expectations of Provision 6.13 on Non-Discrimination.

6.14: The development, documentation and implementation of a management system is a specific requirement for meeting the expectations of Provision 6.14 on Disciplinary Practices and Harassment.

6.15: The development, documentation and implementation of a management system is a specific requirement for meeting the expectations of Provision 6.15 on Disciplinary Practices and Harassment.

7 Occupational Health and Safety

7.1, 7.2 and 7.23: The development, documentation and implementation of a management system is a specific requirement for meeting the expectations of Provision 7.1 on Occupational Health and Safety.

7.10: The development, documentation and implementation of a management system is a specific requirement for meeting the expectations of Provision 7.10 on Workplace Hazards on the management of emissions and accumulations of methane and other dangerous gases inside mines.

7.20: The development, documentation and implementation of a management system is a specific requirement for meeting the expectations of Provision 7.20 on Accident and Incident Reporting workers' health and safety representatives' participation during accident and incident reporting.

9 Water Management

9.3 – 9.6: The development, documentation and implementation of a management system is a specific requirement for meeting the expectations of Provisions 9.3 - 9.6 on Water Management.

10 Management of Emissions and Waste

10.2 and 10.12: The development, documentation and implementation of a management system is a specific requirement for meeting the expectations of Provisions 10.2 and 10.12 on Emissions and Waste Management.

11 Green House Gas (GHG) Emissions

11.2: The development, documentation, and implementation of a management system is a specific requirement for meeting the expectations of Provision 11.2 on Greenhouse Gas (GHG) Emissions Management.

12 Biodiversity and Land Use

12.2 and 12.10: The development, documentation, and implementation of a management system is a specific requirement for meeting the expectations of Provision 12.2 on Biodiversity and Land Use Management, and 12.9 and 12.10 on Invasive Alien Species.

V FURTHER INFORMATION

> *The UN Global Compact* (available [here](#)) is an internationally recognised framework for committing to and reporting on environmental, social, and governance practices.



Risk and Impact Assessments (Provisions 2.3 – 2.7)



I. INTRODUCTION

A company's impacts can be both positive and adverse. On the positive side, for example, companies create job opportunities and contribute to the socio-economic development of the communities in which they operate by providing infrastructure, by sharing knowledge and skills, and by supporting the local economy through local procurement. On the negative side, it is acknowledged that companies may cause, contribute to, or be associated with, a wide range of adverse effects on both society and the environment, from the exacerbation of local conflicts, to the infringement of the rights of individuals and communities, for example, due to improper land acquisition and land use, to the disruption of natural habitats and *ecosystems*, to global warming, to name a few.

For this reason, it is important that companies are aware of their environmental, social, and human rights risks, defined as a “combination of the probability of certain hazard occurrences and the severity of impacts resulting from such an occurrence,” and of their impacts, both positive and adverse, defined as “any change, potential or actual, (i) to the physical, natural, or cultural environment, and (ii) on the surrounding community and workers.”⁵ It is also important that corrective action is taken to prevent and/or address potential and actual impacts as appropriate.

II. PROVISIONS AND PERFORMANCE DETERMINATION

- > **Provision 2.3** Companies will conduct and publicly disclose environmental, social and human rights risk and impact assessments in cases of new mining operations and significant changes to existing operations, that are:
- a) comprehensive;
 - b) appropriate to the nature and scale of the mining operations; and
 - c) commensurate with the level of their environmental, social and human rights risks and impacts.

Explanation

Companies should ensure that environmental, social, and human rights risks and impacts are assessed and monitored throughout the entire *lifecycle* of the mine. For this reason, impact assessments should be conducted, at a minimum, in the case of new *mining operations* or *significant changes* to existing operations, and be monitored in a structured way (meaning, in a way that is systematic, analytical, and documented), on an ongoing basis.

It should be noted that conducting an environmental, social, and human rights risk and impact assessment prior to a new mining operations development and/or exploration is a legal requirement in almost all jurisdictions. Companies should be aware of their legal requirements. A company's risk and impact assessments should be integrated into the company's management systems, designed, and implemented to cover the Principles of the Bettercoal Code. In fact,

5. International Finance Corporation (IFC), *IFC Performance Standards on Environmental and Social Sustainability, Guidance Note 1: Assessment and Management of Environmental and Social Risks and Impacts*, 2012, Page 1, Accessed online: 29 December 2020, <https://www.ifc.org/wps/wcm/connect/c02c2e86-e6cd-4b55-95a2-b3395d204279/IFC_Performance_Standards.pdf?MOD=AJPERES&CVID=kTjHBzk>.

environmental, social and human rights risk and impact assessments should be an integral part of a company's environmental, social, and human rights management systems and of the 'plan, do, check, act' approach, which includes the creation of written policies that clearly articulate a company's commitment to prevent and address *adverse impacts*, the designation of the necessary management structures, the implementation of management or action plans for managing impacts, monitoring and review (see [Provisions 2.1 and 2.2 on Management Systems](#)).

The findings of the environmental, social, and human rights risk and impact assessments should be disclosed publicly. In particular, companies should provide stakeholders with relevant information on:⁶

- > the purpose, nature, and scale of the new mining operations or of the significant changes to the existing operations;
- > the duration of proposed operations;
- > any potential and/or actual impacts on the local communities and relevant mitigation measures taken;
- > the envisaged stakeholder engagement process (see [Provisions 8.1 - 8.5 on Stakeholder Engagement](#)); and
- > the grievance mechanism in place to collect and be alerted to potential or actual impacts (see [Provision 8.16 - 8.18 on Operational-Level Grievance Mechanism](#)).

Companies should provide, at least annually, periodic reports to *affected communities*, describing the progress made towards the implementation of the mitigation measures undertaken to prevent and/or address potential and/or actual impacts on the *community*, and on issues that the *consultation* process or grievance mechanism have identified as a concern to those communities.

When conducting an environmental, social, and human rights risk and impact assessment, companies should ensure that the assessment is:

- > *comprehensive*: this means that the assessments should be complete and inclusive of all relevant or material environmental, social, and human rights issues;
- > *appropriate to the nature and scale of the mining operations*: a company's risks and impacts will likely vary depending on the type, scale, and location of the mining operations. These factors should determine the scope and level of effort devoted to the risk and impact assessment process;
- > *commensurate with the level of their environmental, social, and human rights risks and impacts*: this means that the level of detail and effort expended by the company to carry out the risk and impact assessment should reflect the potential impacts that the company might cause, contribute to or be associated with. For new mining operations, the risk and impact assessments conducted should be able to identify potential impacts at a point in the future when the physical elements, assets, and facilities of the new mining operations are reasonably understood.

The risk and impact assessment process may be carried out using an integrated approach, and/or via a series of thematic assessments, for example, through assessments that are specific to certain environmental, social, and/or human rights issues, such as *biodiversity* and land use, climate change and pollution, resettlement, etc. In any case, the risk and impact assessment process should be undertaken based on recognised methodologies, see [V Further Information](#) for examples.

The risk and impact assessments should encompass the mining operations' entire *area of influence*, meaning:

- > the area likely to be affected by:⁷
 - > the mining operations (for example, the mining operations' sites, the immediate airshed and watershed, or transport corridors) and the activities and facilities that are directly owned, operated or managed (including by contractors) and that are a component of the operations (for example, power transmission corridors, pipelines, canals, tunnels,

6. *Ibid*, Page 13.

7. *Ibid*, Page 8.



- relocation and access roads, borrow and disposal areas, water treatment plants, construction camps, and contaminated land);
- > impacts from unplanned but predictable developments caused by the mining operations that may occur later or at a different location; or
- > indirect mining operations impacts on biodiversity or on ecosystem services upon which the livelihoods of affected communities are dependent.
- > associated facilities, which are facilities that would not have been constructed or expanded if the mining operations did not exist and without which the operations would not be viable (for example, railways, roads, captive power plants, or transmission lines, pipelines, utilities, warehouses, and logistics terminals);
- > cumulative impacts identified on the basis of scientific concerns and/or concerns from affected communities, that result from the incremental impact, on areas or resources used or directly impacted by the operations, from other existing, planned or reasonably defined developments at the time the impacts identification process is conducted (for example, incremental contribution of emissions, reduction of water flows in a watershed due to multiple withdrawals; increases in sediment loads to a watershed; interference with migratory routes or wildlife movement; or more traffic congestion and accidents due to increases in vehicular traffic on community roadways).

The company's risk and impact assessments should take into account the findings and conclusions of related and applicable plans, studies, or assessments prepared by relevant government authorities or other parties that are directly related to the mining operations and its area of influence, as well as the outcome of the engagement process with affected communities and other relevant stakeholders as appropriate (see [Provision 2.5 on Risk and Impact Assessments](#)).

Although the issue areas covered by the assessments will vary depending on the context of the mining operations, including, for example, its location, size, and type of activities undertaken, companies should include in their environmental, social, and human rights risk and impact assessments those issues that are material for the mining industry (see [Provision 3.1 on Sustainability Reporting](#)).

Companies should include an assessment of their impact on the local community, including on agriculture and food security, as well as their impact at the global level, including on climate change.

Performance Determination

Meets:

The company conducts and publicly discloses environmental, social, and human rights risk and impact assessments in cases of new mining operations and significant changes to existing operations.

Substantially Meets:

The company conducts environmental, social, and human rights risk and impact assessments for new mining operations and/or significant changes to existing operations. Such assessments are disclosed upon request but not publicly.

Partially Meets:

The company conducts environmental, social, and/or human rights risk and impact assessments, but:

- > risks and impacts are not reassessed in cases of significant changes to existing operations; or
- > not all relevant environmental, social, and/or human rights potential risks and impacts are covered in the scope of the assessments; or
- > the assessments are not yet fully completed.



Misses:

The company does not conduct environmental, social, and human rights risk and impact assessments in cases of new mining operations and significant changes to existing operations.



-
- > **Provision 2.4** Companies will take into consideration the risk and impact associated with their business partners' operations and the liability arising from such business relationships when conducting their environmental, social and human rights risk and impact assessments.
-



Explanation

When conducting their environmental, social, and human rights risk and impact assessments, companies should consider the risk and impact associated with their business partners and *business relationships*. These include, at a minimum, the primary supply chains and first-tier suppliers of the companies.



The risk and impact assessments should be well integrated into the company's due diligence process (see [Provision 2.12 on Business Partners](#)), to ensure that risks and impacts are prevented and addressed throughout the entire lifecycle of the mine as well as its value chains.



Performance Determination

Meets:

The company takes into consideration the risks and impacts associated with its business partners' operations and the liability arising from such business relationships when conducting its environmental, social, and human rights risk and impact assessments.



Substantially Meets:

The company takes into consideration at least the risks and impacts associated with the operations of its high-risk business partners (see [Provision 2.12 on Business Partners](#)) and the liability arising from such business relationships when conducting its environmental, social, and human rights risk and impact assessments.



Partially Meets:

The company takes into consideration the risk and impact associated with less than 75% of relevant business partners' operations and the liability arising from such business relationships when conducting its environmental, social, and human rights risk and impact assessments.

Misses:

The company does not take into consideration any risks or impacts associated with business partners' operations and the liability arising from such business relationships.

-
- > **Provision 2.5** Companies will engage affected communities and other stakeholders, including disadvantaged and vulnerable groups, in their environmental, social and human rights risk and impact assessments.
-

Explanation

When conducting environmental, social, and human rights risk and impact assessments, it is important that companies engage affected communities and other relevant stakeholders. To this end, the company should assess the stakeholder groups that may be directly affected by the mining operations' area of influence, for example, the local communities and workers. In particular, those who may be differentially and disproportionately affected, for example, because of their disadvantaged or vulnerable status, on the basis of race, ethnicity, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status. The company should also consider factors such as age, level of education, culture, literacy, ability, poverty or economic disadvantage, and dependence on unique *natural resources*, when assessing how the mining operations may adversely affect individual or stakeholder groups. Companies should also identify the stakeholder groups that may be indirectly affected by the mining operations. These could include, for example, local governments and civil society organisations or neighbouring communities.

Stakeholder engagement should be implemented as an ongoing process, throughout the lifecycle of the mine, as appropriate (see [Provisions 8.1 - 8.5 on Stakeholder Engagement](#)). Where stakeholder engagement is the responsibility of the government, companies should collaborate with the responsible government agency and will play an active role during the planning, implementation, and monitoring of the stakeholder engagement program and, where needed, conduct a complementary process and identify additional actions.

Where affected communities are determined to be subject to adverse impacts caused, contributed to, and/or associated with the operations, the company should undertake a process of consultation, with the purpose to provide such communities with the possibility to express their considerations regarding the operations' impacts and the mitigation measures designed by the company to mitigate and/or compensate for such impacts (see [Provision 2.7 on Risk and Impact Assessments](#)). *Consultation* should:

- > begin early in the environmental, social, and human rights risk and impact assessment process;
- > be based on the prior disclosure and dissemination of relevant, transparent, objective, meaningful and easily accessible information which is in a culturally appropriate local language(s) and format and is understandable to affected communities;
- > focus on engagement of stakeholders that are directly affected;
- > be free of external manipulation, interference, coercion, or intimidation;
- > enable meaningful participation, where applicable; and
- > be documented.

Companies that determine through the environmental, social, and human rights risk and impact assessments the presence of significant adverse impacts on the affected communities should conduct an *Informed Consultation and Participation (ICP) process*, building upon the elements outlined above, and with the purpose to integrate the considerations expressed by the affected communities into the decision-making process.

Companies that determine through the environmental, social, and human rights risk and impact assessments the presence of adverse impacts to Indigenous and Tribal Peoples should engage Indigenous and Tribal Peoples in a process of ICP and, where relevant, obtain their *Free Prior and Informed Consent (FPIC)* (see [Provisions 5.4 - 5.5 on Indigenous and Tribal Peoples](#)). Where the company identifies potential and/or actual impacts affecting disadvantaged and vulnerable groups, the company will, as part of impact mitigation (see [Provision 2.7 on Risk and Impact Assessments](#)), design and implement specific measures, with the purpose to ensure that the adverse impacts do not fall disproportionately on these groups, and to ensure that they have fair and equal access to the positive impacts brought by the mining operations.



Performance Determination

Meets:

The company has developed and implemented systems to engage affected communities and other stakeholders, including disadvantaged and vulnerable groups, in the environmental, social, and human rights risk and impact assessments.

Substantially Meets:

The company has developed a system to engage affected communities and other stakeholders, including disadvantaged and vulnerable groups, in the environmental, social, and human rights risk and impact assessments, but implementation is incomplete (at least 75% affected communities and other stakeholders covered).

Partially Meets:

The company:

- › has developed a system to engage affected communities and other stakeholders, including disadvantaged and vulnerable groups, in the environmental, social, and human rights risk and impact assessments, but implementation has not yet started or is incomplete (less than 75% of employees and other stakeholders covered); or
- › is in the process of developing a system to engage affected communities and other stakeholders, including disadvantaged and vulnerable groups, in the environmental, social and human rights risk and impact assessments, however, such system is not yet complete.

Misses:

The company does not have a system to engage affected communities or other stakeholders, including disadvantaged and vulnerable groups, in the environmental, social, and human rights risk and impact assessments.

-
- › **Provision 2.6** Companies will integrate gender considerations in their environmental, social and human rights risk and impact assessments.
-

Explanation

When conducting environmental, social, and human rights risk and impact assessments, and when engaging stakeholders, companies should integrate *gender* considerations. Companies should be aware that the impact of their operations is likely to affect men and women differently. In most societies, men and women play different roles within the private and public spheres, and these different roles often lead to differential access to resources and finances, to contacts and relationships, to personal skills development, and to opportunity and power. This may be the case, for example, where a company causes resettlement. In communities where women do not have access to land rights, women may be disproportionately affected.

During the risk and impact assessment process, companies should consider whether the mining operations might cause or contribute to reducing, maintaining or increasing gender inequalities between men and women, by estimating the different effects (positive, or adverse) of the company operations in terms of gender equality.

To this end, companies should:⁸

- › assess the current context of women's rights and gender-related issues;

8. International Finance Corporation (IFC), *IFC Performance Standards on Environmental and Social Sustainability, Guidance Note 1: Assessment and Management of Environmental and Social Risks and Impacts*, 2012, Page 14, Accessed online: 29 December 2020, <https://www.ifc.org/wps/wcm/connect/c02c2e86-e6cd-4b55-95a2-b3395d204279/IFC_Performance_Standards.pdf?MOD=AJPERES&CVID=kTjHBzk>.



- › ensure to reflect women’s concerns and priorities through the risk and impact assessments;
- › during the stakeholder consultation process, ensure that women’s views are captured, including, where relevant, through the establishment of dedicated engagement channels.

The integration of gender considerations into the risk and impact assessments should aim to prevent any potential or actual adverse impacts on gender equality; avoid and mitigate any discriminatory effects; and strengthen gender equality through the company’s operations, for example, through positive impacts, such as job creation, which the company can generate. The integration of gender considerations into the risk and impact assessments should be carried out in a structured manner, meaning, in a way that is systematic, analytical and documented.

When integrating gender considerations into their risk and impact assessments, companies should take into consideration individuals’ freedom to make choices about *gender identity* without the limitations set by stereotypes, rigid gender roles and prejudices. Individuals’ different behaviour, aspirations and needs should be considered, valued and favoured equally.

Performance Determination

Meets:

The company fully integrates gender considerations into the development of environmental, social, and human rights risk and impact assessments.

Substantially Meets:

N/A

Partially Meets:

The company does not fully integrate gender considerations into the development of environmental, social, and human rights risk and impact assessments.

Misses:

The company:

- › does not integrate gender considerations into the development of environmental, social, and human rights risk and impact assessments; or
- › has not carried out environmental, social, and human rights risk and impact assessments.

› **Provision 2.7** Companies will take appropriate action to avoid or minimise adverse impacts identified in their environmental, social and human rights risk and impact assessments and will prioritise those impacts that are, or would be, most severe, or where a delayed response would render them irremediable.

Explanation

Companies should design and implement mitigation strategies to avoid or minimise the environmental, social, and/or human rights impacts identified through the risk and impact assessments. Where relevant, companies should do so throughout the adoption of the mitigation hierarchy, therefore favouring the avoidance of impacts over minimisation, and, where residual impacts remain, compensating and/or offsetting the impact. The level of detail and complexity of the management or action plans should be commensurate with the impacts assessed and prioritise those potential and/or actual impacts that are most severe, or where a delayed response would render them irremediable.



The mitigation strategies should be implemented through management or action plans, which include clear objectives and qualitative and/or quantitative indicators for measuring performance. The management or action plans may be designed as part of a comprehensive framework and/or via a number of thematic plans based on specific areas of impact, such as a Biodiversity Action Plan, a Resettlement Action Plan, etc (see *IV Reference to Other Principles and Provisions*).

The company should establish clear procedures to monitor and measure the effectiveness of the management or action plans, including through *collaboration* with the affected communities. Companies should monitor results regularly and, where necessary, implement corrective actions. Periodic performance reviews should be reported to senior management.

Performance Determination

Meets:

The company takes appropriate action to avoid or minimise adverse impacts identified in the environmental, social, and human rights risk and impact assessments and prioritises those impacts that are, or would be, most severe or where a delayed response would render them irreparable.

Substantially Meets:

N/A

Partially Meets:

The company:

- > has designed an action plan to avoid or minimise adverse impacts identified in the environmental, social, and human rights risk and impact assessments, but such action plan is not fully implemented; and/or
- > the action plan has not been fully designed yet.

Misses:

The company does not take appropriate action to avoid or minimise adverse impacts identified in the environmental, social, and human rights risk and impact assessments.



III. VERIFICATION

Data Collection Method

Conformance with the provisions on risk and impact assessments is assessed through observation, document review, and interviews with the company’s management team and other stakeholders. Conformance with the provisions, where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
2.3		✓	✓			
2.4		✓	✓			
2.5		✓	✓			✓
2.6		✓	✓			✓
2.7	✓	✓	✓			

Examples and Types of Evidence

- › Environmental risk and impact assessments;
- › social risk and impact assessments;
- › human rights risk and impact assessments;
- › thematic risk and impact assessments covering environmental, social, and/or human rights risk and impact assessments such as on biodiversity and land use, pollution, resettlement, child labour, etc;
- › plans, studies, or assessments prepared by relevant government authorities or other parties that are directly related to the mining operations and their area of influence;
- › documentation of the stakeholder engagement process;
- › evidence of identification of potential and/or actual impacts and implementation of mitigation measures;
- › management systems documentation covering environmental, social, and/or human rights impacts;
- › management system reviews; and
- › third-party assessment, audit reports or certifications of the management systems covering environmental, social, and/or human rights risks.

Site Assessment

Interviews

During interviews with management, managers can describe:

- › how the company carries out environmental, social, and human rights impacts assessments;
- › how the assessments are linked to the company's management systems;
- › how the company implements mitigation measures if impacts are identified;
- › how the company identifies relevant stakeholder groups and engages affected communities and other relevant stakeholders throughout the entire lifecycle of the mine, including for monitoring purposes;
- › how gender considerations were taken into consideration during the stakeholder engagement process; and
- › clear lines of accountability and responsibility within the company for the oversight and implementation of the stakeholder engagement process and of the mitigation management or action plans.

During interviews with community members and stakeholders, they can demonstrate or describe:

- › a basic understanding of the company's stakeholder engagement process;
- › whether they receive reports relating to environmental, social, and human rights impacts of the mining operations;
- › how to lodge grievances if they have concerns about the company's environmental, social and human rights impacts (note that operational-level grievance mechanisms are covered under Principle 8); and
- › where relevant, how their considerations were integrated into the decision-making process.

Site Walk-Through

During the Site Walk-Through and visits to local communities, the assessor:

- › does not observe adverse impacts on the community caused by the operations.



IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
1 Business Integrity	1.1: In almost all jurisdictions, companies may be legally required to conduct environmental, social, and human rights risk and impact assessments prior to a new mining operation development and/or exploration.
2 Policy and Management	<p>2.1 - 2.2: Companies should integrate the management or action plans developed as a result of the environmental, social and human rights risk and impact assessments with the management systems developed and implemented for managing the company's impacts.</p> <p>2.12: In addition to taking into consideration the company's business partners when conducting environmental, social, and human rights risks and impacts related to a mining operations, companies should undertake risk-based due diligence on business partners that are more likely to cause, contribute, and/or be associated to environmental, social, and human rights risks and impacts.</p>
3 Transparency	3.1: As part of the public disclosure requirements, companies should make publicly available periodic reports on their environmental, social and human rights impacts and performance.
5 Human Rights	<p>5.4 - 5.5: Companies should meet the expectations of <u>Provisions 5.4 - 5.5 on Indigenous and Tribal Peoples</u> regarding the identification of potential and actual adverse impacts on Indigenous and Tribal Peoples and their lands, territories and resources, and respect the principles of Free, Prior and Informed Consent (FPIC).</p> <p>5.6: When integrating gender consideration into their risk and impact assessments, companies should consider women's rights.</p>
6 Labour Rights	6.26 - 6.27: Companies should meet the requirements of <u>Provisions 6.26 - 6.27 on Worker Grievance Mechanisms</u> regarding the development and implementation of a workers' grievance mechanism to facilitate the early alert and prompt remediation of the company's potential impacts on workers.
7 Occupational Health and Safety	7.13: As part of the environmental, social and human rights risk and impact assessments, companies should maintain emergency response plans in collaboration with affected communities and other relevant stakeholders.
8 Communities and Stakeholders	8.1 - 8.4: Companies should meet the expectations of <u>Provisions 8.1 - 8.4 on Stakeholder Engagement</u> regarding the identification of affected stakeholders, the development and implementation of a stakeholder engagement plan scaled to the operations' impacts, throughout the lifecycle of the mine.



8.7 - 8.8: Where applicable, companies should develop and implement a resettlement action plan to manage the impacts associated with resettlement.

8.16 - 8.18: Companies should meet the requirements of Provisions 8.16 - 8.18 on Operational-Level Grievance Mechanism regarding the development and implementation of an operational-level grievance mechanism to facilitate the early alert and prompt remediation of the company's potential impacts on the communities.

10 Management of Emissions and Waste

10.12: As part of the environmental, social, and human rights risk and impact assessments, companies should develop a tailings emergency response plan in consultation with stakeholders to mitigate risks associated with the impacts of tailings.

V. FURTHER INFORMATION

- > International Finance Corporation, *IFC Guidance Note 1 on Performance Standard 1: Assessment and Management of Environmental and Social Risks and Impacts* (available [here](#)). This Guidance Note provides clarifications on implementation of IFC Performance Standard 1.
- > The Danish Institute for Human Rights has created a guidance and practical tools (available [here](#)) for conducting, commissioning, reviewing, and monitoring human rights impact assessments of business projects.
- > Australian Aid/ Oxfam Australia, *A Guide to Gender Impact Assessment for the Extractive Industries, 2017* (available [here](#)). Guide advising mining, oil, and gas companies on how they, or their consultants, can undertake a gender impact assessment.
- > WCEF International, *The Gender Impact Assessment and Monitoring Tool, 2018* (available [here](#)). Manual explaining the Gender Assessment and Monitoring tool and its purpose.

Business Partners (Provisions 2.8 – 2.12)

I. INTRODUCTION

Companies have a responsibility to guarantee that they enter into *business relationships* with individuals and business entities that are respectful of the law, and that uphold at least the same environmental, social, and governance commitments as they do themselves.

Promoting responsible business practices should include, at a minimum:

- > ensuring that business partners are legitimate and conduct business in compliance with the law;
- > engaging business partners and communicating the company's commitments and expectations upon entering into, and throughout, a business partnership;
- > identifying, assessing and mitigating potential and actual risks of adverse impacts associated with the business partners' own activities and sourcing practices; and
- > the continuous monitoring of all of the above.



II. PROVISIONS AND PERFORMANCE DETERMINATION

-
- > **Provision 2.8** Companies will conduct Know Your Counterparty (KYC) checks on all of their business partners.
-

Explanation

Know Your Counterparty (KYC) is a process to collect, verify and monitor the identity and risks associated with a counterparty, meaning any individual or entity such as a customer, a supplier, a contractor, or other business partners with whom a company exchanges financial transactions.

KYC helps protect the company from the risk of being unintentionally involved in criminal activities, such as money laundering and terrorism financing, and from potential fines, penalties, and reputational damage associated with such crimes by helping the company identify and prevent suspicious transactions.

KYC checks normally include, at a minimum:

- > the collection and verification of the identity or information of the individual or business entity;
- > an assessment of the potential risks that the business entity is associated with, such as money laundering, terrorism financing, or other illegal activities, through an assessment of the location of the business, the type of activities performed by the business, the expected volumes of transactions and type of payment method used, the business entity's customers and relationships, and the business entity's policies and procedures;
- > an analysis of the ownership structure to determine which entities or persons directly or indirectly own the business, in particular the 'real owners' or *Beneficial Owners* (BOs), meaning, the natural person(s) who directly or indirectly ultimately owns or controls a corporate entity, a license, or other property;
- > a screening of the BOs against the so-called "sanctioned people lists" issued by individual governments and available on most governments' websites.

While it is standard practice to conduct basic KYC checks on all counterparties, it is acknowledged that further investigations into a business partners' operations may, instead, be conducted on a risk-based approach. Such further investigation, referred to as '*due diligence*', may be triggered where the counterparty is believed to represent a potential risk for the company, for example because of the association of the counterparty's country of operations with widespread human rights risks (see [Provision 2.12 on Business Partners](#) and [Provisions 5.11 - 5.15 on Conflict-Affected and High-Risk Areas](#)).

Because of the extensive amount of business partners that companies may have, it is acknowledged that companies may outsource KYC checks to dedicated service providers or carry out KYC checks through automated software programmes.

Performance Determination

Meets:

The company has developed and implemented a system to conduct KYC checks on all of its business partners.

Substantially Meets:

The company has developed a system to conduct KYC checks on its business partners, but implementation is incomplete (at least 75% business partners covered).



Partially Meets:

The company:

- › has developed a system to conduct KYC checks on its business partners, however, implementation has not started or is incomplete (less than 75% business partners covered); or
- › is in the process of developing such a system, however, the system is not yet complete.

Misses:

The company does not have a system in place to conduct KYC checks on its business partners.

› **Provision 2.9**

Companies will communicate to their business partners their environmental, social and governance commitments, including the Principles and Provisions covered in the Bettercoal Code.

Explanation

Once a business partnership is approved, companies should clearly communicate their corporate social responsibility (CSR) commitments and expectations to their business partners to make sure that their commitments are upheld along the supply chain. For example, for Bettercoal suppliers, this should include clearly communicating the company's commitment to the principles and provisions of the Bettercoal Code.

Companies can communicate to business partners their commitments and expectations by adopting a Code of Conduct for Business Partners or similar, or by including statements in contract agreements. Such commitments may be communicated by email, during meetings, via publication on the public website, or other relevant communication channels. Companies should ensure that such information is provided in a language and format that is well understood by the recipient.

To effectively foster a culture of responsible business conduct and sustainability, it is important that companies communicate their commitments and expectations to their business partners on a regular basis.

Performance Determination

Meets:

The company has developed and implemented a system to communicate to its business partners its environmental, social and governance commitments, including the principles and provisions covered in the Bettercoal Code.

Substantially Meets:

The company has developed a system to communicate to its business partners its environmental, social and governance commitments, including the principles and provisions covered in the Bettercoal Code, however, implementation is incomplete (at least 75% business partners covered).

Partially Meets:

The company:

- › has developed a system to communicate to its business partners its environmental, social and governance commitments, including the principles and provisions covered in the Bettercoal Code, however, implementation has not started or is incomplete (less than 75% business partners covered); or
- › is in the process of developing such a system, however, the system is not yet complete.



Misses:

The company does not communicate to its business partners its environmental, social and governance commitments.

> **Provision 2.10** Companies will require their contractors to develop, document and implement management systems that are aligned with the requirements of Provisions 2.1 and 2.2 of this Code and that cover the Principles of the Bettercoal Code.

Explanation

Hiring *contractors* is a common practice in business. While hiring contractors may be the best viable option under certain business conditions, when doing so, companies may find themselves vulnerable to risks over which they do not have as good a visibility and control as they do when working with their own direct employees.

When hiring contractors, a company does not transfer risks to the contracting companies completely; instead, it remains ultimately responsible for potential adverse impacts or incidents that may occur, such as accidents on the job site or labour rights violations. For this reason, it is important that companies uphold contractors to their same commitments. In particular, companies should expect contractors to develop, document, and implement management systems that cover the Principles of the Bettercoal Code, thus ensuring greater control over, and continuous improvement of, contractors' operations.

Performance Determination

Meets:

The company communicates to contractors its expectations related to the development, documentation, and implementation of management systems that cover the principles of the Bettercoal Code, and includes such expectations as part of the contractors' selection process and in contractual agreements.

Substantially Meets:

The company has introduced expectations related to the development, documentation, and implementation of management systems that cover the principles of the Bettercoal Code in its contractors' selection process and contractual agreements, however, not for all contractors (at least 75% contractors covered).

Partially Meets:

The company has started introducing expectations related to the development, documentation, and implementation of management systems that cover the principles of the Bettercoal Code in contractual agreements, however, not for all contractors and in all agreements (less than 75% of contractors and agreements covered).

Misses:

The company does not communicate to contractors any expectations related to the development, documentation, and implementation of management systems that cover the principles of the Bettercoal Code.



> **Provision 2.11** Companies will communicate publicly and to their business partners their responsible supply chain policy with respect to sourcing from conflict-affected and high-risk areas as required by [Provision 5.11](#).

Explanation

Companies operating in, or sourcing from, *conflict-affected and high-risk areas* (CAHRAs), are particularly exposed to the risk of being associated with severe human rights abuses, conflict financing, and other serious violations. For this reason, companies operating in, or sourcing from CAHRAs, should implement the recommendations of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from CAHRAs (OECD Guidance) (see [Provisions 5.11 - 5.14 on Conflict-Affected and High-Risk Areas](#)).

As part of such recommendations, companies should adopt a responsible supply chain policy with respect to sourcing from CAHRAs (see [Provision 5.11 on Conflict-Affected and High-Risk Areas](#)). Companies should communicate the policy publicly, for example, by uploading it on the company's website, and incorporate it into contracts and/or agreements with suppliers.

Performance Determination

Meets:

The company communicates publicly a responsible supply chain policy with respect to sourcing from CAHRAs consistent with [Provision 5.11 on Conflict-Affected and High-Risk Areas](#).

Substantially Meets:

The company has adopted a responsible supply chain policy with respect to sourcing from CAHRAs consistent with [Provision 5.11 on Conflict-Affected and High-Risk Areas](#), but the policy is not publicly available.

Partially Meets:

The company has adopted a responsible supply chain policy, however, such policy is not fully consistent with [Provision 5.11 on Conflict-Affected and High-Risk Areas](#).

Misses:

The company has not adopted a responsible supply chain policy with respect to sourcing from CAHRAs.

> **Provision 2.12** Companies will conduct risk-based due diligence on their business partners to ensure responsible business practices and adherence to the Bettercoal Code.

Explanation

Once companies enter into a business relationship with a business partner, they should take adequate steps to avoid contributing to adverse impacts, and instead, ensure that they use the business relationship as an opportunity to catalyse positive change. To this end, companies should conduct due diligence, an ongoing process through which companies identify, assess, and where relevant, manage risks and adverse impacts associated with their own and/or their business partners' operations to ensure responsible business practices throughout the supply chain.



In order to prevent or manage risks of adverse impacts and actual adverse impacts, and to promote responsible business practices along the supply chain, companies should undertake due diligence through a risk-based approach, whereby companies take steps to identify, assess, and manage risks.

In a risk-based approach, the level of due diligence to be undertaken is based on the severity and likelihood of the actual or potential risk identified. For example, all companies should have a due diligence system in place and collect basic information on their supply chain and operations, as needed to identify red flags of actual or potential risks. Companies that do not identify red flags are not expected to undertake further due diligence steps, other than continuous monitoring and public reporting; instead, companies that identify red flags should assess the presence of potential or actual risks and, where such risks are assessed, take mitigation action (see [Provisions 5.11 - 5.15 on Conflict-Affected and High-Risk Areas](#)). A similar approach should be adopted to identify, assess, and manage risks which may go beyond those associated with CAHRAs.

Companies should monitor their business partners' activities and performance over time, and continue conducting due diligence proactively and in reaction to changes of circumstances and to risks as they emerge in the supply chain.

Performance Determination

Meets:

The company has developed and implemented a system for conducting risk-based due diligence on its business partners.

Substantially Meets:

The company has developed a system for conducting risk-based due diligence on its business partners, however, implementation is incomplete (at least 75% of significant business partners are covered).

Partially Meets:

The company:

- › has developed a system for conducting risk-based due diligence on its business partners, however, implementation has not yet started or is incomplete (less than 75% of significant business partners covered); or
- › is in the process of developing a system, but the system is not yet complete.

Misses:

The company does not have a system in place for conducting risk-based due diligence on its business partners.

III. VERIFICATION

Data Collection Method

Conformance with the provisions on business partners is assessed through observation, document review, and interviews with the company's workers (employees and contracted workers) and management team.

Conformance with the provisions, where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.



Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
2.8		✓	✓			
2.9	✓	✓	✓	✓	✓	
2.10	✓	✓	✓	✓	✓	
2.11		✓	✓			
2.12		✓	✓			

Examples and Types of Evidence

- > KYC procedure documents;
- > documented policies, stipulated practices or commitments on responsible business practices formally used to engage significant business partners, including a Code of Conduct for business partners or equivalent;
- > examples of contractual agreements incorporating provisions on expectations for adherence to the Bettercoal Code or equivalent social, environmental, and governance requirements;
- > evidence of communication with or engagement of business partners to promote responsible business practices;
- > responsible sourcing or responsible supply chain policy and procedure documents, including procedures on due diligence implementation for ensuring business partners' adherence to the Bettercoal Code or equivalent social, environmental, and governance requirements;
- > evidence of communication of the responsible supply chain policy publicly and to business partners;
- > risk assessment of significant business partners and their associated business risks;
- > responsible business practice scorecards of business partners;
- > evidence of training of relevant personnel on KYC, due diligence, etc.;
- > minutes of meetings with business partners, and with contractors in particular;
- > third party-assured reporting on the implementation of responsible supply chain policy and procedures, on a publicly available website, in an annual report, or in a corporate sustainability report, at least annually;
- > case studies and qualitative/quantitative data and analysis of improved responsible business practices by business partners and contractors.

Site Assessment

Interviews

Business partners, including contractors, confirm that they have been communicated about the company's commitments and expectations regarding responsible practices and have demonstrated conformance.

During interviews with management, managers can demonstrate or describe:

- > a good understanding of the company's policies and procedures on the selection and evaluation of business partners, including contractors and suppliers;
- > the company's KYC procedures;
- > due diligence procedures;
- > how the company is using its ability to influence business partners to promote responsible business practices; and
- > how the company identifies business partners, establishes the level and nature of risks attributed to business partners, monitors and engages with business partners.



During interviews with contracted workers, they can demonstrate or describe:

- > their working conditions, with regard to working hours, remuneration, health and safety, provision of the personal protective equipment, housing arrangements, access to the grievance mechanism, and other relevant information to demonstrate conformance with the Principles and Provisions of the Bettercoal Code;
- > that they are familiar with the company’s policies and procedures that cover the Principles of the Bettercoal Code; and
- > that they have been provided with the training relevant for their job tasks and covering the relevant Principles of the Bettercoal Code.

Site Walk-Through

During the Site Walk-Through, the assessor observes:

- > relevant documentation related to business partner expectations, such as policies and/or procedures, posted prominently in designated locations, where necessary.

IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
1 Business Integrity	1.2: In addition to meeting the requirements of <u>Provisions 2.8 - 2.12 on Business Partners</u> , companies’ expectations for business partners include the development, documentation and implementation of anti-corruption and anti-money laundering systems aligned with the requirements of <u>Provisions 2.1 and 2.2 on Management Systems</u> .
2 Policy and Management	2.4: Companies should take into consideration the risk and impact associated with their business partners’ operations and the liability arising from such business relationships when conducting their environmental, social and human rights risks and impact assessments as per <u>Provision 2.4 on Risk and Impact Assessments</u> .
5 Human Rights	<p>5.1: When conducting human rights due diligence, companies should take into consideration the potential and actual adverse impacts associated with their business partners.</p> <p>5.11 – 5.15: When conducting risk-based due diligence on their business partners, companies should refer to <u>Provisions 5.11 - 5.15 on Conflict-Affected and High-Risk Areas</u> with respect to sourcing from CAHRAs.</p>
6 Labour Rights	6.7: Companies should take remediation action should they discover that a child is working on their premises or that of their business partners.

V. FURTHER INFORMATION

OECD, *Due Diligence Guidance for Responsible Supply Chains of Minerals from CAHRAs: Second Edition* (available [here](#)). This Guidance provides detailed recommendations to help companies respect human rights and avoid contributing to conflict through their mineral purchasing decisions and practices. As the leading international framework for responsible mineral supply chains, it is referenced in a range of international declarations, regulations, and initiatives.



03

TRANSPARENCY

Companies will commit to being transparent in alignment with internationally recognised reporting and disclosure standards.



Introduction

Transparency is an increasing stakeholder expectation. Global issues such as global warming are increasingly driving investors, along with regulators, insurers, and the public, to gain a better understanding of how companies conduct their business and how they manage governance-related, environmental and social risks.

Transparency is an important enabler of accountability and it is key for building trust. As a consequence, companies that champion transparency are more likely to attract investment, better adjust to the changing demands of society and get ahead of regulatory and policy changes, and ultimately ensure long-term profitability.

Transparency is also key for preventing criminal activities, including corruption, money laundering, terrorism financing, and for ensuring that payments made by mining companies in the forms of taxes, royalties, signature bonuses and various other payments ultimately benefit citizens and lead to economic growth and social development.

Bettercoal expectations on Transparency include Provisions on:

- › [Sustainability Reporting \(Provision 3.1\)](#)
- › [Company Ownership and Payment Transparency \(Provisions 3.2 – 3.3\)](#)



Sustainability Reporting (Provision 3.1)



I. INTRODUCTION

Sustainability reporting is the process of collecting, measuring, analysing, and communicating qualitative and quantitative information related to a company's governance, environmental and social performance. A sustainability report also presents the organisation's values, governance model, and management approach, and demonstrates the link between its strategy and its commitment to a sustainable global economy.

Sustainability reporting is sometimes used as a synonym for non-financial reporting or CSR reporting, or it can be a part of the so-called integrated reporting. It should be noted that a sustainability report is not just about communication. A good sustainability reporting process is an important instrument for businesses to move from transparency for the sake of transparency to action, to understand their areas of improvement, and to set realistic goals for the future.

II. PROVISIONS AND PERFORMANCE DETERMINATION

- > **Provision 3.1** Companies will publicly report annually on their environmental, social and governance performance for all material topics in alignment with internationally recognised reporting standards.
-

Explanation

Companies should report annually on their governance, social and environmental performance. Reporting should be conducted in alignment with internationally recognised reporting standards, such as:

- > the Global Reporting Initiative (GRI) Sustainability Reporting Standards (GRI Standards);
- > the OECD Guidelines for Multinational Enterprises;
- > the UN Global Compact's Communication on Progress;
- > the ISO 26000 International Standard for Social Responsibility;
- > the Sustainability Accounting Standards Board (SASB) Standards.

Sustainability reporting may also be conducted in alignment with topic-specific internationally recognised reporting standards, for example, for climate change:

- > the Carbon Disclosure Project (CDP); and
- > the Task Force on Climate-related Financial Disclosures (TCFD).

In any case, it is important that companies provide information that is:⁹

- > accurate: collected and analysed through sound methodologies;
- > balanced: fairly reflects both the positive and adverse impacts of the company;
- > clear: available in a manner that is understandable and accessible to stakeholders;
- > comparable: presented in a way that allows for an assessment of the company's performance over time as well as in relation to its peers.

Sustainability reporting should address all *material topics*, meaning, all governance, social and environmental topics that should be prioritised based on the following two dimensions, as often illustrated in the so-called 'materiality matrix':

9. Global Reporting Initiative (GRI), *GRI Standards*, 2020, Accessed online: 29 December 2020, <<https://www.globalreporting.org/how-to-use-the-gri-standards/gri-standards-english-language/>>.

- > topics that reflect the company's significant economic, environmental and social impacts; or
- > topics that substantively influence the assessments and decisions of stakeholders including customers, suppliers, workers, communities, etc.

In fact, companies may be faced with a wide range of topics that could be interesting for reporting. However, to prioritise limited resources and communicate effectively what is relevant for stakeholders to know and understand, it is important that companies focus their sustainability reports, at a minimum, on topics that are material, meaning, on topics that are sufficiently important that it is essential to report on them, based on the two dimensions above.

Material topics are determined on the basis of a materiality assessment, a process taking into account:

- > the company's overall mission, values, and strategies;
- > the company's significant governance, social and environmental impacts (see [Provisions 2.3-2.7 on Risk and Impact Assessments](#));
- > stakeholders' concerns, including those who are specifically invested in the company, such as employees and shareholders, as well as other relevant stakeholders and affected communities, including other workers, suppliers, customers, local communities and civil society;
- > broader societal expectations;
- > sector-specific challenges, as identified by peers, competitors, and experts;
- > international standards, laws and regulations.

The materiality assessment can be conducted via desk research, interviews with top management, and stakeholder engagement.

For each material topic, the company should report:

- > the management approach, including the policies, commitments, goals, and targets, responsibilities, and resources made available to manage the topic effectively;
- > where relevant, specific actions, such as processes, projects, programs, and initiatives;
- > quantitative and/or qualitative performance indicators.

Sustainability reporting may result in a stand-alone sustainability report or CSR report or equivalent, or be integrated as part of the company's financial reports.

While sustainability reporting is still voluntary in most jurisdictions, governments are starting to introduce legal requirements on non-financial disclosure. For example, in the European Union, Directive 2014/95/EU has introduced rules on non-financial reporting which apply to large public-interest companies with more than 500 employees. Companies should be aware of their legal requirements.

Performance Determination

Meets:

The company publicly reports annually on its environmental, social and governance performance for all material topics in alignment with internationally recognised reporting standards.

Substantially Meets:

The company publicly reports on its environmental, social and governance performance, however, material topics are not fully covered by the report.

Partially Meets:

The company publicly reports on its environmental, social and governance performance, however, the report presents important gaps in terms of topics covered, and/or reporting is not aligned with internationally recognised reporting standards.

Misses:

The company does not report annually on its environmental, social and governance performance.



III. VERIFICATION

Data Collection Method

Conformance with the provisions on sustainability reporting is assessed through document review and through interviews with the company’s management team.

Conformance with the provision, where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
3.1		✓	✓			

Examples and Types of Evidence

- > Annual sustainability report or equivalent, publicly disclosed on the website;
- > materiality assessment;
- > stakeholder engagement documentation;
- > data collection and aggregation files;
- > sustainability reporting procedure; and
- > assurance claim of the sustainability report.

Site Assessment

Interviews

During interviews with management, managers can demonstrate or describe:

- > the company’s sustainability reporting process;
- > how material topics were determined;
- > how governance, social, and environmental data was collected;
- > how information on the company’s performance is reported and disseminated to key stakeholders.

IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
1 Business Integrity	1.1: Companies in certain jurisdictions may be legally required to comply with non-financial disclosure reporting laws and regulations.
	1.3: Companies should report, as part of their sustainability reporting, on measures taken to prevent and fight all forms of corruption, including bribery, bribe solicitation, facilitation payments and extortion as well as money laundering.



2 Policy and Management

2.3 – 2.7: To determine their material topics, companies should draw information from their impact environmental, social, and human rights assessments.

5 Human Rights

5.15: As part of their sustainability reporting or via a stand-alone report, companies should report annually on their due diligence undertaken to ensure responsible mineral supply chains from CAHRAs.

8 Communities and Stakeholders

8.1 – 8.5: To determine their material topics, companies should consider those that are relevant to stakeholders, including through their stakeholder engagement program.

V. FURTHER INFORMATION

- GRI, *The GRI Standards* (available [here](#)) represent a global best practice for reporting on a range of economic, environmental, and social impacts and provides further guidance on how to carry out a materiality assessment.
- OECD, *Guidelines for Multinational Enterprises* (available [here](#)) are recommendations addressed by governments to multinational enterprises operating in or from adhering countries. They provide non-binding principles and standards for responsible business conduct, including on disclosure.
- The UN Global Compact is an UN-driven corporate responsibility initiative. Participation includes a requirement to communicate yearly on progress through the *Communication on Progress report* (available [here](#)).
- ISO, *ISO 26000 International Standard for Social Responsibility* (available [here](#)) provides guidance on how businesses and organisation can operate in a socially responsible way and includes guidance on communication for social responsibility.
- The Sustainability Accounting Standards Board (SASB) has developed a complete set of 77 industry standards, providing a complete set of globally applicable industry-specific standards which identify financially material sustainability topics and their associated metrics for the typical company in an industry. SASB also developed a *Materiality Map* (available [here](#)) which could prove useful to companies for their materiality assessment.
- CDP, *Guidance for companies* (available [here](#)). The CDP runs a global disclosure system for investors, companies, cities, states and regions to manage their environmental impacts, with a focus on climate, water and forests.
- The Task Force on Climate-related Financial Disclosures (TCFD), *TCFD recommendations* (available [here](#)). The TCFD was created in 2015 by the Financial Stability Board (FSB) to develop consistent climate-related financial risk disclosures for use by companies, banks, and investors in providing information to stakeholders.



Company Ownership and Payment Transparency (Provisions 3.2 – 3.3)



I. INTRODUCTION

Disclosure on company ownership and payment transparency plays an important role in the fight against corruption, money laundering, terrorism financing, and other criminal activities.

In fact, corporate vehicles are one way through which criminals disguise and convert the proceeds of criminal activities to introduce them into the financial system, circumventing anti-money laundering and counter-terrorism financing measures. However, the misuse of corporate vehicles can be greatly reduced through a company's transparent reporting of its legal and beneficial ownership structure. For example, *beneficial ownership* information, that is "information on the 'natural' person(s) who, directly or indirectly, ultimately own(s) or control(s) a corporate entity,"¹⁰ may be obscured through¹¹ the use of shell companies, complex ownership, and control structures. These examples involve many layers of shares registered in the name of other legal persons, bearer shares and bearer share warrants, trusts, and other legal arrangements which enable a separation of legal ownership and beneficial ownership of assets, and use of intermediaries in forming legal persons, including professional intermediaries.

Clear information about legal and beneficial ownership can disincentivise the misuse of corporate vehicles, as well as help law enforcement and other competent agencies 'follow the money' during financial investigations. Because such information may be challenging to obtain when it involves legal persons and arrangements spread across multiple jurisdictions, it is important that companies make this type of information readily available by aligning their disclosure practices to internationally recognised disclosure standards.

Similarly, payment transparency is an important deterrent for preventing corruption, and it is particularly relevant for the mining industry, which is perceived to be especially vulnerable to corruption risks at all stages in the decision-making chain, from the awarding of licensing and contracts through to the collection and redistribution of taxes and royalties. By increasing transparency on the allocation of a company's and government's revenues associated to the extraction of natural resources, civil society organisations can hold companies and governments accountable and monitor that natural resources are delivered in a way that benefits affected communities and society at large.

Companies should support initiatives for revenue transparency and capacity of governments and other stakeholders to responsibly manage funds. A number of initiatives have emerged to promote corporate ownership and payment transparency internationally. In particular, the EITI is a multi-stakeholder initiative comprised of governments, companies, civil society groups, investors, and international organisations, which sets a global standard to promote the open and accountable management of oil, gas and mineral resources.

Reporting in accordance with the EITI is only binding for companies located in an EITI-implementing country. However, mining companies can support the implementation of the EITI principles and use the EITI Standards to guide their disclosure practices when seeking conformance to this Code.

10. Extractive Industries Transparency Initiative (EITI), *The EITI Standard 2019*, Edition 2, 2019, Page 19, Accessed online: 29 December 2020, <<https://eiti.org/document/eiti-standard-2019>>.

11. The Financial Action Task Force (FATF), *Transparency and Beneficial Ownership*, 2013, Page 6, Accessed online: 29 December 2020, <<https://www.fatf-gafi.org/documents/news/transparency-and-beneficial-ownership.html>>.

II. PROVISIONS AND PERFORMANCE DETERMINATION

- > **Provision 3.2** Companies will publicly disclose their ownership, including their beneficial ownership, according to internationally recognised disclosure standards.
-

Explanation

Companies should disclose their corporate ownership, including their beneficial ownership, in line with internationally recognised disclosure standards such as the EITI Standards. In particular, disclosure should include:

- > the company's beneficial owner(s): the name of the beneficial owner, their nationality, and their country of residence. It is also recommended that their national identity number, date of birth, residential or service address, and means of contact are disclosed; and
- > the level of ownership and details about how ownership or control is exerted.

Where possible, beneficial ownership information should be incorporated in existing filings by companies to corporate regulators, stock exchanges or agencies regulating extractive industry licensing. Publicly listed companies, including wholly-owned subsidiaries, should disclose the name of the stock exchange and include a link to the stock exchange filings where they are listed to facilitate public access to their beneficial ownership information. In the case of joint ventures, each entity within the venture should disclose its beneficial owner(s), unless it is publicly listed or is a wholly-owned subsidiary of a publicly listed company.

It is important that companies are aware of specific beneficial ownership definitions that may be adopted by the government in which they operate, where beneficial ownership disclosure may be a legal requirement. For example, companies should be aware of ownership thresholds that trigger disclosure requirements, as well as of any specific reporting obligations for PEPs, meaning, "a natural person who is or who has been entrusted with prominent public functions. Often referred to in beneficial ownership legislation."¹²

Some countries may require companies to attest their beneficial ownership declaration through sign-off by a member of the senior management team or senior legal counsel, or through the submission of supporting documentation.

Performance Determination

Meets:

The company publicly discloses its ownership, including its beneficial ownership, according to internationally recognised disclosure standards.

Substantially Meets:

N/A

Partially Meets:

The company discloses its ownership, including its beneficial ownership, however, disclosure is not aligned to internationally recognised disclosure standards and there are gaps in information disclosed.

Misses:

The company does not publicly disclose its ownership, including its beneficial ownership, according to internationally recognised disclosure standards.

12. EITI, *The EITI Glossary*, Accessed online: 29 December 2020, <<https://eiti.org/glossary>>.



-
- › **Provision 3.3** Companies will publicly disclose annually all material payments, including taxes, made to the government of the countries in which they operate, in accordance with internationally recognised disclosure standards.
-

Explanation

Companies should publicly disclose, every year, *material payments*, including taxes, made to governments. Where companies choose not to, they should explain why.

Companies operating in the EITI implementing countries should meet the criteria of the EITI Standard, including:

- › endorsing the EITI Principles and Criteria, in the form of a policy or similar, and make the policy publicly available; and
- › ensuring comprehensive disclosure of material payments, including taxes, made to the governments of EITI implementing countries.

Companies operating in non-EITI implementing countries should also disclose all material payments made to governments, where contract confidentiality provisions allow such disclosure.

Payments are material if their omission or misstatement could significantly affect the comprehensiveness of the disclosures, affecting the judgement of an informed stakeholder.¹³
¹⁴ It is typically the responsibility of the national multi-stakeholder group (a group made up of government, company, and civil society representatives that oversee the EITI implementation in a country) to decide how to define material in quantitative or qualitative terms.

For this reason, it is important that companies are aware of specific definitions that may be adopted by their government, and of any other legal requirements which may be applicable to them.

Payment disclosure should be accessible to the public and compiled in a way that is easily understandable to stakeholders.

Performance Determination

Meets:

The company publicly discloses annually all material payments, including taxes, made to the government of the countries in which it operates, in accordance with internationally recognised disclosure standards.

Substantially Meets:

The company discloses annually all material payments, including taxes, made to the government of the countries in which it operates, however, minor improvements are needed to align disclosure to internationally recognised disclosure standards.

Partially Meets:

The company discloses annually payments, including taxes, made to the government of the countries in which they operate, however, the report presents important gaps in terms of payments disclosed, and/or reporting is not aligned with internationally recognised reporting standards.

13. EITI, *The EITI Glossary*, Accessed online: 29 December 2020, <<https://eiti.org/glossary>>.

14. Business Literacy Institute, *Financial concepts – Materiality*, Accessed online: 29 December 2020, <<http://www.business-literacy.com/financial-concepts/materiality/>>.



2 Policy and Management

2.9: In addition to publicly disclosing their beneficial owners, companies should take steps to identify the beneficial owners of their business partners, through KYC.



V. FURTHER INFORMATION

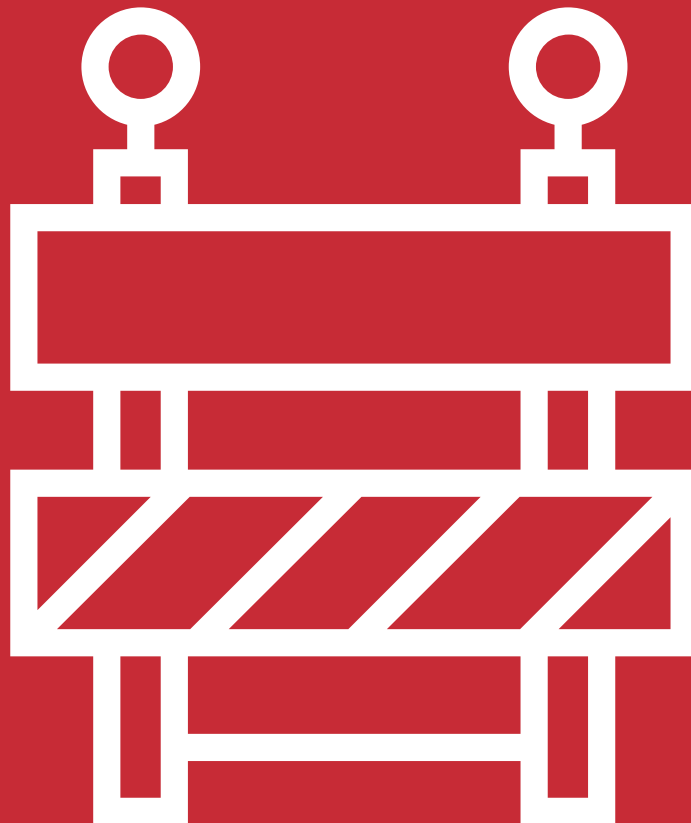
- > EITI, *EITI principles* (available [here](#)). The EITI provides resources and guidance on how companies can support the EITI principles;
- > *Publish What You Pay* (available [here](#)) is a global movement working to ensure that revenues from oil, gas, and mining help improve people's lives. The website includes useful resources on revenue transparency.



04

MINE REHABILITATION AND CLOSURE

Companies will implement a process of integrated mine closure and rehabilitation incorporating environmental, social, economic and governance aspects into operations from the earliest stage of mine development.



I. INTRODUCTION

Mine closure refers to “the period of time when the operational stage of a mine is ending or has ended, and the final decommissioning and mine rehabilitation is being undertaken.”¹⁵ *Rehabilitation* refers to the process to stabilise and return or reclaim, degraded land to its former state, including the recovery of key ecosystem services and ecological functions, or the repurposing of the landscape to other beneficial uses, which may be the preferred path to address legacies of surface mining operations. Closure may be only temporary in some cases, or may lead into a programme of care and maintenance.

This Principle is applicable to all companies where they announce partial or full closure, or are planning for a *progressive closure* and rehabilitation programme at their mining operation. The goal of mine closure is to achieve an acceptable level of rehabilitation, to complete all the activities necessary to comply with environmental regulations, and finally, to have the current land user relinquish ownership and the next accept responsibility.

Because the impacts of mining operations are multifaceted, the closure plan will also have many parts. Mine closure is important because the way a mine is closed – the decisions taken on social, economic, and environmental aspects of the closure plan – and how disturbed areas are rehabilitated, will have impacts on surrounding communities and ecology. These impacts include changes in the populations of neighbouring communities, the availability of jobs and types of work, the drop in sales for local auxiliary businesses, potential drop in tax revenues for local authorities, changes in visual and ecological aspects of the surrounding environment, access to and maintenance of roads and other transport infrastructure, and the visual impact and safety implications of redundant mining equipment and workings. If not managed well, these impacts can leave a legacy that defines the area, the reputation of individual companies, and, in some cases, the whole industry.

Done well, the mine rehabilitation and closure plan can result in positive outcomes for the company, including strengthening relations with and winning support from *affected stakeholders* and local communities; greater accuracy and ability to budget for the cost of closure; reduced risk of regulatory non-compliance; identification of potential problems quicker; liabilities progressively reduced; and opportunities for lasting benefits for the local area recognised and planned adequately.

Key to successful mine closure – that is, a mine closure process that achieves its goals within the economic possibilities of the commercial operation – is planning. Mine closure and rehabilitation require detailed plans spanning years, if not decades, and can have very significant financial and resource costs. Therefore, planning for closure and rehabilitation should start as early as possible in the lifecycle of the mine, be integrated into the mining operations and take a progressive approach to rehabilitation.

Companies should follow the International Council on Mining & Metals’ (ICMM) Integrated Mine Closure Good Practice Guide (2nd Edition)¹⁶ as a responsible and comprehensive approach to integrated mine closure. The ICMM describes *integrated mine closure* as “a dynamic and iterative process that takes into account environmental, social, and economic considerations at an early stage of mine development” and further explains that “fundamental to this process is the need to consider closure as an integral part of the mine operations’ core business”, rather than an ‘add on’ consideration on the periphery of the operation.

15. The Leading Practice Sustainable Development Program, *Mine Closure and Completion*, 2006, Accessed online: 29 December 2020, <<https://www.im4dc.org/wp-content/uploads/2014/01/Mine-closure-and-completion.pdf>>.

16. International Council on Mining and Metals (ICMM), *Integrated Mine Closure Good Practice Guide 2nd Edition*, 2018, Accessed online: 29 December 2020, <https://www.icmm.com/website/publications/pdfs/closure/190107_good_practice_guide_web.pdf>.



Much of closure and rehabilitation happens when operations have ceased or are reducing and little or no revenue is being generated, even with the best planned operations where closure activities are fully integrated throughout the mine's lifecycle. The mining industry is associated with many examples of abandoned mines where governments and local communities have been left with significant adverse impacts and have had to cover the costs of cleaning it up and compensating local landowners, communities and businesses. Requiring mining operations to put aside financial resources to cover future costs of rehabilitation and closure is now common in many jurisdictions.

Regulatory jurisdictions can require specific practices, outcomes, and processes for closure and rehabilitation. Companies should ensure that these regulations are known and applied at their mining operations.

Stakeholder engagement is a critical aspect of mine closure and rehabilitation as surrounding communities, businesses, and authorities have the greatest stake in the future of the area. Where Indigenous Peoples' groups are nearby, companies should apply the principles of free prior informed consent to the closure process. Furthermore, closure should take into account post-mining transition for employees and other stakeholders.

II. PROVISIONS AND PERFORMANCE DETERMINATION

-
- > **Provision 4.1** Companies will develop, regularly review, and implement an integrated and comprehensive mine closure plan for each mining operation covering environmental, social, economic, and governance aspects including both progressive closure and final closure activities.
-

Explanation

Companies should begin the planning for rehabilitation and closure process as early as possible in the lifecycle of the mining operations. Planning should be based on a comprehensive and continuing impact assessment of the risks of closure (see [Provision 2.3 on Risk and Impact Assessments](#)), and incorporate an appropriate management system to address these risks (see [Provisions 2.1 and 2.2 on Management Systems](#)). Companies' plans should follow an integrated approach to closure. To that end, plans should clearly demonstrate companies' commitment to identify and implement management measures aimed at preventing adverse environmental, social and governance impacts and promoting positive outcomes throughout the lifecycle of the mine and touching all relevant parts of the operation. When closing in high value biodiversity or protected areas, companies should develop mine closure plans in conjunction with protected area sponsors, managers, and other relevant stakeholders (see [Provision 12.6 on Designated and High Conservation Value Areas, Natural Habitats and Threatened Species](#)).

Section [V Further Information](#) provides a list of resources on planning for mine closure and rehabilitation. In particular, companies should consider guidance of the ICMM in their publication: *Integrated Mine Closure, Good Practice Guide, 2nd Edition*.

The mine rehabilitation and closure plan should be documented, retained by companies and cover at a minimum the following:

- > policies and procedures related to mine closure, decommissioning, divestment, and rehabilitation;
- > designated qualified persons or positions with responsibility for maintaining the closure and rehabilitation plan;



- > articulated vision of the end result of the closure process;
- > strategies to contribute to the post mining transition of the mine’s workforce or community employment linked to the operation;
- > clear objectives and measures of success, and description of the capacity to monitor activities and record results;
- > continually updated estimates for the cost of closure and details of the financial resources for the cost of closure and rehabilitation;
- > strategy for engaging stakeholders;
- > a time horizon that extends to the lifecycle of the mine, its closure, decommissioning, and post closure;
- > a description of how the plan will adapt to inevitable changes to the aspects of the mining operations and to respond to ‘unknowns’ revealed over the course of the mine’s lifecycle;
- > associated facilities under the control of the company, such as railways, roads, dams, power plants or transmission lines, pipelines, utilities, warehouses, and logistics terminals;
- > a list or register of legal and other requirements applying to mine closure and rehabilitation;
- > all potential environmental, economic, social, and governance impacts of closure;
- > the management measures planned to mitigate such adverse impacts and to contribute to positive outcomes post closure;
- > description of a progressive approach to rehabilitation throughout the lifecycle of the mine;
- > a commitment to restore the land to its prior state, or ensure that value is added to the land in accordance with community wishes and/or regulatory requirements, or other agreed end use;
- > strategies to ensure the continued access to water and to avoid the long-term management of water quality, and especially of acid rock drainage.



This provision applies to *new mines* and operating mines. It is not extraordinary for mining operations to have lives that exceed 50 years, and some can extend to 100 years or more. For such mining operations, planning for closure or decommissioning might seem less relevant when compared with mines of shorter and more predictable duration. The integrated approach to mine closure applies still, however, as circumstances unrelated to the depletion of reserves can change and operations can close unexpectedly early. For example, prices for the mined product might drop dramatically, new regulations can be introduced that present an insurmountable hurdle for the business, or unanticipated technical challenges emerge making it difficult to advance the operations. Furthermore, progressive land rehabilitation should take place and continue at every step of a mine’s lifecycle, however long it may be. Therefore, companies should demonstrate through their plan that decisions taken today incorporate considerations for the future of the operations.

In some jurisdictions, the planning of mines, including their closure, is overseen strictly by central or regional government. In these cases, the options available to companies regarding activities and actions related to the closure of the operations or for the surrounding communities and land, can be limited. Companies should demonstrate that their plans for closure and rehabilitation are aligned with regulatory requirements and goals set out by the authorities, and that the practices set out in the Bettercoal Code and this guidance are applied where appropriate.

Performance Determination

Meets:

The company has documented, regularly reviews, and is implementing an integrated and comprehensive mine closure plan for its operations covering all relevant environmental, social, and governance aspects and that includes progressive rehabilitation.

Substantially Meets:

The company:

- > has a documented a mine closure plan that is substantially, but not fully, integrated into the business and operations of the mine;

> while there is evidence that implementation of the plan is advanced, implementation has not started for all parts of the plan where the plan indicates they should have started.

Partially Meets:

The company is in the process of developing and documenting a mine closure plan, however, the plan is incomplete and/or implementation has not started.

Misses:

The company does not have a mine closure plan for its operations and there is no evidence that the company has started to take action to plan for or to integrate the closure process into its operations.

> **Provision 4.2** Companies will, in coordination with other key stakeholders, include in their mine closure and rehabilitation plan, activities to prepare worker and affected communities for the post-mining transition that help reduce the adverse impacts of social change

Explanation

When a mine closes, inevitably jobs are lost. These job losses include not only direct employees of the mining operation, but also contractors and staff of auxiliary businesses and suppliers, and public sector workers. Unemployment can cause sharp reductions in household income, mental health problems, and, where there are mass layoffs, a hollowing out of local communities and creation of post-mining ‘ghost towns.’ While at some mining operations the local economy might be supported by other nearby mining operations that are able to absorb jobs lost at closed mining operations, for many people finding similar employment means travelling out of the area.

Not all communities around mining operations rely solely on jobs generated by such mining operations, however, and can have more diversified economies. In such circumstances, former mine workers wanting to remain in the area will need to learn new skills and potentially adapt to lower remuneration levels – in many countries mining is often among the highest paying industries. Whatever the local circumstances, former employees and local communities can go through significant change, which can be experienced negatively.

Recognising the adverse effects of large operation or business closure and, in some cases, the demise of whole sectors as society responds to major systemic shifts, such as climate change and the digitalisation and electrification of economies, labour groups are calling on business and governments to pay greater attention to closures and enable workers to adapt and transition to new circumstances. IndustriAll Global Union, an organisation representing workers in many sectors, including mining, has issued a guide for a ‘just transition’ for workers, the objectives of which are described “to provide a hopeful and optimistic future for all workers”.¹⁷

Companies should play a role in the post mining transition for employees and local business and communities, even though it is acknowledged that such transitions for the most part fall within the domain of public policy and with the economic and infrastructure planning departments of government authorities. Companies should therefore design, develop, and execute their actions to enable appropriate post-closure transition in conjunction with local and national authorities.

17. IndustriALL Global Union, *A Just Transition for Workers*, May 2019, Accessed online: 29 December 2020, <<http://www.industriall-union.org/a-just-transition-for-workers>>.



Companies' mine closure plans should include and document activities to prepare for the post mining transition and cover, at a minimum, the following:

- > an assessment of the adverse impacts of social change associated with closure for the company's workforce and local communities and the opportunities for creating new jobs through the closure process or as a result of the choices for the use of companies' land and facilities post closure;
- > a strategy for avoiding and reducing the adverse impacts of closure for companies' workforce and local communities, that might include:
 - > a commitment to not dismiss workers for operational reasons during a defined transition period;
 - > making available early retirement or bridging to pensions for older workers;
 - > finding and giving a right of first refusal for alternate employment opportunities in a facility or operation controlled by the company;
 - > providing or facilitating access to training and (transferable) skills acquisition for possible employment opportunities in other sectors locally or outside of the area; and
 - > establishing a fund or provision of a severance package that includes the cost of moving to areas outside of the operations area where the prospect of finding a new job is greater.
- > a policy on and procedures for consultation with labour unions and workers' groups on plans for the extent, terms and timing of loss of jobs related to closure, on the impacts of job losses and on the strategy to avoid and reduce such impacts;
- > a commitment to and description of how the company will discuss with and consult authorities on closure and the role of the company in preparing its employees for and managing the adverse impacts of closure.

Preparations for post-closure transition for workers and communities, should be fully integrated into the business of mining operations and start early in the mines' lifecycle (see [Provision 4.1 on Mine Rehabilitation and Closure](#)).

Performance Determination

Meets:

The company has documented in its mine closure plan, and is implementing activities in accordance with that plan that identify the adverse impacts of social change associated with closure and that enable a post mining transition of its workforce and communities in consultation with key stakeholders.

Substantially Meets:

The company has documented in its mine closure plan activities that identify the adverse impacts of social change associated with closure and that enable a post mining transition of its workforce and communities in consultation with key stakeholders, however, implementation has not started for all parts of the plan where the plan indicates they should have started.

Partially Meets:

The company is in the process of developing and documenting its mine closure plan activities that identify the adverse impacts of social change associated with closure and that enable a post mining transition of its workforce and communities in consultation with key stakeholders, however, the plan is incomplete and/or implementation has not started.

Misses:

The company has not started to develop and document its mine closure plan, and is not implementing activities that identify the adverse impacts of social change associated with closure or that enable a post mining transition of its workforce and communities in consultation with key stakeholders.



> **Provision 4.3** Companies will include in their mine closure and rehabilitation plan specific closure objectives and success criteria, and will monitor and evaluate the effectiveness of the closure activities at meeting these objectives and criteria.

Explanation

Having a vision for the closure and rehabilitation of companies' mining operations is critical for planning closure activities, helpful for budgeting, and a useful tool for communicating and consulting with key stakeholders. A vision can be articulated clearly through setting objectives – what it is the company aims to achieve through the closure and rehabilitation process, the implications for different stakeholders, and the measures of success. The documented plan should include such objectives and success criteria, and should be monitored throughout the implementation of the closure process. The success criteria should be time-bound and supported by suitable biogeophysical, social, and economic indicators to monitor the implementation and effectiveness of the mine's closure and rehabilitation plan.

Companies should allow for the continual adaption of plans and actions to avoid the potential and mitigate the actual risks and impacts of the closure process. Regular reviews will enable companies to update plans in light of new information on risks and an evaluation of progress on desired targets and outcomes. Accordingly, the closure and rehabilitation plan's objectives and success criteria might also change.

Performance Determination

Meets:

The company has included in its mine closure plan specific closure objectives and success criteria, and is monitoring and evaluating the effectiveness of the closure activities at meeting these closure objectives and success criteria.

Substantially Meets:

The company has included in its mine closure plan specific closure objectives and success criteria, but while there is evidence that most of these closure objectives and success criteria are being monitored and evaluated to measure the effectiveness of the closure activities, not all objectives or criteria are being monitored and evaluated.

Partially Meets:

The company is in the process of developing specific closure objectives and success criteria for inclusion in its mine closure plan, however, the process is incomplete.

Misses:

The company has not started the process to develop specific closure objectives and success criteria for inclusion in its mine closure plan, and is not monitoring and evaluating the effectiveness of the closure activities.

> **Provision 4.4** Companies will estimate and regularly review the costs associated with implementing their closure and rehabilitation plan, as required by [Provision 4.1](#) of this Code, and will provide adequate financial, human, and other resources to meet the needs and requirements of the plan.



Explanation

Companies should estimate and regularly review the costs associated with closure and rehabilitation; and, provide adequate financial, human and other resources to meet the needs of closure and rehabilitation.

Arriving at an accurate estimate of closure is important for companies because it can have significant implications for the valuation of a mine operation. Underestimating the cost of closure is a risk not only to companies, but also to regulators and investors and is now widely recognised and monitored. All stakeholders have a common interest to ensure that the costs of mine closure are understood as accurately as possible.

However, estimating costs of closure is not straightforward. Assumptions used for modelling rehabilitation options, or for activities to enable post-closure transition for workers, for example, are often made before construction begins. The lifecycle of a mine can be long, and the presence of the mine itself can lead to changes in the local economy, social context, and surrounding ecology that can make original designs redundant.

Companies should carry out necessary studies and analyses to arrive at working estimates for closure and rehabilitation. Cost estimates should be updated regularly and based on the closure and rehabilitation plan in Provision 4.1 on Mine Rehabilitation and Closure, which will also be reviewed and adjusted throughout the lifecycle of the mine's lifecycle. These estimates should be communicated to and discussed with relevant government authorities and affected community stakeholders.

To arrive at estimates for the cost of closure, companies should use prevailing industry best practice and are encouraged to follow the guidance of the ICMM on closure costs in their publication: *Integrated Mine Closure, Good Practice Guide, 2nd Edition, Tool 12*.¹⁸

At a minimum, companies should incorporate the following considerations into the cost estimates:

- > the staff and operational costs incurred by the company for activities related to closure, such as remediation of disturbed land or disassembly and disposal of mine equipment;
- > the cost of progressive closure activities i.e. activities taken throughout the lifecycle of the mine, not just in the final stages of closure at the end of the mine's lifecycle;
- > financial liabilities related to meeting current or future regulatory and legal requirements of closure, such as long-term water management and monitoring;
- > costs associated with unexpected closure or 'sudden closure', which might include costs of workforce retrenchment, care and maintenance, and physical infrastructure closure works; and
- > regulatory costs or requirements from authorities for setting aside funds or assets to assure provision for the costs of closure.

The scope of activities to be included in the cost estimate include direct costs, such as to decommission or demolish structures, clean up contaminated sites, repurpose land, or rehabilitate an area through seeding and planting, as well as indirect costs. Indirect costs are not applicable to all mining operations, but can include, for example, socio-economic programmes to stimulate alternative employment opportunities in neighbouring communities.

Companies should ensure the availability of adequate resources to meet closure and rehabilitation needs. This adequacy of resources should be based on the cost estimates for closure and rehabilitation, as explained above.

Closure costs are often substantially incurred after the mine is no longer generating revenue. Consequently, resources for closure must be either set aside prior to or during active

18. ICMM, *Integrated Mine Closure*, 2019, Accessed online: 29 December 2020, <https://www.icmm.com/website/publications/pdfs/closure/190107_good_practice_guide_web.pdf>.



operations, provided by other revenue streams, or made available through the security of other assets. In many jurisdictions, authorities will have specific requirements for how much and how companies provide resources and financial assurance for closure. As a minimum, companies' arrangements should be in accordance with applicable law. However, not all jurisdictions have requirements regarding financial assurance. Where this is the case, companies should make clear in other ways how resources are or will be made available for closure, for example in their accounts, or in the form of bonds, letters of credits, or other financial instruments, or by self-insurance or self-guarantee.

Performance Determination

Meets:

The company has estimated and regularly reviews the costs associated with the rehabilitation and closure needs and requirements identified in its mine closure plan, and has set aside adequate financial, human, and other resources to meet such needs.

Substantially Meets:

The company has completed estimates for the costs associated with the rehabilitation and closure needs, identified requirements in its mine closure plan, and set aside financial, human, and other resources, however, the resources are not adequate to meet such needs.

Partially Meets:

The company is in the process of estimating the costs associated with rehabilitation and closure needs and identifying the requirements in its mine closure plan, but this process is incomplete, and it is not possible to determine whether any financial, human, and other resources are adequate to meet such needs.

Misses:

The company has not started to estimate the costs associated with the rehabilitation and closure needs and requirements identified in its mine closure plan, and has not set aside resources to meet such needs.

-
- > **Provision 4.5** Companies will regularly engage affected stakeholders, including Indigenous and Tribal Peoples, farmers, landowners, businesses, artisanal and small-scale miners, workers, worker organisations, and regulators, regarding mine closure and rehabilitation plans, in order to establish support for the mine closure plan as required by [Provision 4.1](#) of this Code, and will together with stakeholders define the criteria for the successful implementation of the plan.
-

Explanation

Companies should actively engage their workers, local communities – and where present, Indigenous and Tribal Peoples – farmers, small and large businesses, authorities and regulators, and all individuals and groups who have a stake in how mining operations are closed, in the closure process and in the legacy left by the mining operation. The support of stakeholders is of critical for the success of the closure process.

Companies should identify affected stakeholders and to ensure that they are consulted on plans for closure and rehabilitation and that their opinions and perspectives are taken into account in the design of the plan, and in the choice of the criteria used to measure its success.



The company's consultation with communities and stakeholders should be continual and include engagement to consult with and communicate progress of the actions carried out by the company as part of integrated closure and progressive rehabilitation (see Provisions 8.1 - 8.5 on Stakeholder Engagement).

Where companies' operations and closure and rehabilitation processes affect Indigenous and Tribal Peoples' lands, territories or resources, the company is expected to develop, document, and implement systems to respect the rights and interests of Indigenous and Tribal Peoples; develop and implement an Indigenous and Tribal Peoples engagement plan; and to respect and implement the principles of free prior informed consent (see Provisions 5.3 - 5.5 on Indigenous and Tribal Peoples).

Performance Determination

Meets:

The company has identified and regularly engages affected stakeholders regarding mine rehabilitation and closure plans, has established support for the plans, and has defined the criteria for the successful implementation of the plan together with the identified stakeholders.

Substantially Meets:

The company has identified and regularly engages with many, however, not all affected stakeholders regarding mine rehabilitation and closure plans, and is substantially advanced in establishing support for the mine closure plan and defining the criteria for the successful implementation of the plan together with those stakeholders that have been identified.

Partially Meets:

The company is in the process of identifying, engaging, establishing support from, and defining together with affected stakeholders the criteria for the successful implementation of the rehabilitation and closure plans, but this process is incomplete.

Misses:

The company has not started to identify and does not engage stakeholders regarding mine rehabilitation and closure plans.

-
- > **Provision 4.6** Companies will adopt best practice techniques to rehabilitate environments disturbed or occupied by mining activities in order to ensure continued access to water and to avoid the need for long-term post-closure water treatment, especially for the treatment of acid rock drainage.
-

Explanation

Companies should include in their rehabilitation and closure plans the goal to progressively rehabilitate and ensure the geotechnical stability of land disturbed by mining operations to its prior state or ensure that value is added to or final land use changed in accordance with community wishes and/or regulatory requirements. This is especially important when considering access to water and management of water quality *post closure*. The development of the open pits, stockpiles, waste rock dumps, tailings storage facilities, processing plant, and infrastructure can interrupt natural drainage paths. Interference with drainage patterns may result in deprivation of water to drainage systems downstream of the mining developments or localised 'shadowing' effects on some vegetation which may be reliant on intermittent flows.



Furthermore, chemical reactions in exposed walls in underground mine workings, waste rock and tailings have the potential to be detrimental to plant growth and to result in contamination of both surface and groundwater. This is especially the case when drainage produced by rocks with sulphide or other acid-producing minerals are under oxidising conditions (exposed to water and oxygen) and generate an acidic water stream. *Acid rock drainage* (ARD) generally contains elevated concentrations of metals, sulphate, and other constituents and has a pH < 6.

Companies should incorporate considerations for access to water and the post-closure management of water quality into their mine rehabilitation and closure plans (see Provisions 9.2 - 9.4 on Water Assessment and Management).

Companies should adopt industry best practice techniques to ensure continued access to water for rights holders and stakeholders, and to reduce the need for long-term water quality management post closure. At a minimum, companies should comply with local, regional, and/or national legislative requirements related to access to and the management of water, and to apply prevailing industry best practices. In particular, companies are encouraged to follow the guidance of the ICMM's *Water Stewardship framework*, April 2014;¹⁹ the ICMM's *Integrated Mine Closure Good Practice Guide*, 2nd Edition,²⁰ and the Australian Government's *Mine Closure and Completion*²¹ guidance.

There will inevitably be residual impacts at the completion of the mining and processing operations that will need to be managed. Water quality monitoring locations should be established in consultation with local authorities and relevant stakeholders and an appropriate protocol established to monitor the potential for and actual contamination of surface or ground waters post closure. There might also be the need for treatment of contaminants associated with acid rock drainage (sulphates and metals). A residual risk assessment for water should be included in the mine's rehabilitation and closure plan in Provision 4.1 on Mine Rehabilitation and Closure, and the cost of continuing cost for water quality management post closure should be included in the estimates of costs in line with Provision 4.4 on Mine Rehabilitation and Closure.

Performance Determination

Meets:

The company has adopted best practice techniques to rehabilitate environments disturbed or occupied by its mining activities in order to ensure continued access to water, and to avoid the need for *long-term water treatment* post closure, especially for the treatment of acid rock drainage.

Substantially Meets:

The company has best practice techniques in place to rehabilitate environments disturbed or occupied by its mining activities, to ensure continued access to water, and to avoid the need for long-term water treatment post closure, especially for the treatment of acid rock drainage, however, these practices are not being applied to all environments disturbed or occupied by its mining activities.

Partially Meets:

The company:

› has practices in place to rehabilitate environments disturbed or occupied by its mining activities, to ensure continued access to water, and to avoid the need for long-term water

19. ICMM, *Water Stewardship Framework*, 2014, Accessed online: 29 December 2020, <https://www.icmm.com/website/publications/pdfs/water/2014_water-stewardship-framework.pdf>.

20. ICMM, *Integrated Mine Closure Good Practice Guide 2nd Edition*, 2019, Accessed online: 29 December 2020, <https://www.icmm.com/website/publications/pdfs/closure/190107_good_practice_guide_web.pdf>.

21. The Leading Practice Sustainable Development Program, *Mine Closure and Completion*, 2006, Accessed online: 29 December 2020, <<https://www.im4dc.org/wp-content/uploads/2014/01/Mine-closure-and-completion.pdf>>.



treatment post closure, especially for the treatment of acid rock drainage, however, these practices are not industry best practices; or

- > is in the process of putting in place best practice techniques to rehabilitate environments disturbed or occupied by its mining activities to ensure continued access to water, and avoid the need for long-term water treatment post closure, especially for the treatment of acid rock drainage, however, this process is incomplete.

Misses:

The company has not started to put in place best practice techniques to rehabilitate environments disturbed or occupied by mining activities and ensure the continued access to water, and/or the avoidance of the need for long-term water treatment post closure, especially for the treatment of acid rock drainage.

III. VERIFICATION

Data Collection Method

Conformance with the provisions on mine rehabilitation and closure is assessed through observation, document review, and interviews with the company’s employees, management team, and other external stakeholders.

Conformance with the provisions where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
4.1	✓	✓	✓			
4.2		✓	✓	✓	✓	✓
4.3		✓	✓			
4.4		✓	✓			✓
4.5	✓	✓	✓	✓		✓
4.6	✓	✓	✓			✓

Examples and Types of Evidence

- > Policies that state companies’ commitment to conform with laws and regulations and implement best practices for the rehabilitation and closure of the mine’s operations;
- > a register of the legal obligations and references on industry best practices applicable to the mine and relevant for rehabilitation and closure;
- > a documented comprehensive plan and detailed procedures for different aspects of mine rehabilitation and closure covering social, labour, and environmental aspects of closure;
- > a procedure on the goals and the targets, success criteria/indicators and monitoring protocols for the mine rehabilitation and closure process;
- > a comprehensive analysis and estimation of the costs of rehabilitation and closure, taking into account progressive rehabilitation, and both direct and indirect costs;
- > legal documentation or agreement from a government agent acknowledging the adequacy of financial assurance (such as a bond, formal guarantee, or the ownership papers of an asset)



set aside as financial provision for rehabilitation and closure;

- › a copy of company accounts/balance sheet showing ring-fenced financial entry designated for rehabilitation and closure costs;
- › a record of consultations with employees, local authorities, business partners and suppliers, community leaders, and Indigenous or Tribal Peoples' groups demonstrating their involvement in decisions regarding measures taken to rehabilitate or any closure activity when in or near their territory or community; and
- › an assessment of and a post-closure strategy to mitigate the residual risks associated with access to water by local stakeholders and for water quality management, including acid rock drainage.

Site Assessment

Interviews

During interviews with management, managers can demonstrate or describe:

- › a good understanding of companies' strategies for mine rehabilitation and closure, including the vision for the areas post closure and activities to contribute to the transition of former mine workers and business with strong ties with the mine operation in the post-closure economy;
- › examples of how land disturbed by the operation is being progressively rehabilitated and how companies have allocated resources to such efforts;
- › the measures/criteria for success of the mine closure process;
- › the concerns of local stakeholders regarding mine rehabilitation and closure;
- › the cost estimate for the mine rehabilitation and closure process;
- › the process for assuring access to water for local users post closure and provision to manage water quality and acid rock drainage;
- › their knowledge of industry best practices for mine rehabilitation and mine closure, and especially the guidance provided by the ICMM;
- › the procedure for consulting with employees, organised labour groups, local authorities, and other external stakeholders.

During interviews with employees, they can demonstrate or describe:

- › a basic understanding of companies' policies on mine rehabilitation and closure;
- › what they can expect in terms of preparing to transition to a post-closure economy if they are employed at the time of closure of the mine;
- › to whom they can discuss matters related to mine closure and the process for employee engagement by the company's management.

During interviews with affected communities and stakeholders, they can demonstrate or describe:

- › the frequency, content, and nature of consultation meetings with companies' personnel as part of the assessment of impacts and opportunities for the mine and surrounding area and economy post closure;
- › whether the closure plans related to operations in a protected area are carried out in accordance with the plans and goal of the relevant government agency or department, if applicable;
- › whether there will be a lasting residual impact from closure, for example from limited access to water or management of water quality;
- › whether there will be any economic or social impacts from the company's activities during the rehabilitation or closure process, or post closure.

Site Walk-Through

During the Site Walk-Through, the assessor observes:

- › the measures taken for the progressive rehabilitation of disturbed land in accordance with the mine's rehabilitation and closure plan;



- > whether there are any areas at particular risk of generating acid rock drainage and methods being taken to manage such risks post closure;
- > mitigation measures being taken in areas of critical natural habitat, if applicable; and
- > programmes or measures to integrate agricultural and food security planning into mine closure plans.



IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS



Principle	Provision
2 Policy and Management	2.1 and 2.2: When designing a management system to implement the rehabilitation and closure plan, companies should refer to <u>Provisions 2.1 and 2.2 on Management Systems</u> .
	2.3 – 2.7: When completing risk and impact assessments to inform planning for rehabilitation and closure, companies should refer to <u>Provisions 2.3 - 2.7 on Risk and Impact Assessments</u> regarding environmental, social, and human rights risk and impact assessments.
5 Human Rights	5.3 – 5.5: Where the company’s operations and closure and rehabilitation process affect Indigenous Peoples lands, territories, or resources, the company should refer to <u>Provisions 5.3 - 5.5 on Indigenous and Tribal Peoples</u> to inform the rehabilitation and closure plan.
8 Communities and Stakeholders	8.1 – 8.5: Where designing the strategy for engaging stakeholders on the rehabilitation and closure plan, companies should refer to <u>Provisions 8.1 - 8.5 on Stakeholder Engagement</u> .
9 Water Stewardship	9.1 – 9.4: To ensure stakeholders continue to have access to water post closure, and manage water quality, companies should refer to <u>Provisions 9.1 - 9.4 on Water Assessment and Management</u> .
12 Biodiversity and Land Use	12.6 – 12.11: Where companies operate in high value biodiversity or protected areas, they should refer to <u>Provisions 12.6 - 12.11 on Designated and High Conservation Value Areas, Natural Habitats and Threatened Species</u> when planning for rehabilitation and closure.



V. FURTHER INFORMATION

- > Australian Government, Department of Industry, Tourism and Resources; *Mine Closure and Completion, Leading Practice Sustainable Development Program for the Mining Industry* (available [here](#)). This handbook addresses mine closure and completion, identifying key issues affecting sustainable development in the mining industry and provide information and case studies that illustrate a more sustainable basis for the industry.
- > *Initiative for Responsible Mining Assurance Standard for Responsible Mining – Guidance Document*, Version 1.0, Criteria 2.6.2, (available [here](#)). The Guidance provides detail of the expectations laid out in the Initiative for Responsible Mining Assurance’s (IRMA) Standard for Responsible

Mining, including explanatory notes, means of verification and examples of evidence that may be provided by mines during an independent, third-party assessment.

> *International Council on Mining & Metals Integrated Mine Closure, Good Practice Guide, 2nd Edition* (available [here](#)). Guidance on critical aspects of mine closure focused on an iterative process.

> Scottish Government, Energy and Climate Change Directorate, *Surface coal mine restoration: final report to opencast coal task force* (available [here](#)). Final report on regulation by Scottish Opencast Coal Task Force's compliance and finance subgroups.

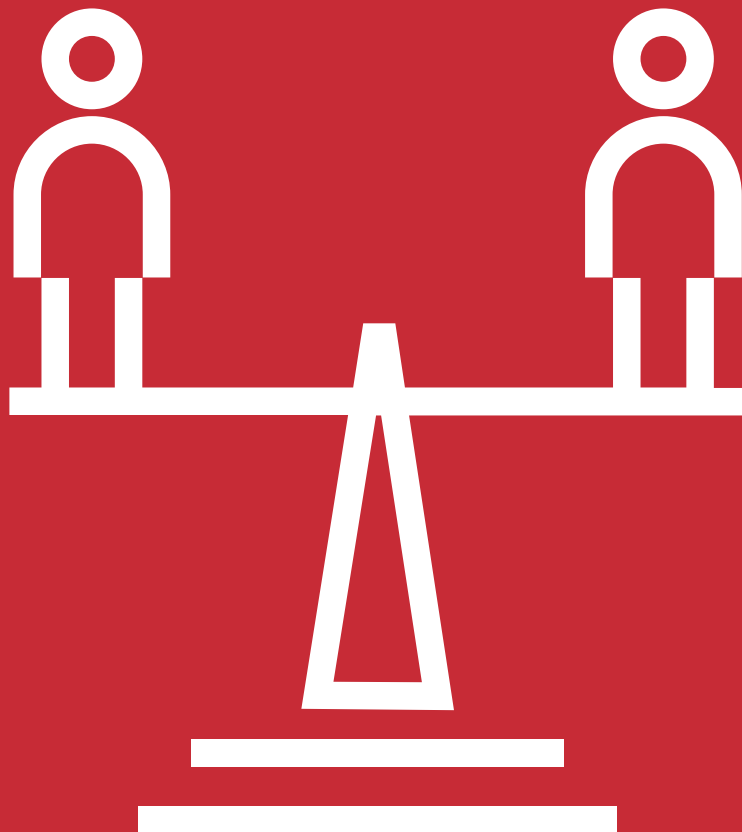
> United Kingdom Government, Ministry of Housing, Communities and Local Government, *Minerals: Guidance on the planning for mineral extraction in plan making and the application process, Chapter: Restoration and aftercare of mineral sites* (available [here](#)).



05

HUMAN RIGHTS

Companies will respect human rights affected by their operations and take appropriate action to assess, prevent and remedy potential adverse impacts on human rights in a manner that is consistent with international instruments on human rights.



Introduction

The term ‘*human rights*’ describes the fundamental rights and freedoms that everyone is entitled to. They provide the basis for individuals to lead a dignified life, to freely express independent beliefs, and to live free from abuse. They are inherent to all individuals, regardless of nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. Everyone is equally entitled to enjoy their human rights without discrimination.²²

Human rights include rights to dignity, life and physical security; rights to self-determination and non-discrimination; rights to freedom of thought, expression and religion; freedom of association and of movement; rights to fair and decent working conditions; rights to education and culture, to family life and privacy, to food and water; and freedom from torture, slavery or forced labour.

These are some of the key human rights set out in the *Universal Declaration on Human Rights*, the milestone Declaration which was adopted by the UN in 1948. Today, internationally recognised human rights are understood to be, at a minimum, those covered by the *International Bill of Human Rights*, consisting of the Universal Declaration of Human Rights and the main instruments through which it has been codified: *the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights*; and the fundamental rights set out in the eight *ILO Declaration on Fundamental Principles and Rights at Work*.²³

Bettercoal expectations on Human Rights include Provisions on:

- › [Human Rights Due Diligence \(Provisions 5.1 – 5.2\)](#)
- › [Indigenous and Tribal Peoples \(Provisions 5.3 – 5.5\)](#)
- › [Women’s Rights \(Provision 5.6\)](#)
- › [Security Personnel \(Provisions 5.7 – 5.10\)](#)
- › [Conflict-Affected and High-Risk Areas \(Provisions 5.11 – 5.15\)](#)

22. ICMM, *ICMM Human Rights in the Mining and Metals Industry: Integrating Human Rights Due Diligence into Corporate Risk Management Processes*, 2012, Accessed online: 29 December 2020, <<http://www.icmm.com/website/publications/pdfs/social-and-economic-development/3308.pdf>>.

23. Office of the High Commissioner for Human Rights (OHCHR), *The Corporate Responsibility to Respect Human Rights: An Interpretative Guide*, 2012, Accessed online: 29 December 2020, <https://www.ohchr.org/Documents/publications/hr.puB.12.2_en.pdf>.



Human Rights Due Diligence (Provisions 5.1 – 5.2)



I. INTRODUCTION

Human rights due diligence is a way for companies to proactively manage potential and actual adverse human rights impacts with which they are involved. It includes four core components:²⁴

- > identifying and assessing actual or potential adverse human rights impacts that the enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships;
- > integrating findings from impact assessments across relevant company processes and taking appropriate action according to its involvement in the impact;
- > tracking the effectiveness of measures and processes to address adverse human rights impacts in order to know if they are working;
- > communicating on how impacts are being addressed.

The human rights due diligence process should draw on internal and/or independent external human rights expertise and involve meaningful consultation with potentially affected groups and other relevant stakeholders, as appropriate to the size of the company and the nature and context of the operations.

Human rights due diligence should be ongoing, recognising that the human rights risks may change over time as the company's operations and operating context evolve.

II. PROVISIONS AND PERFORMANCE DETERMINATION

- > **Provision 5.1** Companies will implement the UN Guiding Principles on Business and Human Rights in ways appropriate to their size and circumstances including at a minimum:
 - a) incorporating a policy commitment to respect human rights;
 - b) conducting human rights due diligence, including identifying impacts arising from new mining operations or significant changes to existing operations as required by [Provision 2.4](#) of this Code;
 - c) developing and implementing plans to prevent or mitigate human rights impacts;
 - d) accounting for how they address their actual and potential impacts on human rights;
 - e) providing for or cooperating in timely remediation and compensation through legitimate processes where they have caused or contributed to adverse human rights impacts; and
 - f) adopting a zero-tolerance policy against any threats, intimidation, violence, retaliation, or reprisals against Human Rights Defenders or trade unions.

Explanation

Where there is a risk that a company might significantly affect the human rights of individuals, especially where large numbers of people may be affected, companies should ensure that robust due diligence processes are in place. This will enable a full understanding of the nature of the potential human rights risks and the potential for avoidance, mitigation and remediation, to help

24. OHCHR, *Guiding Principles on Business and Human Rights*, 2011, Accessed online: 29 December 2020, <<https://www.ohchr.org/EN/Issues/Business/Pages/CorporateHRDueDiligence.aspx>>.

inform decision making. This might apply, for example, where a company proposes to resettle large numbers of people or where the legitimate need to provide security for personnel and assets may increase the likelihood of severe impacts on the human rights of local communities.²⁵

The UN Guiding Principles on Business and Human Rights are a set of guidelines for States and companies to prevent, address and remedy human rights abuses committed in business operations. They were proposed by UN Special Representative on Business and Human Rights, John Ruggie, and endorsed by the UN Human Rights Council in June 2011. The UN Guiding Principles contain three pillars, clarifying the respective duties and responsibilities of States and business. The second pillar of the UN Guiding Principles, the ‘Responsibility to Respect,’ establishes the responsibility to respect human rights as the minimum global standard of expected conduct for all business enterprises wherever they operate. It requires business enterprises to avoid causing or contributing to adverse human rights impacts through their own activities. Business enterprises should furthermore seek to prevent or mitigate impacts that are directly linked to their operations, products or services by their business relationships.²⁶

The UN Guiding Principles outline the corporate responsibility to respect human rights as follows:

- › avoid infringing on the human rights of others and address adverse human rights impacts with which they are involved;
- › avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur;
- › seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts;
- › where it is necessary to prioritise actions to address actual and potential adverse human rights impacts, companies should first seek to prevent and mitigate those that are most severe or where delayed response would make them irremediable.²⁷

The UN Guiding Principles establish a framework for companies to meet their responsibility to respect human rights through a policy commitment, human rights due diligence, remediation, and effective grievance mechanisms (see Provisions 8.16 - 8.18 on Operational-Level Grievance Mechanism).

In order to implement the UN Guiding Principles, companies should:

- › establish a policy commitment to meet their responsibility to respect human rights;
- › identify which human rights issues are most salient (see Box 2: Focus on Salient Human Rights Issues) to its operations;
- › implement a human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights;
- › integrate the findings from risk and impact assessments across relevant internal functions and processes;
- › assign responsibility for addressing impacts to competent personnel at the appropriate level and function within the company;
- › take appropriate action to address human rights impacts depending on:
 - › whether the company causes or contributes to an adverse impact or whether it is involved solely because the impact is directly linked to its operations, products or services by a business relationship;
 - › the extent of its leverage in addressing the adverse impact;
- › develop internal decision-making, budget allocations and oversight processes to enable effective responses to impacts;

25. ICMM, *ICMM Human rights in the mining and metals industry: Integrating human rights due diligence into corporate risk management processes*, 2012, Accessed online: 29 December 2020, <<http://www.icmm.com/website/publications/pdfs/social-and-economic-development/3308.pdf>>.

26. OHCHR, United Nations Global Compact, *The UN Guiding Principles on Business and Human Rights: Relationship to UN Global Compact Commitments*, 2011 (Updated: 2014), Accessed online: 29 December 2020 <<https://www.unglobalcompact.org/library/1461>>.

27. OHCHR, *The UN Guiding Principles on Business and Human Rights*, 2011, Accessed online: 29 December 2020 <https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf>.



> effectively communicate the human rights policy and actions to address human rights impacts to communities, business partners, governments, and other stakeholders with consideration of the need for confidentiality due to risks to affected stakeholders or personnel, or commercial requirements.



BOX 2: FOCUS ON SALIENT HUMAN RIGHTS ISSUES

The most salient human rights for a company are those that are at risk of the most severe adverse impact through the company's activities and business relationships. The emphasis of salience lies on those impacts that are:

- > **most severe**: based on how grave and how widespread the impact would be and how hard it would be to put right the resulting harm;
- > **potential**: meaning those impacts that have some likelihood of occurring in the future, recognising that these are often, though not limited to, those impacts that have occurred in the past;
- > **adverse**: placing the focus on the avoidance of harm to human rights rather than unrelated initiatives to support or promote human rights;
- > **impacts on human rights**: placing the focus on risk to people, rather than on risk to the business.*

Saliency will typically vary according to the sector and operating context. The Guiding Principles make clear that a company should not focus exclusively on the most salient human rights issues and ignore others that might arise, although the most salient rights will logically be the focus of the company's efforts to identify, prevent, mitigate and remedy impacts. For instance:

- > a company that operates in areas inhabited by Indigenous Peoples will particularly need to understand the impact these Peoples may suffer;
- > a company developing new or expanding existing operations in conflict-affected areas may identify security-related risks as a salient issue;
- > a company with high levels of water use should determine how to address the related risks to human rights**

*UN Guiding Principles Reporting (UNGP Reporting), UN Guiding Principles Reporting Framework: *Salient Human Rights Issues*, Accessed online: 29 December 2020, <<https://www.ungpreporting.org/resources/salient-human-rights-issues/>>.

**OHCHR, *The Corporate Responsibility to Respect Human Rights: An Interpretive Guide*, 2012, Accessed online: 29 December 2020, <https://www.ohchr.org/Documents/Publications/HR.PUB.12.2_En.pdf>.

Companies may already have in place significant existing risk management processes which cover a number of issues relevant to human rights, even if these processes do not explicitly use the language of human rights. They include:

- > environmental and social impact assessments (ESIAs);
- > social baseline studies;
- > internal audit, control and compliance systems;
- > security provider, contractor, and supplier due diligence;
- > due diligence relating to investment decision making;
- > employee surveys, grievance mechanisms and whistle-blowing systems;
- > political risk assessments;
- > legal due diligence;
- > stakeholder engagement.²⁸

It is possible to build on these existing processes to conduct human rights due diligence by incorporating a human rights lens. Alternatively, companies may decide to undertake a stand-alone human rights risk and impact assessment (see [Provisions 2.3 - 2.7 on Risk and Impact Assessments](#)).

28. ICMM, *ICMM Human Rights in the Mining and Metals Industry: Integrating Human Rights Due Diligence into Corporate Risk Management Processes*, 2012, Accessed online: 29 December 2020, <<http://www.icmm.com/website/publications/pdfs/social-and-economic-development/3308.pdf>>.

Understanding the perspectives of potentially affected individuals and groups is a key aspect of human rights due diligence. Due diligence should be informed through direct engagement with those who may be affected or their legitimate (see Provisions 8.1 - 8.5 on Stakeholder Engagement).

Companies should take all reasonably achievable measures to avoid complicity in human rights violations by government actors and private goods and services providers. Where adverse human rights impacts are identified, companies should first seek to prevent and mitigate those that are most severe or where a delayed response would make them irremediable.

Companies should also identify opportunities to support and advance human rights. There is a growing expectation for companies to not only respect human rights, but also to explore opportunities to make a positive contribution in support of human rights.

Companies should develop processes to enable the remediation of any adverse human rights impacts the company causes or to which they contribute and provide for or cooperate in the remediation of impacts through legitimate processes. Companies should commit to time-bound remediation plans and prioritise the remedy process based on the severity of the impacts. In situations where the company may be linked to an adverse human rights impact, the company does not have direct responsibility to provide remedy, although the company is still expected to support the actions of others, such as a government agency or court, to do so. *Remediation* and *remedy* refer to both the processes of providing remedy for an adverse human rights impact and to the substantive outcomes that can counteract, or make good, the adverse impact. The concept of remedy aims to restore those that have been harmed by a company's activities to the situation they would have been in had the impact not occurred. This is not always possible, so in practice, remedy can take many forms, including apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition.²⁹

Companies should co-operate with, and not impede access to, any legitimate state-based judicial and non-judicial grievance mechanisms, as well as any other relevant non-state mechanism, to support those seeking remedy through these channels. This includes not undermining the rights of legitimate trade unions.³⁰

Companies should consult stakeholders, including affected individuals, local NGOs and subject-matter experts, to help create an action plan to provide the appropriate remedy based on the situation, and put in place controls to mitigate future risks and prevent any unintended consequences that could further harm the individuals whose human rights were impacted. In all cases, companies should consider how to communicate progress and outcomes in situations of remedy.³¹

To meet the UN Guiding Principles reporting requirements, companies' human rights reporting should:

- > focus on its salient human rights issues and explain why and how it has determined this focus;
- > show how its commitment to human rights has been practically implemented across its business practices;
- > discuss how the company is tackling particular human rights challenges and provide clear and relevant examples demonstrating how its actions are influencing human rights outcomes; and
- > include performance indicators or other metrics that offer evidence of progress over time.

29. OHCHR, *The Corporate Responsibility to Respect Human Rights: an Interpretive Guide*, 2012, Accessed online: 29 December 2020: <https://www.ohchr.org/Documents/Publications/HR.PUB.12.2_En.pdf>.

30. Responsible Jewellery Council (RJC), *Responsible Jewellery Council Code of Practices Guidance*, 2019, Accessed online: 29 December 2020, <<https://www.responsiblejewellery.com/wp-content/uploads/RJC-COP-2019-V1-1-Guidance-1-1.pdf>>.

31. RJC, *The Responsible Jewellery Council Code of Practices Guidance*, 2019, Accessed online: 18 August 2020, <<https://www.responsiblejewellery.com/wp-content/uploads/RJC-COP-2019-V1-1-Guidance-1-1.pdf>>.



The UN defines *Human Rights Defenders* as individuals or groups that, in their personal or professional capacity and in a peaceful manner, strive to protect and promote human rights.³² This includes all Human Rights Defenders impacted by development activities and those doing the critical work of sustainable development. They may be individuals, communities, Indigenous Peoples, journalists, workers, activists and advocates, mothers, youth, civil society organisations, social movements or public officials.³³ Human rights defenders may also include whistle-blowers, complainants, community spokespeople, trade union representatives, and other stakeholders who may have opposing views to the company. This definition does not include those individuals who commit or propagate violence.

Defending and promoting human rights in the context of business may potentially turn dangerous, and even deadly, as complainants, including individuals, communities, workers and trade unionists face stigmatisation, criminalisation, enforced disappearances, and physical and psychological attacks, and assassination.³⁴

Companies should adopt a zero-tolerance policy against any threats, intimidation and reprisal against Human Rights Defenders in the course of their work especially where such reprisals may involve direct actions by the company by causing harm through its own acts, omissions or negligence.

Companies should adopt a risk-based approach in assessing and monitoring situations and areas that have been identified as high risk for Human Rights Defenders to ensure that these risks do not escalate into a crisis. This may include incorporating the issue of Human Rights Defenders into human rights due diligence processes. Companies should establish an internal policy to prevent reprisals against Human Rights Defenders and protect Human Rights Defenders who submit a complaint in good faith.³⁵ Companies should also have internal mechanisms to prevent and respond to complaints against any alleged threat or violence made against or by their affiliates (see Provisions 8.16 - 8.18 on Operational-Level Grievance Mechanism).

Performance Determination

Meets:

The company:

- has implemented the UN Guiding Principles on Business and Human Rights, including policies on human rights and Human Rights Defenders, is conducting human rights due diligence, and is providing for remediation in cases of adverse impacts (where applicable).
- has identified its human rights impacts and has developed and implemented plans to prevent or mitigate human rights impacts.

Substantially Meets:

The company:

- has adopted policies on human rights and Human Rights Defenders, conducted human rights due diligence, and provided for remediation in cases of adverse impacts (where applicable), however, there are isolated incidents of gaps or lapse in implementation that are non-systemic; or

32. OHCHR, *United Nations Special Rapporteur on the situation of human rights defenders: Who is a Defender*, Accessed online: 29 December 2020, <<https://www.ohchr.org/en/issues/srhrdefenders/pages/defender.aspx>>.

33. Coalition for Human Rights in Development, *Uncalculated Risks*, 2019, Accessed online: 29 December 2020, <<https://www.ciel.org/wp-content/uploads/2019/06/Uncalculated-Risks.pdf>>.

34. Roundtable on Sustainable Palm Oil (RSPO), *RSPO Policy on the Protection of Human Rights Defenders Policy (Whistle-blowers, Complainants and Community Spokespersons*, 2019), Accessed online: 29 December 2020, <<https://rspo.org/news-and-events/announcements/rspo-policy-on-human-rights-defenders-whistleblowers-complainants-and-community-spokespersons>>.

35. RSPO, *RSPO Policy on the Protection of Human Rights Defenders, Whistle-blowers, Complainants and Community Spokespersons*, 2019, Annex 1: Guidelines to RSPO Members on Developing a Policy on the Protection of HRDs, Accessed online: 29 December 2020, <<https://rspo.org/news-and-events/announcements/rspo-policy-on-human-rights-defenders-whistleblowers-complainants-and-community-spokespersons>>.



> has identified its human rights impacts and has developed plans to prevent or mitigate human rights impacts, however, implementation has not started for all parts of the plan where the plan indicates they should have started.

Partially Meets:

The company has adopted policies on human rights, Human Rights Defenders, human rights due diligence and remediation, however, the company has not identified its human rights impacts and/or has not developed plans to prevent or mitigate its human rights impacts.

Misses:

The company does not have any policies or procedures on human rights, Human Rights Defenders, human rights due diligence, or remediation for human rights impacts.

> **Provision 5.2** Companies will engage with diverse stakeholders and participate in multi-sectoral initiatives addressing common issues on human rights where they exist, and will document and publicly report on their participation and progress.

Explanation

Companies should engage with affected stakeholders on human rights through their stakeholder engagement processes (see [Provisions 8.1 - 8.5 on Stakeholder Engagement](#)). Companies may also consider engaging other stakeholders such as civil society organisations, local and international non-profit organisations (NGOs), and academics on the issue of human rights.

Companies should participate in multi-sectoral initiatives addressing common issues on human rights at the local, national, international, and/or industry level. The following are some examples of multi-sectoral initiatives that address human rights:

- > UN Global Compact and country-level Global Compact Networks;
- > ICMM;³⁶
- > Voluntary Principles on Security and Human Rights³⁷ (see [Provision 5.7 - 5.10 on Security Personnel](#));
- > Dialogues on developing National Action Plans on business and human rights;³⁸
- > World Business Council (WBC) on Sustainable Development Call to Action for Business Leadership on Human Rights;³⁹
- > UN Women's Empowerment Principles (WEPs);⁴⁰
- > The Partnership for Global LGBTI Equality;⁴¹
- > Global Business Initiative on Human Rights;⁴²
- > Business for Social Responsibility Human Rights Working Group;⁴³

36. ICMM, *International Council on Mining and Metals* [website], Accessed online: 29 December 2020, <www.icmm.com>.

37. Voluntary Principles on Security and Human Rights, *Voluntary Principles on Security and Human Rights* [website], Accessed online: 29 December 2020, <<https://www.voluntaryprinciples.org/>>.

38. United Nations (UN), *Guiding Principles on Business and Human Rights*, Accessed online: 29 December 2020, <https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf>.

39. Business and Human Rights Gateway, *Call to Action for Business Leadership on Human Rights*, Accessed online: 29 December 2020, <<https://humanrights.wbcsd.org/ceo-guide-call-to-action/>>.

40. Women's Empowerment Principles (WEPs), *Women's Empowerment Principles* [website], Accessed online: 29 December 2020, <<https://www.weeps.org/>>.

41. Partnership for Global LGBTI Equality, *Partnership for Global LGBTI Equality* [website], Accessed online: 29 December 2020, <<https://www.global-lgbti.org/>>.

42. The Global Business Initiative on Human Rights, *The Global Business Initiative on Human Rights* [website], Accessed online: 29 December 2020, <www.gbibr.org>.

43. BSR's Human Rights Working Group (HRWG), *BSR's Human Rights Working Group* [website], Accessed online: 29 December 2020, <<https://www.bsr.org/en/collaboration/groups/human-rights-working-group>>.



- > Global Business Coalition Against Human Trafficking;⁴⁴
- > National-level dialogues and multi-stakeholder initiatives on conflict resolution; land restitution; human rights defenders; etc.

Where companies participate in multi-sectoral initiatives that address human rights, they should disclose their participation and progress related to the initiatives.

Performance Determination

Meets:

The company has engaged with diverse stakeholders and participates in multi-sectoral initiatives addressing common issues on human rights, and publicly reports on their participation and progress.

Substantially Meets:

N/A

Partially Meets:

The company has engaged with diverse stakeholders and participates in multi-sectoral initiatives addressing common issues on human rights, however, has not yet publicly reported on their participation and progress.

Misses:

The company does not engage with any stakeholders or multi-sectoral initiatives to address common issues on human rights.

III. VERIFICATION

Data Collection Method

Conformance with the provisions on human rights due diligence is assessed through document review and interviews with the company's employees and management team.

Conformance with the provisions, where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
5.1		✓	✓	✓	✓	✓
5.2		✓	✓	✓	✓	✓

Examples and Types of Evidence

- > Human rights policy, corporate responsibility policy, or other policy or policies documenting respect for human rights;
- > a zero-tolerance policy against any threats, intimidation, violence, retaliation, or reprisals against Human Rights Defenders or trade unions;

44. Global Business Coalition Against Human Trafficking (GBCAT), Global Business Coalition Against Human Trafficking [website], Accessed online: 29 December 2020, <<https://www.gbcat.org/>>.



- › records of policy development, approval and implementation related communications and processes, including, but not limited to, minutes, e-mails, memos etc;
- › records of communications with company personnel, contractors, business partners, other relevant parties, and stakeholders, including, but not limited to, meeting minutes, correspondence, training records etc;
- › codes of conduct, contract agreements, or other materials that codify expected human rights behaviour of suppliers, business partners, and other parties;
- › human rights risk and impact assessment methodology and/or process;
- › human rights risk and impact assessment reports;
- › documentation of measures taken to avoid and/or mitigate, remediate and compensate impacts;
- › documentation of stakeholder consultations, communications, and outreach related to developing the methodology, conducting the human rights risk and impact assessment and sharing the results;
- › documentation of monitoring or other reports, including but not limited to, monitoring of security risks, conflict risks, country risks, changes in demographics, and proposals for changes to the mine's operations, that may trigger the need to update human rights risk and impact assessment;
- › records showing implementation of human rights risk and impact assessment findings, including integration of assessment findings at the mine site operational level, including, but not limited to, memos to relevant personnel, action plans, monitoring data, training records;
- › monitoring and evaluation reports on effectiveness of implemented measures including mitigation and remediation measures;
- › grievance mechanism policies/procedures, including systems to categorise human rights-related grievances;
- › records of lodged/investigated human rights-related grievances where applicable;
- › documentation of communication of the grievance mechanism to stakeholders, including, but not limited to, correspondence, meeting minutes, advertisements etc.;
- › documented mitigation procedures/action plans/records or implementation;
- › documentation of communications with relevant parties/business partners, including, but not limited to, meeting minutes and correspondence, regarding their human rights risks and impacts;
- › documentation of communications with host countries or others involved in mitigation or remediation of company-related human rights impacts;
- › publicly available information on human rights due diligence, including, but not limited to, methodology, reports, mitigation measures etc.; and
- › external monitoring of human rights due diligence.



Site Assessment

Interviews

During interviews with management, managers can demonstrate or describe:

- › the company's commitment to human rights;
- › the use of internal/external expertise to develop the human rights policy and due diligence process;
- › human rights expectations of personnel, business partners and other parties;
- › communication with suppliers, business relations and other parties directly linked to its operations, to establish the company's human rights policy and the company's specific expectations of the business partner/supplier etc;
- › how the company assesses human rights risks and impacts;
- › when the most recent human rights risk and impact assessment was completed or updated in response to changes in the operations (e.g. expansions), business relationships (e.g. a new security provider) or in the operating environment (e.g. increase in political conflict or insecurity);
- › the human rights risk and impact assessment process, including an understanding of applicable laws and norms;

- > consideration of a comprehensive list of the risks to human rights from the operations and the company's business relationships;
- > an evaluation of the potential severity of the impacts; and an analysis of the differential risks to/impacts on women, children, and other relevant vulnerable groups;
- > how the operating company has prevented, mitigated, and/or remediated identified impacts;
- > how the company integrates the findings across relevant internal functions and processes, including identification, prevention, mitigation and remediation of adverse human rights impacts;
- > understanding of the appropriate response to human rights risks related to the operations or the company's business relationships;
- > how the company supports the protection of Human Rights Defenders;
- > incorporation of feedback from internal and external sources, including relevant stakeholders, in the impact assessment and remediation process;
- > how human rights-related grievances are identified, managed, and addressed;
- > human rights due diligence reporting.

During interviews with employees, they can demonstrate or describe:

- > a basic understanding of the company's policy on human rights;
- > whether the company has identified human rights impacts;
- > the type and content of the training they have received on the company's human rights policy;
- > how to report a human rights-related grievance.

During interviews with affected communities and stakeholders, they can demonstrate or describe:

- > an understanding of the company's human rights policy;
- > whether the company has identified human rights impacts in consultation with affected communities and stakeholders;
- > whether the company has taken measures to avoid, mitigate, minimise and/or remediate or compensate for human rights impacts;
- > if mitigation and/or remediation measures are effective, sufficient, timely, and culturally-appropriate, where applicable;
- > whether the company has supported human rights defenders;
- > how to report a human rights-related grievance;
- > whether the company has publicly reported on its human rights performance.



IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
2 Policy and Management	2.3 – 2.7: When conducting human rights due diligence, companies should refer to <u>Provisions 2.3 - 2.7 on Risk and Impact Assessments</u> .
	2.8 – 2.12: When conducting human rights due diligence, companies should refer to <u>Provisions 2.8 - 2.12 on Business Partners</u> .
8 Communities and Stakeholders	8.1 – 8.5: When conducting human rights due diligence, engagement with potentially affected stakeholders should be included.
	8.16 – 8.18: When implementing operational grievance mechanisms, the UN Guiding Principles on Business and Human Rights effectiveness criteria for non-judicial grievance mechanisms should be considered.

V. FURTHER INFORMATION

- > *UN Guiding Principles on Business and Human Rights*, 2011 (available [here](#)). This publication contains the “Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework”, which were developed by the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises.
- > Office of the High Commissioner for Human Rights, *The Corporate Responsibility to Respect Human Rights: an Interpretive Guide*, 2012 (available [here](#)). Questions and answers provided here go beyond that commentary to provide additional detail and assistance in understanding the Guiding Principles on Business and Human Rights.
- > *UN Guiding Principles Reporting Framework*, 2017 (available [here](#)) provides straightforward guidance for companies to report on how they respect human rights.
- > ICMM, *Human Rights in the Mining & Metals Industry: Overview, Management Approach and Issues*, 2009 (available [here](#)). This publication contains an overview of the main challenges and dilemmas that companies in the mining and metals sector are often faced with.
- > ICMM, *Human Rights in the Mining & Metals Industry: Integrating human rights due diligence into corporate risk management processes*, 2012 (available [here](#)). A series of guidance notes on human rights in the mining and metals sector by the International Council on Mining and Metals.
- > *Human Rights and Business Dilemmas Forum* (available [here](#)) hosts a broad range of case studies showing how different businesses have addressed human rights dilemmas.
- > *Human Rights Translated 2.0: A Business Reference Guide*, 2017 (available [here](#)) uses real-life situations companies encounter as case studies.
- > *Why Human Rights Matter* 2013 (available [here](#)) is a resource guide for integrating human rights into Communities and Social Performance work at Rio Tinto.
- > Responsible Jewellery Council, Danish Institute for Human Rights, *Human Rights Due Diligence Toolkit* (available [here](#)). This Toolkit is designed to fulfil the requirements of the Code of Practices for a Human Rights Due Diligence process; likely to be most useful for small to medium enterprises, that have low human rights risks, and/or for those undertaking Human Rights Due Diligence for the first time.
- > *Human Rights Impact Assessment Guidance and Toolbox*, 2020 (available [here](#)). Guidance and practical tools for conducting, commissioning, reviewing and monitoring human rights impact assessments of business projects.
- > United Nations Human Rights Council, *Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development*, 2019 (available [here](#)).
- > UN, *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, 1998 (available [here](#)).
- > WBCSD, *CEO Guide to Human Rights*, 2019 (available [here](#)) provides insight into how companies are meeting the corporate responsibility to respect human rights, and shares actions business leaders are taking to get ahead, and stay ahead, in this crucial space.
- > United Nations Office of the High Commissioner for Human Rights, *Special Rapporteur on the Situation of Human Rights Defenders*, 2020 (available [here](#)). Information regarding the current Rapporteur managing issues concerning Human Rights Defenders.
- > UN Human Rights, *How to Develop a Human Rights Policy*, 2011 (available [here](#)). Guide for businesses on how to develop a Human Rights Policy.
- > UN Working Group on Business and Human Rights, *Companion Note II: Corporate Human Rights Due Diligence—Getting Started, Emerging Practices, Tools and Resources*, 2018 (available [here](#)). This note is an annex to the Working Group’s General Assembly report, A/73/163.



Indigenous and Tribal Peoples (Provisions 5.3 – 5.5)



I. INTRODUCTION

There are approximately 476 million Indigenous Peoples worldwide, in over 90 countries. Although they make up over 6% of the global population, they account for about 15% of the extreme poor.⁴⁵

Indigenous Peoples are the holders of unique languages, knowledge systems and beliefs and possess invaluable knowledge of practices for the sustainable management of natural resources. They have a special relation to and use of their traditional land. Their ancestral land has a fundamental importance for their collective physical and cultural survival as peoples.⁴⁶ While Indigenous Peoples own, occupy, or use a quarter of the world's surface area, they safeguard 80% of the world's remaining biodiversity.⁴⁷

Much of the land occupied by Indigenous Peoples is under indigenous customary ownership, however, many governments do not recognise much of this land as formally or legally belonging to Indigenous Peoples.⁴⁸ Indigenous Peoples hold their own diverse concepts of development, based on their traditional values, visions, needs and priorities, however, Indigenous Peoples often suffer from a lack of political representation and participation, economic marginalisation and poverty, lack of access to social services and discrimination.⁴⁹

Considering the diversity of Indigenous Peoples, an official definition of “indigenous” has not been adopted at the international level. Instead, the UN and other institutions have developed an understanding of this term based on the following:

- › self-identification as Indigenous Peoples at the individual level and accepted by the community as their member;
- › historical continuity with pre-colonial and/or pre-settler societies;
- › strong link to territories and surrounding natural resources;
- › distinct social, economic, or political systems;
- › distinct language, culture, and beliefs;
- › form non-dominant groups of society;
- › resolve to maintain and reproduce their ancestral environments and systems as distinctive peoples and communities.

The company may undertake, or engage external specialists to undertake a number of activities to identify Indigenous Peoples, including investigation of the applicable national laws and regulations (including laws reflecting host country obligations under international law), archival research, ethnographic research (including documentation of culture, customs, institutions, customary laws, etc.), consultations with indigenous organisations, and federations, and participatory appraisal approaches with Indigenous Peoples affected by the operations.⁵⁰ Companies must recognise that inherent in the principle of self-determination is the principle that Indigenous and Tribal Peoples have the right to determine their own status.

45. The World Bank, *Indigenous Peoples*, Accessed online: 29 December 2020, <<https://www.worldbank.org/en/topic/indigenouspeoples>>.

46. United Nations Permanent Forum on Indigenous Issues, *Indigenous Peoples Factsheet*, Accessed online: 29 December 2020, <https://www.un.org/esa/socdev/unpfii/documents/5session_factsheet1.pdf>.

47. The World Bank, *Indigenous Peoples*, Accessed online: 24 August 2020, <<https://www.worldbank.org/en/topic/indigenouspeoples>>.

48. *Ibid.*

49. United Nations Permanent Forum on Indigenous Peoples, *Indigenous Peoples Factsheet*, Accessed online: 29 December 2020, <https://www.un.org/esa/socdev/unpfii/documents/5session_factsheet1.pdf>.

50. IFC, *IFC Guidance Note Performance Standard 7: Indigenous Peoples*, 2012, Accessed online: 29 December 2020, <https://www.ifc.org/wps/wcm/connect/9baef8f6-9bd9-4d95-a595-7373059081d4/GN7_English_2012.pdf?MOD=AJPERES&CVID=mRQk089>.

II. PROVISIONS AND PERFORMANCE DETERMINATION

- > **Provision 5.3** Companies will develop, document and implement systems aligned with the requirements of [Provisions 2.1](#) and [2.2](#) of this Code that ensure respect for the rights and interests of Indigenous and Tribal Peoples as articulated and defined in the ILO's Indigenous and Tribal Peoples Convention, 1989 (No.169) and the UN Declaration on the Rights of Indigenous Peoples.

Explanation

Key international instruments on indigenous rights include the *ILO Indigenous and Tribal Peoples Convention, 1989* (ILO Convention 169) and the *UN Declaration on the Rights of Indigenous Peoples, 2007* (UN Declaration). Twenty-three countries have ratified ILO Convention 169 and 148 countries support the UN Declaration.^{51 52} ILO Conventions become binding upon ratification. UN Declarations are generally not legally binding; however, they represent the dynamic development of international legal norms and reflect the commitment of states to move in certain directions, abiding by certain principles. The UN Declaration on the Rights of Indigenous Peoples provides a detailing or interpretation of the human rights enshrined in other international human rights instruments as they apply to Indigenous Peoples.⁵³

Companies cannot use limited recognition, or absence of explicit recognition, of Indigenous Peoples in the countries in which they operate as an excuse not to apply the minimum international standards applicable to Indigenous Peoples, including in cases where States are opposed to the application of such standards.⁵⁴

ILO Convention 169 and the UN Declaration should be considered in conjunction with the UN Guiding Principles on Business and Human Rights. The Guiding Principles provides that companies have the responsibility to respect all internationally recognised human rights, “*which is understood, at a minimum, as those expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the ILO's Declaration on Fundamental Principles and Rights at Work*”. Additionally, companies “*may need to consider additional standards... For instance, enterprises should respect the human rights of individuals belonging to specific groups or populations that require particular attention, where they may have adverse human rights impacts on them. In this connection, United Nations instruments have elaborated further on the rights of indigenous peoples;...*”.⁵⁵

Systems to ensure respect for the rights and interests of Indigenous and Tribal Peoples in line with ILO Convention 169 and the UN Declaration may include the following components:

- > developing, adopting, and implementing a formal policy (whether on a stand-alone basis or within a broader human rights policy) addressing Indigenous Peoples' rights and committing the company to respect Indigenous Peoples' rights;

51. International Labour Organization (ILO), *Indigenous and Tribal Peoples Convention (No. 169) Ratifications*, 1991, Accessed online: 29 December 2020, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300_INSTRUMENT_ID:312314>.

52. UN Department of Economic and Social Affairs, *Declaration on the Rights of Indigenous Peoples, 2007* Accessed online: 29 December 2020, <<https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html>>.

53. UN Permanent Forum on Indigenous Issues, *Declaration on the Rights of Indigenous Peoples, FAQ*, Accessed online: 29 December 2020, <https://www.un.org/esa/socdev/unpfii/documents/faq_drips_en.pdf>.

54. UN Human Rights Council, *Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of Indigenous Peoples, James Anaya*, Paragraph 50, Accessed online: 29 December 2020, <<https://undocs.org/A/HRC/15/37>>.

55. UN Human Rights Council, *Guiding Principles on Business and Human Rights*, 2011, Accessed online: 29 December 2020, <https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf>.



- > conducting human rights due diligence to assess actual or potential adverse impacts on Indigenous Peoples' rights, integrating findings and taking action, tracking and communicating externally on performance (see Provision 5.4 on Indigenous and Tribal Peoples and also see Provisions 5.1 - 5.2 on Human Rights Due Diligence);
- > consulting in good faith with Indigenous Peoples in relation to all matters that may affect them or their rights;
- > committing to obtain (and maintain) the FPIC of Indigenous Peoples for operations that affect their rights (see Provision 5.5 on Indigenous and Tribal Peoples);
- > establishing or cooperating through legitimate processes to remediate any adverse impacts on Indigenous Peoples' rights;
- > establishing or cooperating with an effective and culturally appropriate grievance mechanism (see Provisions 8.16 - 8.18 on Operational-Level Grievance Mechanism).⁵⁶

The policy should be publicly endorsed and should include supporting procedures, clearly defined roles and responsibilities, financial resources, controls, monitoring protocols, training programmes, and internal and external communication and reporting (see Provisions 2.1 and 2.2 on Management Systems).

Performance Determination

Meets:

The company has developed, documented, and implemented systems that ensure respect for the rights and interests of Indigenous and Tribal Peoples aligned with Provisions 2.1 and 2.2 on Management Systems and with the ILO Indigenous and Tribal Peoples Convention (No. 169) and the UN Declaration on the Rights of Indigenous Peoples.

Substantially Meets:

The company has developed and documented systems that ensure respect for the rights and interests of Indigenous and Tribal Peoples aligned with Provisions 2.1 and 2.2 on Management Systems and with the ILO Indigenous and Tribal Peoples Convention (No. 169) and the UN Declaration on the Rights of Indigenous Peoples, however, minor or isolated gaps in implementation were identified due to inadequate documentation, communication, and/or review and monitoring.

Partially Meets:

The company has developed and documented systems that ensure respect for the rights and interests of Indigenous and Tribal Peoples aligned with Provisions 2.1 and 2.2 on Management Systems and with the ILO Indigenous and Tribal Peoples Convention (No. 169) and the UN Declaration on the Rights of Indigenous Peoples, however, implementation of the systems has not yet started or is incomplete.

Misses:

The company does not have any systems in place that ensure respect for the rights and interests of Indigenous and Tribal Peoples.

-
- > **Provision 5.4** Companies will identify actual and potential impacts on Indigenous and Tribal Peoples and their lands, territories and resources. Where their activities potentially impact Indigenous and Tribal Peoples, companies will develop and implement an Indigenous and Tribal Peoples engagement plan throughout the lifecycle of the mine.
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56. UN Global Compact, *A Business Reference Guide: UN Declaration on the Rights of Indigenous Peoples*, 2013, Accessed online: 29 December 2020, <<https://www.unglobalcompact.org/library/541>>.



Explanation

Environmental and social and human rights impact assessments (see [Provisions 2.3 - 2.7 on Risk and Impact Assessments](#)) should identify the existence of communities of Indigenous Peoples in the operational area of influence. The assessment should be proportional to the nature and scale of the operation's potential impacts on Indigenous Peoples and should take into account Indigenous Peoples':

- › economic, social, and legal status;
- › their institutions, customs, culture, and/or language;
- › their dependence on natural resources; and
- › their past and ongoing relationship to dominant groups and the mainstream economy.

The assessment should use participatory approaches and reflect the views of the affected communities of Indigenous Peoples on operational risks, impacts, and benefits.

Where operational activities may adversely impact Indigenous Peoples' identity, natural resource-based *livelihoods*, food security and cultural survival, companies should explore viable alternative designs, consult with the affected Indigenous Peoples, and seek advice of competent experts in an effort to avoid such impacts. If adverse impacts are unavoidable, companies should minimise and/or compensate for these impacts in a manner commensurate with the nature and scale of impacts and the vulnerability of the Indigenous Peoples.

Companies should prepare an Indigenous Peoples engagement plan outlining the actions to minimise and/or compensate for adverse impacts in a culturally appropriate manner and actions to enhance positive impacts of the mining operations on the Indigenous Peoples. The plan should include clearly defined roles and responsibilities, funding and resource inputs, a time-bound schedule of activities, and a budget.

While it is important to acknowledge the role of elders and other traditional community leaders, it should not automatically be assumed that those who occupy formal leadership positions, whether they be traditional or government appointed, represent all interests in the community. In particular, companies need to be sensitive to those sections of the community who may be frequently excluded from the decision-making process, such as women and young people. During engagement with indigenous communities, company representatives should make it clear that they are committed to acting in an *inclusive* and non-discriminatory way. Where traditional decision-making structures exclude women and younger people, it may be necessary to obtain input from these groups by less direct means – for example, and where possible, via community needs surveys and baseline studies, or through informal discussions with small groups.⁵⁷

The engagement process should take account of existing social structures, leadership, and decision-making processes as well as social identities such as gender and age. Companies should consider the existence of patriarchal traditions and social norms and values that may limit women's participation in leadership roles and decision-making processes; the need to protect and ensure the legal rights of indigenous women; and marginal or vulnerable groups' potentially limited realisation of their economic and social rights as a consequence of poverty and limited access to economic resources, social services, or decision-making processes.⁵⁸

As part of the engagement process, companies should aim to ensure that:

- › Indigenous Peoples have an understanding of their rights;
- › the company and any personnel involved in the engagement process in turn understand the rights, aspirations and concerns of Indigenous Peoples, both in their operations and more generally;

57. IFC, *IFC Guidance Note Performance Standard 7: Indigenous Peoples*, 2012, Accessed online: 29 December 2020, <https://www.ifc.org/wps/wcm/connect/9baef8f6-9bd9-4d95-a595-7373059081d4/GN7_English_2012.pdf?MOD=AJPERES&CVID=mRQk089>.

58. *Ibid.*



- > indigenous communities are informed about, and comprehend, the full range (short, medium and long-term) of social and environmental impacts – positive and adverse – that can result from mining;
- > companies understand and address any potentially adverse impacts, and recognise, respect, and use traditional knowledge to inform the design and implementation of mitigation strategies;
- > there is mutual understanding and respect between the company, the indigenous community and other relevant stakeholders regarding their respective roles, responsibilities, rights, challenges, and decision-making processes;
- > indigenous aspirations and concerns are taken into account in mining operations planning so that people have ownership of, and participate fully in decisions about, *community development* programs and initiatives;
- > the company has worked to obtain the broad, ongoing support of the community including, where applicable, their FPIC;
- > the voices of all in the community are heard, that is, engagement processes are inclusive.⁵⁹ (see Provisions 8.1 - 8.5 on Stakeholder Engagement).

Performance Determination

Meets:

The company has identified actual and potential adverse impacts on Indigenous and Tribal Peoples and their lands, territories, and resources and has developed and implemented an Indigenous and Tribal Peoples engagement plan throughout the lifecycle of the mine.

Substantially Meets:

The company has identified actual and potential adverse impacts on Indigenous and Tribal Peoples and their lands, territories, and resources and has developed an Indigenous and Tribal Peoples engagement plan, however, implementation has not started for all parts of the plan where the plan indicates they should have started.

Partially Meets:

The company has identified some adverse impacts on Indigenous and Tribal Peoples and their lands, territories, and resources, however, the impact identification process does not comprehensively cover all the actual and potential adverse impacts throughout the lifecycle of the mine and/or the company has not developed an Indigenous and Tribal Peoples engagement plan.

Misses:

The company does not have any processes in place to identify actual and potential adverse impacts on Indigenous and Tribal Peoples and their lands, territories and resources.

-
- > **Provision 5.5** Companies will respect the principles of Free, Prior and Informed Consent (FPIC) where new mining operations or major changes to existing operations affect Indigenous and Tribal Peoples' lands, territories or resources, including:
 - a) significant impacts to lands, territories and natural resources subject to traditional, ancestral or customary ownership irrespective of recognition by the relevant state;
 - b) the physical or economic displacement of indigenous communities;
 - c) impacts on places of indigenous cultural and spiritual significance or critical cultural heritage;
 - d) the use of cultural heritage or traditional knowledge for commercial purposes; and
 - e) storage or disposal of hazardous materials.
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59. ICMM, *ICMM Good Practice Guide: Indigenous Peoples and Mining*, Second Edition, 2015, <<https://www.icmm.com/website/publications/pdfs/social-and-economic-development/9520.pdf>>.



Explanation

Where new mining operations or major changes to existing operations affect Indigenous Peoples' lands, territories or resources, companies will respect Indigenous Peoples' right to FPIC.

FPIC should be obtained whenever there is an impact on Indigenous Peoples' substantive rights (including rights to land, territories and resources, and rights to cultural, economic and political self-determination). The UN Declaration expressly refers to FPIC in the following circumstances:

- › removal and relocation of Indigenous Peoples (Article 10);
- › taking of cultural, intellectual, religious or spiritual property (Article 11);
- › adoption and implementation of legislative or administrative matters that may affect Indigenous Peoples (Article 19);
- › confiscation, taking, occupation, use, or damage of Indigenous Peoples' lands or territories (Article 28);
- › storage or disposal of hazardous materials on Indigenous Peoples' lands or territories (Article 29); and
- › mining operations affecting Indigenous Peoples' lands, territories or other resources, particularly in connection with the development, use or exploitation of mineral, water or other resources (Article 32).⁶⁰

FPIC is an ongoing process that should be maintained throughout the lifecycle of planning, researching, developing, implementing, and executing mining operations. This will involve regular engagement with affected Indigenous Peoples.⁶¹

At existing mines, where FPIC was not obtained in the past, companies should strive to obtain the consent of Indigenous Peoples for current operations. Changes to operations that impact Indigenous Peoples' rights should be based on obtaining their consent. Companies should also have a process in place to respond to past and present community concerns (see [Provisions 8.16 - 8.18 on Operational-Level Grievance Mechanism](#)) and to remedy and/or compensate for impacts on Indigenous Peoples' rights and interests (see [Provision 5.1 on Human Rights Due Diligence](#)). These processes should be designed in consultation with and agreed to by Indigenous Peoples.⁶²

FPIC processes will depend on the situation and interests of the Indigenous Peoples, their cultures, practice, and customary laws, and institutions, the existing local laws regarding FPIC and the specifics of the proposed operations and their social and environmental impacts. Companies should understand and ensure FPIC processes respect traditional governance and decision-making structures, languages, and sensitivities around particular issues.

Companies should identify and negotiate with legitimate representatives of the potentially affected indigenous communities, at the local and regional levels, and avoid working with imposed or self-appointed leaders not recognised by the community.⁶³ Where administrative and traditional systems recognise different leaders, where leadership is known to be highly politicised and/or only marginally representative of the potentially affected indigenous communities or if there are multiple groups representing different interests, FPIC should rely on identification, recognition, and engagement of greater numbers or representativeness of sub-groups.⁶⁴

60. UN Global Compact, *A Business Reference Guide to the UN Declaration on the Rights of Indigenous Peoples*, 2014, Accessed online: 30 December 2020, <<https://www.unglobalcompact.org/library/541>>.

61. *Ibid.*

62. *Ibid.*

63. *Ibid.*

64. IFC, *IFC Guidance Note Performance Standard 7: Indigenous Peoples*, Accessed online: 30 December 2020, <https://www.ifc.org/wps/wcm/connect/9baef8f6-9bd9-4d95-a595-7373059081d4/GN7_English_2012.pdf?MOD=AJPERES&CVID=mRQk089>.



BOX 3: FOCUS ON THE COMPONENTS OF FPIC*

FREE: means no coercion, intimidation, manipulation, or undue influence or pressure. Indigenous Peoples' consent must be obtained without physical or psychological, direct or indirect, tactics meant to coerce, manipulate, or otherwise pressure the indigenous decision-makers. Companies should be aware that State actors may threaten Indigenous Peoples with force or with the compulsory acquisition of their lands, or the withdrawal of State funding.

PRIOR: implies that consent is to be sought in advance of any authorisation or commencement of activities and before any impacts occur. Indigenous Peoples must be given sufficient time to consider their decision and must not be pressured to agree to a plan. Companies should respect the time requirements of indigenous consultation/consensus processes. What is a reasonable amount of time will depend on the Indigenous Peoples in question and the decision being taken. Companies should, as early as possible, seek to agree with Indigenous Peoples on how to reach consensus at every stage of a mining operation (e.g., exploration, construction/operation, and closure).

INFORMED: means that information is provided that covers a range of aspects, including the nature, size, pace, reversibility and scope of any proposed activity; the purpose of the activity as well as its duration; locality and areas affected; and a preliminary assessment of the likely economic, social, cultural, and environmental impacts. Companies may consider involving potentially affected Indigenous Peoples in preliminary impact assessments. Information about potential positive and adverse impacts should be shared in relation to the proposed activity, including related mitigation measures to avoid, minimise, or mitigate adverse impacts. The information must be provided in a way that Indigenous Peoples understand (e.g., must be available in their language), and can access (e.g. hard copies should be available in addition to e-mail copies as appropriate). Companies may consider supporting Indigenous Peoples to develop or retain technical capacity or expertise if requested by the community.

CONSENT: means agreement to a mining operation or activity after a company has engaged in a good faith consultation with the affected Indigenous Peoples. Consent can be understood as a formal, documented social license to operate. Indigenous Peoples have the right to give or withhold consent, and in some circumstances, may revoke consent previously given. For example, if a company breaches its obligations under an agreement, or it becomes apparent that consent was given without the benefit of all available information, there may be a basis for revoking consent. In order to formally obtain and document consent for a mining operation or activity, a business should identify and consult with Indigenous Peoples' representative institutions in order to negotiate a process for obtaining consent. This should identify the stages of the operation at which consent is to be obtained. Companies should document the agreed-upon negotiation process and the outcome of that process.

*UN Global Compact, A Business Reference Guide to the UN Declaration on the Rights of Indigenous Peoples, 2014, accessed on 30 December 2020, <<https://www.unglobalcompact.org/library/541>>.

Where the government has a defined role in the management of Indigenous Peoples issues in relation to the proposed activity or mining operation, the company should collaborate with the responsible government agency, to the extent feasible and permitted by the agency, to achieve outcomes that are consistent with the objectives of this provision. Where government capacity is limited, the company should play an active role during planning, implementation, and monitoring of activities to the extent permitted by the agency, and should develop a plan to bridge any gaps between the government processes, and the requirements of this provision.⁶⁵

65. IFC, *IFC Guidance Note Performance Standard 7: Indigenous Peoples*, Accessed online: 30 December 2020, <https://www.ifc.org/wps/wcm/connect/9baef8f6-9bd9-4d95-a595-7373059081d4/GN7_English_2012.pdf?MOD=AJPERES&CVID=mRQk089>.



- > documentation of avoidance of impacts and/or of mitigation, remediation and compensation measures;
- > documentation of partnerships or programs to provide benefits and mitigate impacts;
- > an Indigenous Peoples engagement plan and procedures for engaging affected Indigenous Peoples;
- > documentation of consultation and engagement activities;
- > policy or procedure outlining the FPIC process to be followed;
- > records of meetings, presentations or other venues where the company disclosed to Indigenous Peoples any information related to the mining operation and/or discussed or provided information about Indigenous Peoples' right to FPIC;
- > documents, websites, or other materials used by the company to disclose/inform Indigenous Peoples about the mining operations and proposed activities;
- > documentation of consent/approval/support given by affected Indigenous Peoples;
- > signed agreements with Indigenous Peoples' community leaders, with evidence of appropriate FPIC processes;
- > records of complaints and grievances and/or proposed mitigation/remediation;
- > evidence that the company ceased pursuing the proposed activity after Indigenous Peoples withdrew consent;
- > documentation of commitments made in the FPIC agreement, and information on the status of those commitments;
- > monitoring reports or updates on progress of implementation of the terms and conditions in the FPIC agreement;
- > records of any meetings held to discuss implementation of the FPIC agreement or status of implementation of various terms and conditions in the agreement;
- > assessments of risks and potential adverse impacts on Indigenous Peoples' lands, livelihoods, resources, and cultural heritage and/or incorporation of Indigenous Peoples' rights and interests in the ESIA methodology;
- > report on whether or not the host country carried out consultation and/or consent processes with potentially affected Indigenous Peoples prior to granting access to mineral resources, including, but not limited to, leasing minerals to private companies, offering mineral concessions, issuing exploration licences, etc.);
- > grievance mechanism that is appropriate for Indigenous Peoples' communities;
- > records of any complaints or grievances from Indigenous Peoples and the company's responses and remedies.



Site Assessment

Interviews

During interviews with management, managers can demonstrate or describe:

- > a good understanding of the company's policy to respect Indigenous Peoples' rights and interests;
- > how they respect the rights, interests, aspirations, culture and natural resource-based livelihoods of Indigenous Peoples;
- > an understanding of the Indigenous Peoples in the operational area of influence, including their governance and decision-making structures, legitimate representatives, and culture;
- > whether the company engages and consults with Indigenous Peoples in a fair, timely and culturally appropriate way throughout the mining lifecycle to seek consent for its activities;
- > whether the company has obtained FPIC from affected indigenous communities and how the FPIC process is carried out;
- > whether and how the company avoids or minimises adverse impacts on Indigenous Peoples;
- > clear lines of accountability and responsibility within the company for the oversight and implementation of the Indigenous Peoples policy;
- > how Indigenous Peoples are made aware of company's policy including the grievance mechanism;

- > examples of changes in the design of the mining operation or operational activities that resulted from consultation with Indigenous Peoples;
- > an understanding of the relevant government agencies concerned with protecting Indigenous Peoples' rights;
- > knowledge of the host country laws and regulations in relation to Indigenous Peoples;
- > public availability of information on the FPIC process and outcomes.

During interviews with employees, they can demonstrate or describe:

- > a basic understanding of the company's policy on Indigenous Peoples' rights and FPIC;
- > the type and content of the training they have received on the company's policy;
- > knowledge of consultations with Indigenous Peoples.

During interviews with affected communities and other stakeholders, they can demonstrate or describe:

- > a basic understanding of the company's policy on Indigenous Peoples' rights and interests;
- > whether the company has identified any impacts on Indigenous Peoples' rights and if so, how they plan to mitigate and/or remediate them;
- > the effectiveness and appropriateness of mitigation and remediation measures, where applicable;
- > whether Indigenous Peoples were consulted on the development of the policy, impact assessment, and/or FPIC processes;
- > whether the FPIC process was carried out effectively;
- > whether Indigenous Peoples were provided with comprehensive and accessible information and sufficient time to consider the risks and impacts of the proposed activity;
- > whether agreements were entered into with the company, and if so, whether the company is meeting the commitments established in those agreements.

IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
2 Policy and Management	2.1 and 2.2: When developing systems to ensure respect for the rights and interests of Indigenous and Tribal Peoples, companies should refer to <u>Provisions 2.1 and 2.2 on Management Systems</u> .
5 Human Rights	5.1 and 5.2: When conducting human rights due diligence, companies should consider Indigenous and Tribal Peoples' rights.
	5.6: When considering impacts on and engaging with Indigenous and Tribal Peoples and as part of FPIC processes, companies should consider the rights and interests of indigenous women.
8 Communities and Stakeholders	8.1 – 8.5: When conducting stakeholder engagement, companies should consider engagement with Indigenous and Tribal Peoples.
	8.6 – 8.8: Companies should obtain FPIC of Indigenous and Tribal Peoples affected by resettlement.



8.16 – 8.18: When developing operational grievance mechanisms, companies should consider culturally appropriate mechanisms for and engagement with Indigenous and Tribal Peoples.

8.19: When identifying, documenting and protecting cultural heritage, companies should consider Indigenous and Tribal Peoples' cultural heritage.

V. FURTHER INFORMATION

- › IFC, *Guidance Note Performance Standard 7: Indigenous Peoples*, 2012 (available [here](#)). Guidance Note 7 corresponds to IFC Performance Standard 7, which recognises that Indigenous Peoples are often among the most marginalised and vulnerable segments of the population.
- › UN Global Compact, *A Business Reference Guide: UN Declaration on the Rights of Indigenous Peoples*, 2014 (available [here](#)). This Guide helps business understand, respect, and support the rights of Indigenous peoples by illustrating how these rights are relevant to business activities.
- › ICMM, *Good Practice Guide: Indigenous Peoples and Mining, Second Edition*, 2015 (available [here](#)). This guide includes a number of practical tools to guide members through the range of activities that support building strong and mutually beneficial relationships with Indigenous Peoples.
- › ICMM, *Indigenous Peoples and Mining Position Statement*, 2013 (available [here](#)). This position statement sets out ICMM members' approach to engaging with Indigenous Peoples and to free, prior, and informed consent.
- › Equitable Origin FPIC 360° Tool (available [here](#)) is the FPIC-360° tool for monitoring and verifying Free, Prior and Informed Consent.
- › Convention on Biological Diversity, *Akwé: Kon Guidelines*, 2014 (available [here](#)). The Guidelines describe the conduct of cultural ESIA's regarding developments proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities.
- › Foley Hoag, *Implementing a Corporate Free, Prior, and Informed Consent Policy*, 2010 (available [here](#)). This report explores the benefits that Talisman Energy Inc. ("Talisman") might derive and the challenges it might encounter if it were to adopt a policy to secure the FPIC of Indigenous Peoples potentially impacted by its global operations.
- › Forest Stewardship Council, *FSC Guidelines for the Implementation of the Right to Free Prior Informed Consent*, 2012 (available [here](#)). These Guidelines provide guidance on who has the right to FPIC and how to implement a process to obtain FPIC from Indigenous Peoples or local communities.
- › UN Human Rights, *Expert Mechanism Advice No. 2: Indigenous Peoples and the Right to Participate in Decision-Making*, 2011 (available [here](#)). Advice on Indigenous Peoples and their right to participate in decisions that affect them.



Women’s Rights (Provision 5.6)



I. INTRODUCTION

The share of female workers in mining comprises just 5-10% of the global workforce in the sector. This has been attributed to a number of inter-related barriers, including:

- > hazardous conditions and security risks;
- > infrastructure complications;
- > physical requirements;
- > remote workplace locations; and
- > discrimination.⁶⁶

The *UN Convention on the Elimination of All Forms of Discrimination against Women* was adopted in 1979 by the UN General Assembly and outlines an international bill of rights for women. The Convention defines discrimination against women as “...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”⁶⁷

II. PROVISIONS AND PERFORMANCE DETERMINATION

- > **Provision 5.6** Companies will develop and implement systems aligned with the requirements of **Provisions 2.1** and **2.2** of this Code that ensure the rights and interests of women are respected in line with international standards including the UN Convention on the Elimination of All Forms of Discrimination against Women.

Explanation

Companies have a responsibility to ensure women are not discriminated against in the workplace. Measures may include establishing policies prohibiting discrimination and harassment (see **Provision 6.13 on Non-Discrimination** and also see **Provision 6.15 on Disciplinary Practices**); ensuring equal pay for work of equal value (see **Provision 6.24 on Equal Pay**); and providing a worker grievance mechanism for employees to be able to report incidents of discrimination, harassment or other unequal treatment (see **Provisions 6.26 - 6.27 on Worker Grievance**).

Companies should ensure human resources staff and personnel involved in recruitment and hiring do not ask female job candidates potentially discriminatory questions during the interview process, such as their current or anticipated pregnancy status; childcare arrangements; marital plans or status; age, or date of birth.⁶⁸

66. The World Bank, *Industry 4.0 in Developing Countries: The Mine of the Future and the Role of Women*, 2019, Accessed online: 30 August, 2020, Accessed online: 30 December 2020, <<http://documents1.worldbank.org/curated/en/824061568089601224/pdf/Background-Paper-for-WBG-WTO-Global-Report-on-Trade-and-Gender-How-can-Twenty-First-Century-Trade-Help-to-Close-the-Gender-Gap-Industry-4-0-in-Developing-Countries-The-Mine-of-the-Future-and-the-Role-of-Women.pdf>>.

67. UN Women, *Overview of the Convention*, Accessed online: 30 December 2020, <<https://www.un.org/womenwatch/daw/cedaw/>>.

68. In many countries, these types of interview questions are illegal.

Sexual harassment in the mining sector is exacerbated by the fact that the sector is still heavily male-dominated, as well as the operational realities of dark, remote, or isolated work areas. Although sexual harassment can be committed by both women and men against both women and men, it is more commonly found to be men engaging in practices of sexual harassment against women. Documented incidents in the mining industry have included whistling; name calling; commenting on body parts; use of vulgar or derogatory language; explicit jokes; display and/or sharing of pornographic images; display of body parts; walking into female changing rooms or shower areas; physical contact, ranging from touching to sexual assault and rape; and soliciting sexual favours in exchange for promotion.⁶⁹ Companies should adopt a zero-tolerance policy against sexual harassment in the workplace and should consider providing sexual harassment awareness training to workers and supervisors.

In providing health services and other measures to promote worker well-being (see [Provision 7.24 on Worker Health and Wellbeing](#)), companies may consider providing services related to family planning, female counselling, and domestic violence.

Companies may consider adopting additional measures to promote the rights of women in the workplace. For instance, the UN Women's Empowerment Principles (WEPs) are a set of Principles offering guidance to companies on how to promote gender equality and women's empowerment in the workplace. The WEPs are informed by international labour and human rights standards and grounded in the recognition that businesses have a stake in, and a responsibility for, gender equality and women's empowerment. Companies can sign onto the WEPs to signal their commitment to work collaboratively in multi-stakeholder networks to foster business practices that empower women (see [Box 4: Focus on The Women's Empowerment Principles](#)).⁷⁰

BOX 4: FOCUS ON THE WOMEN'S EMPOWERMENT PRINCIPLES

- ▶ Principle 1: High-Level Corporate Leadership
- ▶ Principle 2: Treat all Women and Men Fairly at Work without Discrimination
- ▶ Principle 3: Employee Health, Well-Being and Safety
- ▶ Principle 4: Education and training for career advancement
- ▶ Principle 5: Enterprise development, supply chain and marketing practices
- ▶ Principle 6: Community initiatives and advocacy
- ▶ Principle 7: Measurement and Reporting⁵

Companies should consider differentiated impacts on women as part of the impact assessment process (see [Provision 2.6 on Risk and Impact Assessments](#)) and the process of identifying and protecting workers from safety hazards (see [Provision 7.8 on Workplace Hazards](#)). For example, some *personal protective equipment* (PPE) is designed for men and may not fit women properly. Certain chemicals may have impacts on women's reproductive health. Shift schedules that begin or end at night may pose risks to women commuting to and from the site. In these cases, additional safety measures should be adopted to enable women to carry out their work.

Companies should also ensure that sanitation facilities are adequate for female personnel (see [Provision 7.11 on Workplace Hazards](#)), appropriate accommodations are made for pregnant and breastfeeding workers (see [Provision 7.23 on Worker Health and Wellbeing](#)), and security measures are non-discriminatory and gender-sensitive (see [Provision 5.10 on Security Personnel](#)).

69. SA Journal of Human Resource Management, *Women in mining still exploited and sexually harassed*, 2016, Accessed online: 30 December 2020, <https://www.researchgate.net/publication/310434249_Women_in_mining_still_exploited_and_sexually_harassed>.

70. WEPs, *UN Women's Empowerment Principles* [website], Accessed online: 30 December 2020, <<https://www.weps.org/about>>.



Performance Determination

Meets:

The company has developed, documented and implemented systems that ensure respect for the rights and interests of women aligned with Provisions 2.1 and 2.2 on Management Systems and with the *UN Convention on the Elimination of All Forms of Discrimination against Women*.

Substantially Meets:

The company has developed and documented systems that ensure respect for the rights and interests of women aligned with Provisions 2.1 and 2.2 on Management Systems and with the *UN Convention on the Elimination of All Forms of Discrimination against Women*, however, minor or isolated gaps in implementation were identified due to inadequate documentation, communication and/or review and monitoring.

Partially Meets:

The company has developed and documented systems that ensure respect for the rights and interests of women aligned with Provisions 2.1 and 2.2 on Management Systems and with the *UN Convention on the Elimination of All Forms of Discrimination against Women*, however, implementation of the systems has not yet started or is incomplete.

Misses:

The company does not have any systems in place that ensure respect for the rights and interests of women.

III. VERIFICATION

Data Collection Method

Conformance with the provision on women’s rights is assessed through observation, document review, and interviews with the company’s employees, management team, and other stakeholders.

Conformance with the provision, where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
5.6	✓	✓	✓	✓	✓	✓

Examples and Types of Evidence

- > Documented or written evidence of a specific policy on women’s rights, gender equality, or integration in other relevant policies, including, but not limited to, recruitment and human resources policies, codes of conduct etc;
- > results of assessments or monitoring reports on women’s rights as part of a Human Rights Impact Assessment or a stand-alone gender impact assessment;⁷¹

71. See Section V Further Information below for resources and tools on gender impact assessments.



- > gender pay-gap / pay equity audit or review reports;⁷²
- > disclosure of performance indicators related to women's rights;
- > evidence and records of training of relevant personnel on women's rights, including sexual harassment, gender equality, and non-discrimination;
- > documentation of initiatives to promote women's rights and diversity in the workplace;
- > documented figures and targets, including, but not limited to, female employment, percentage of women in management positions etc;
- > documentation of services provided to female employees, where applicable;
- > documentation of consideration of women's rights and interests in the impact assessment process;
- > documentation of complaints related to women's rights logged in the grievance mechanisms.

Site Assessment

Interviews

During interviews with management, managers can demonstrate or describe:

- > a good understanding of the company's policy to support women's rights;
- > whether the company has established performance targets on women's rights, such as representation in management;
- > how women's rights are considered in impact assessments;
- > whether the company has initiatives to promote women's rights and diversity in the workplace;
- > whether key personnel are trained to prevent, identify, and report discrimination and sexual harassment.

During interviews with employees, they can demonstrate or describe:

- > a basic understanding of the company's policy to support women's rights;
- > the type and content of the training they have received on the company's policy, including training related to preventing, identifying, and reporting discrimination and sexual harassment;
- > female employees do not report concerns related to discrimination and harassment;
- > female employees confirm their rights and interests have been assessed and addressed by the company and that they have equal opportunities;
- > female employees confirm the company is responsive to any complaints or concerns they may have regarding equal treatment and safety.

During interviews with affected communities and stakeholders, they can demonstrate or describe:

- > whether there have been any issues related to women's rights;
- > whether the company has any initiatives to support women's rights.

Site Walk-Through

During the Site Walk-Through and visits to local communities, the assessor observes:

- > information posted regarding policies and/or initiatives to promote women's rights;
- > adequate sanitation facilities for female workers;
- > programmes to support women in the community, where applicable.

72. See for example: Equality and Human Rights Commission, *Equal Pay Audits for Large Organisations*, Accessed online: 30 December 2020, <<https://www.equalityhumanrights.com/en/multipage-guide/equal-pay-audit-larger-organisations>>.



IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
1 Business Integrity	1.1: When ensuring compliance with applicable laws and regulations, companies should identify and ensure compliance with laws on non-discrimination and equal opportunity.
2 Policy and Management	2.3 – 2.8: When conducting impact assessments, companies should take into account unique or disproportionate impacts on women and that women are included.
5 Human Rights	<p>5.4 – 5.5: When considering impacts on Indigenous Peoples and respecting the right to Free, Prior and Informed Consent, companies should consider participation of and impacts on indigenous women.</p> <p>5.10: Companies should ensure a gender-sensitive approach when developing security measures.</p>
6 Labour Rights	<p>6.13: When establishing non-discrimination and equal opportunities policies, companies should consider the rights of women.</p> <p>6.13 – 6.14: When developing systems to prevent harassment and/or exploitation in the workplace, companies should consider the vulnerabilities of women.</p> <p>6.26: Companies should consider accessibility of worker grievance mechanisms for women.</p>
7 Occupational Health and Safety (OHS)	<p>7.2: When identifying safety hazards, companies should consider safety risks that may uniquely or disproportionately impact women.</p> <p>7.5: When identifying the need for PPE, companies should ensure PPE is appropriate for female workers.</p> <p>7.11: Companies should consider the needs of female workers in terms of sanitation facilities.</p> <p>7.23: Companies should consider women’s rights and interests when ensuring the safe working conditions for pregnant and breastfeeding women.</p> <p>7.24: Companies should consider women’s rights and interests when taking measures to respond to potential threats to the physical, mental and social wellbeing of workers.</p>



8 Communities and Stakeholders

8.1 – 8.4: When conducting stakeholder engagement, companies should ensure women are included.

8.8: Companies should consider impacts on women when developing resettlement action plans.

8.16 – 8.18: Companies should consider accessibility of operational-level grievance mechanisms for women.



V. FURTHER INFORMATION

- › Mine Health and Safety Council, *Personal Protective Equipment for Women in Mining*, 2015 (available [here](#)). This illustrative guide is meant to equip mining houses, Women in Mining (WIM) groups, stakeholders, PPE manufacturers etc with full knowledge about requirements of PPE for WIM.
- › Government of Western Australia Department of Mines and Petroleum Resources Safety, *Gender and safety in mining*, 2015 (available [here](#)). This Workshop Planner Series on Gender and Safety in Mining (Workshop Planner Series) responds to a number of cultural and human behavioural issues relating to gender that affect safety on mine sites.
- › Responsible Mining Index, *Leading Practices on Non-Discrimination and Equal Opportunity*, 2020 (available [here](#)). Examples of practices from companies that are developing innovative approaches.
- › ILO, *10 Keys for Gender Sensitive OSH Practice – Guidelines for Gender Mainstreaming in Occupational Safety and Health*, 2013 (available [here](#)). This working paper is targeted at an audience of national governments, health and safety authorities, employers' and workers' organizations and has identified ten guidelines to support gender mainstreaming in OSH. Each guideline highlights an area where action could be undertaken to improve the safety and health of both men and women workers.
- › Australian Aid, Oxfam Australia, *A Guide to Gender Impact Assessment for the Extractive Industries*, 2017 (available [here](#)). This guide advises mining, oil and gas companies on how they, or their consultants, can undertake a gender impact assessment.
- › WCEF International, *The Gender impact assessment and monitoring tool*, 2018 (available [here](#)). This gender impact assessment and monitoring tool (GIM tool) has been developed with the explicit objective of helping women and gender civil society organisations to implement the UN 2030 Agenda for Sustainable Development.
- › Society for Human Resource Management, *Closing the Gender Pay Gap*, 2019 (available [here](#)). This article provides tips on pay equity for human resources managers.
- › Gender At Work, *Gender At Work Framework* (no date) (available [here](#)). The Framework can be used by organisations to uncover opportunities and barriers to gender equality, to map a strategy for change and to guide evaluations.
- › ILO, *Identifying, monitoring and reporting on sexual harassment in the workplace*, (no date) (available [here](#)). E-learning module that provides information and resources for participants to analyse practical ways to identify, monitor and report on gender-based violence and sexual harassment.
- › Rio Tinto, *Why gender matters: A resource guide for integrating gender considerations into Communities work at Rio Tinto*, 2009 (available [here](#)). This resource guide offers practical methodologies, frameworks and case studies for integrating gender considerations into communities and development work.

Security Personnel (Provisions 5.7 – 5.10)



I. INTRODUCTION

Companies have a legitimate obligation and interest in safeguarding company personnel and property. If the company determines that it must use *security personnel* to do so, security should be provided in a manner that does not jeopardise workers' or communities' safety, security or human rights. It should also be consistent with national requirements, including national laws implementing obligations under international law, and with the requirements of the *Voluntary Principles for Security and Human Rights* (Voluntary Principles)⁷³.

Security arrangements to protect the company's personnel and property will typically depend in large part on security risks in the operating environment. In determining what security arrangements and equipment are necessary, companies should apply the principle of proportionality.

Community engagement is a central aspect of implementing a security strategy, as good relations with workers and communities can be the most important guarantee of security. Companies should communicate their security arrangements to workers and affected communities, subject to overriding safety and security needs, and involve them in discussions about security arrangements through the community engagement process.⁷⁴

The management of security arrangements should include:

- > policies and commitments related to the Voluntary Principles;
- > security risk assessment and management;
- > due diligence prior to hiring security personnel;
- > training of security personnel;
- > investigation of security incidents;
- > communication and disclosure.⁷⁵

II. PROVISIONS AND PERFORMANCE DETERMINATION

- > **Provision 5.7** Companies will implement the Voluntary Principles on Security and Human Rights when they engage with public and private security providers.

Explanation

The Voluntary Principles were developed in 2000 by governments, companies in the extractive and energy sectors and non-governmental organisations. The Voluntary Principles provide guidance to companies in maintaining the safety and security of their operations while ensuring respect for human rights and humanitarian law.

73. Voluntary Principles, *Voluntary Principles on Security and Human Rights*, Accessed online: 3 January 2020, <<https://www.voluntaryprinciples.org/the-principles/>>.

74. IFC, *IFC Performance Standard Guidance Note 4: Community Health, Safety and Security*, 2012, Accessed online: 30 December 2020, <https://www.ifc.org/wps/wcm/connect/321a0a72-3278-4c77-bd3f-6d31f5decd55/Updated_GN4-2012.pdf?MOD=AJPERES&CVID=mRQjTPE>.

75. Initiative for Responsible Mining Assurance (IRMA), *Standard for Responsible Mining*, 2018, Accessed online: 30 December 2020, <https://responsiblemining.net/wp-content/uploads/2018/07/IRMA_STANDARD_v.1.0_FINAL_2018-1.pdf>.

The Voluntary Principles cover three key elements:

- risk assessment – companies should assess security risks and the potential for human rights abuses;
- public security providers – companies should interact with public security providers (i.e. police, military), in a way that promotes the protection of human rights;
- private security providers – companies should similarly interact with private security providers (i.e. contracted security) in a way that respects human rights.⁷⁶

In making security arrangements, the company should follow the principles of proportionality and *good international practice*, including practice consistent with the *Voluntary Principles and the UN Code of Conduct for Law Enforcement Officials*, and *UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*.⁷⁷

Companies should develop a policy and procedures regarding the use of force and firearms that, at minimum, require:

- security personnel to take all reasonable steps to exercise restraint and utilise non-violent means before resorting to the use of force;
- if force is used it shall not exceed what is strictly necessary, and shall be proportionate to the threat and appropriate to the situation;
- firearms shall only be used for the purpose of self-defence or the defence of others if there is an imminent threat of death or serious injury; and
- any use of physical force to be reported to and investigated by the company.⁷⁸

When the use of firearms is necessary, any firearms and ammunition issued should be licensed, recorded, stored securely, marked and disposed of appropriately. Security personnel should be instructed to exercise restraint and caution, clearly prioritising prevention of injuries or fatalities and peaceful resolution of disputes.⁷⁹

Companies should include the Voluntary Principles in their contract agreements with private security providers and seek to employ private security personnel from the local population.

Companies may also seek to engage private security providers that are certified members of the International Code of Conduct Association (ICoCA) or encourage security providers to join the ICoCA. The ICoCA promotes the responsible provision of private security services and respect for human rights through certification of member companies to ensure their systems and policies meet the wide range of standards and principles that make up the code; monitoring of company compliance; and handling of complaints on alleged violations of the code. Specifically, the code includes rules for the use of force, prohibition of torture, sexual violence, human trafficking and child labour. It also sets out a series of management and governance principles on, for example, the selection, vetting and proper training of security personnel.⁸⁰

Companies should investigate all allegations of unlawful or abusive acts of security personnel, take action (or urge appropriate parties to take action) to prevent recurrence, and report

76. ICMM, International Committee of the Red Cross (ICRC), IFC, International Petroleum Industry Environmental Association (IPIECA), *Voluntary Principles on Security and Human Rights Implementation Guidance Tools*, accessed on 20 August 2020, <<http://www.icmm.com/website/publications/pdfs/commitments/voluntary-principles-on-security-and-human-rights-implementation.pdf>>.

77. IFC, *IFC Performance Standard Guidance Note 4: Community Health, Safety and Security*, 2012, Accessed online: 30 December 2020, <https://www.ifc.org/wps/wcm/connect/321a0a72-3278-4c77-bd3f-6d31f5decd55/Updated_GN4-2012.pdf?MOD=AJPERES&CVID=mRQjTPE>.

78. IRMA, *Standard for Responsible Mining*, 2018, Accessed online: 30 December 2020 <https://responsiblemining.net/wp-content/uploads/2018/07/IRMA_STANDARD_v1.0_FINAL_2018-1.pdf>.

79. IFC, *IFC Performance Standard Guidance Note 4: Community Health, Safety and Security*, 2012, Accessed online: 30 December 2020, <https://www.ifc.org/wps/wcm/connect/321a0a72-3278-4c77-bd3f-6d31f5decd55/Updated_GN4-2012.pdf?MOD=AJPERES&CVID=mRQjTPE>.

80. RJC, *Code of Practices Guidance*, 2019, Accessed online: 30 December 2020, <<https://www.responsiblejewellery.com/wp-content/uploads/RJC-COP-2019-V1-1-Guidance-1-1.pdf>>.



unlawful and abusive acts to public authorities.⁸¹ Companies should consult with governments and communities about the impact of their security arrangements and exchange information with stakeholders about abuses committed by security providers.



Performance Determination

Meets:

The company has implemented the Voluntary Principles, including developing a policy and procedures regarding the use of force, screening of security providers, and investigating all allegations of unlawful or abusive acts of security personnel.

Substantially Meets:

The company has committed to the Voluntary Principles, but minor or isolated gaps in implementation were identified due to inadequate documentation, communication, and/or review and monitoring.

Partially Meets:

The company has committed to the Voluntary Principles, but implementation is incomplete. Gaps in implementation were identified due to inadequate policies, insufficient screening of security providers, and/or lack of procedures for investigation.

Misses:

The company does not have any policies or procedures on security and human rights.

> **Provision 5.8** Companies will regularly assess security risks and potential human rights impacts that may arise from security arrangements, and document the results.

Explanation

It is important for companies to assess and understand the security risks involved in their operations, based on reliable and regularly updated information. The risks assessment process may need to consider political, economic, legal, military, and social developments, any patterns and causes of violence and potential for future conflicts. It may be necessary for companies to also assess the record and capacity of law enforcement and judicial authorities to respond appropriately and lawfully to violent situations. If there is social unrest or conflict in the operational area of influence, the company should understand not only the risks posed to its operations and personnel but also whether its operations could create or exacerbate conflict.⁸²

Security risk assessments should consider the following factors:

- > identification of risks associated with political, economic, civil or social factors;
- > potential for violence;
- > human rights records of public security forces, paramilitaries, law enforcement, and private security;
- > local prosecuting authority and judiciary’s capacity to ensure accountability;

81. IFC, *IFC Performance Standard Guidance Note 4: Community Health, Safety and Security*, 2012, Accessed online 30 December 2020, <https://www.ifc.org/wps/wcm/connect/321a0a72-3278-4c77-bd3f-6d31f5decd55/Updated_GN4-2012.pdf?MOD=AJPERES&CVID=mRQjTPE>.

82. IFC, *IFC Performance Standard Guidance Note 4: Community Health, Safety and Security*, 2012, Accessed online: 30 December 2020, <https://www.ifc.org/wps/wcm/connect/321a0a72-3278-4c77-bd3f-6d31f5decd55/Updated_GN4-2012.pdf?MOD=AJPERES&CVID=mRQjTPE>.

- › conflict analysis with identification of the root causes of conflicts and level of adherence to human rights standards;
- › risks associated with the transfer of lethal and non-lethal equipment to security providers.⁸³

Companies should consider security risks associated with the entire range and all stages of their operational activities, including personnel, products, and materials being transported. The risk assessment process should identify potential adverse impacts on workers and the surrounding communities, such as the potential for increased communal tensions due to the presence of security personnel or the risk of theft and circulation of firearms used by security personnel. The process should also include conducting due diligence on security provider companies and personnel to ensure that those providing security are not implicated in past abuses.⁸⁴

Performance Determination

Meets:

The company regularly assesses security risks and potential human rights impacts that may arise from security arrangements, and documents the results.

Substantially Meets:

The company assesses security risks and potential human rights impacts that may arise from security arrangements, but assessments are not conducted regularly and/or results are not fully documented.

Partially Meets:

The company assesses security risks and potential human rights impacts that may arise from security arrangements, but assessments do not comprehensively cover the security risks and/or are not documented.

Misses:

The company does not conduct any assessments of security risks or potential human rights impacts that may arise from security arrangements.

-
- › **Provision 5.9** Companies will ensure that security personnel receive regular training on human rights and operate in accordance with the Voluntary Principles on Security and Human Rights.
-

Explanation

Where companies use private security personnel or private security contractors, companies should provide regular training on the Voluntary Principles on Security and Human Rights, applicable international and relevant national laws, including those pertaining to international human rights, international humanitarian law, and international criminal law.

The training program should include:

- › Creation of training materials on the Voluntary Principles on Security and Human Rights;
- › Pre-deployment training for all private security personnel;

83. Voluntary Principles, *Voluntary Principles on Security and Human Rights*, accessed on 20 August, 2020, <<https://www.voluntaryprinciples.org/the-principles/>>.

84. IFC, *IFC Performance Standard Guidance Note 4: Community Health, Safety and Security*, 2012, Accessed online: 30 December 2020, <https://www.ifc.org/wps/wcm/connect/321a0a72-3278-4c77-bd3f-6d31f5decd55/Updated_GN4-2012.pdf?MOD=AJPERES&CVID=mRQjTPE>.



- › Post-training evaluation to test participants’ knowledge and understanding of the content;
- › Quarterly or bi-annual refresher courses for all private security personnel; and
- › Records of training attendance and evaluation.

Where companies are obligated to use public security forces, companies should communicate their principles of conduct to public security forces, and express their desire that security be provided in a manner consistent with the Voluntary Principles. Companies should provide training or request the government to provide training to security forces.

Performance Determination

Meets:

The company conducts regular training for security personnel on human rights and operate in accordance with the Voluntary Principles.

Substantially Meets:

The company conducts training for security personnel on human rights and operates in accordance with the Voluntary Principles, but training is not conducted regularly and/or is not fully documented.

Partially Meets:

The company conducts training for security personnel on human rights, but training does not cover all security personnel and/or is not aligned with the Voluntary Principles.

Misses:

The company does not conduct any training for security personnel on human rights.

-
- › **Provision 5.10** Companies will ensure that on-site security measures are gender-sensitive and non-intrusive, such that the dignity of employees is respected.
-

Explanation

Searches of various kinds may be a necessary and legitimate means of preventing people from bringing dangerous or prohibited items or substances on site, which may constitute a threat to the safety and health of workers and visitors. However, when conducted in a disproportionate, humiliating, or discriminatory way, searches infringe upon the dignity of individuals. There is also a risk that searches are used as a means of intimidation or retaliation.

Companies should ensure that on-site security measures, including body searches, are carried out in ways that ensure the dignity and humane treatment of all people. Where body searches need to be conducted, they should be carried out by personnel of the same gender and should be minimally invasive.

Wherever possible, alternatives to body searches, such as scans and metal detectors, should be developed. Security guards may ask individuals to empty their pockets or look into their bags but only if there is a legitimate reason to do so. If using a wand, the search should be carried out by personnel of the same gender and should be minimally invasive.

Clear and strict regulations and procedures should be in place governing the types of searches security guards may perform, in order to avoid abuse. They should specify when searches are allowed, based on the criteria of necessity, reasonableness and proportionality, and the principle of ‘last resort’. Alternatives should be applied wherever possible. Most importantly,



searches should preserve the right to privacy and dignity, should be undertaken in a sensitive way, and never be used to harass, intimidate or unnecessarily intrude upon a person’s privacy. For the purposes of accountability, appropriate records of searches must be kept, and should include the reasons for the search, the identities of those who conducted it, and any results of the search.



Performance Determination

Meets:

The company has developed and implemented a system to ensure that on-site security measures are gender sensitive and non-intrusive such that the dignity of the employee concerned is respected, including procedures governing the types of searches security guards may perform, same-gender searches, and records of any searches conducted.

Substantially Meets:

The company has systems in place to ensure that on-site security measures are gender sensitive and non-intrusive, such that the dignity of the employee concerned is respected, including procedures governing the types of searches security guards may perform and same gender searches, however, records of searches conducted are not maintained.

Partially Meets:

The company has some systems in place to ensure that on-site security measures are gender sensitive and non-intrusive such that the dignity of the employee concerned is respected, including procedures governing the types of searches security guards may perform, however, the procedures are not fully implemented and/or do not require same gender searches, and records of searches conducted are not maintained.

Misses:

The company does not have a system in place to ensure that on-site security measures are gender sensitive and non-intrusive.

III. VERIFICATION

Data Collection Method

Conformance with the provisions on the use of security personnel is assessed through observation, document review, and interviews with the company’s employees and management team.

Conformance with the provisions, where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
5.7	✓	✓	✓	✓	✓	✓
5.8		✓	✓	✓	✓	✓
5.9	✓	✓	✓	✓	✓	✓
5.10	✓	✓	✓	✓	✓	✓

Examples and Types of Evidence

- › A human rights and security policy that commits the company to implement the Voluntary Principles;
- › a signed agreement or commitment from security personnel and providers to respect human rights and operate in line with the Voluntary Principles;
- › security risk assessment methodology, reports, and findings;
- › evidence that security personnel are trained in human rights and the proportional use of force, including, but not limited to, training materials, attendance sheets, or certificates;
- › due diligence reports on security personnel or security providers;
- › contracts with security providers;
- › security personnel operation records, such as performance reviews, observational records;
- › policy and procedures on use of force/rules of engagement;
- › evidence that security service providers are signatories to the International Code of Conduct for Private Security Service Providers, if applicable;
- › Memorandums of Understanding or agreements for the provision of public security that include references to the Voluntary Principles;
- › public security provider training material;
- › records of communications and meetings between the company and public security providers;
- › records of security incidents;
- › records of any investigations and resulting disciplinary action taken, including internal committee meetings minutes, management reports, communications with security personnel;
- › annual report on efforts to implement the Voluntary Principles.

Site Assessment

Interviews

During interviews with management, managers can demonstrate or describe:

- › a good understanding of the company's policy to implement the Voluntary Principles;
- › knowledge of the company's policies and procedures related to the use of force and firearms, where applicable;
- › how the company conducts security risk assessments;
- › how the company conducts due diligence on security providers;
- › the type of training the company provides to security providers;
- › how the company ensures its security measures are gender-sensitive and non-intrusive;
- › how the company communicates its expectations to public security providers, where applicable;
- › whether security incidents have occurred and how they were handled;
- › whether any investigations have been carried out related to security personnel and if so, whether they resulted in any disciplinary actions;
- › whether the company consults local communities on security issues;
- › whether stakeholders have been informed of a mechanism to raise security-related concerns; and
- › whether the company publishes annual reports on how it implements the Voluntary Principles.

During interviews with employees (including security personnel), they can demonstrate or describe:

- › a basic understanding of the company's security policy;
- › knowledge of the company's policies and procedures related to the use of force and firearms, where applicable;
- › knowledge of the Voluntary Principles, where applicable;
- › the type and content of the training they have received on the company's security policy; and
- › how the company's security measures are gender-sensitive and non-intrusive.

During interviews with affected communities and stakeholders, they can demonstrate or describe:

- › an understanding of the company's security policy, security arrangements, and risk assessment;



- › whether security incidents have occurred and how they were handled;
- › whether the company consults local communities on security issues;
- › whether stakeholders have been informed of a mechanism to raise security-related concerns; and
- › whether the company publishes annual reports on how it implements the Voluntary Principles.

Site Walk-Through

During the Site Walk-Through, the assessor observes:

- › security measures that are gender-sensitive and non-intrusive;
- › information about security arrangements;
- › appropriate firearm safety measures, where applicable; and
- › appropriate interactions between security personnel and workers, local communities, and other stakeholders, where applicable.

IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
2 Policy and Management	2.1 and 2.2: When developing systems to manage security risks, companies should refer to <u>Provisions 2.1 and 2.2 on Management Systems</u> .
	2.3 – 2.7: When identifying the environmental, social and human rights risks and impacts of operations, companies should consider security-related impacts.
	2.8 – 2.10: When contracting security providers, companies should refer to <u>Provisions 2.8 - 2.12 on Business Partners</u> .
5 Human Rights	5.6: When implementing security measures, companies should consider women’s rights and interests.
7 Occupational Health and Safety (OHS)	7.13: When establishing emergency preparedness procedures and training, companies should include security personnel.
8 Communities and Stakeholders	8.1 – 8.4: When developing and implementing security arrangements, companies should consider engaging local communities.
	8.9 – 8.10: When identifying risks and impacts of operations on community health and safety, companies should consider security-related risks and impacts.



V. FURTHER INFORMATION

- › UN, *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, 1990 (available [here](#)). Basic principles which have been formulated to assist Member States in their task of ensuring and promoting the proper role of law enforcement officials.
- › ICM, ICRC, IFC, IPIECA, *Voluntary Principles on Security and Human Rights Implementation Guidance Tools* (available [here](#)). A set of tools designed to help companies, their employees, and contractors implement the Voluntary Principles on Security and Human Rights.
- › IFC, *IFC Performance Standard Guidance Note 4: Community Health, Safety and Security*, 2012 (available [here](#)). Guidance Note 4 corresponds to Performance Standard 4, which recognises that mining operations activities, equipment, and infrastructure can increase community exposure to risks and impacts.
- › The Federal Council (Switzerland), *The International Code of Conduct for Private Security Service Providers*, 2010 (available [here](#)). The code reinforces and articulates the obligations of private security providers particularly with regard to international humanitarian law and human rights law.
- › UNICEF, *Child Rights and Security Checklist*, 2017 (available [here](#)). The Checklist identifies 14 criteria for companies and governments to assess the extent to which their security frameworks are attentive to and protective of children's rights.
- › UNICEF, *Child Rights and Security Handbook: An implementation companion to the Child Rights and Security Checklist*, 2018 (available [here](#)). The Checklist and this Handbook can be used by companies and governments to improve the protection of children's rights within security programs and reduce security-related human rights abuses of children and young people.

Conflict-Affected and High-Risk Areas (Provisions 5.11 – 5.15)

I. INTRODUCTION

It is an unfortunate reality that the trade of minerals can contribute to the financing of conflicts and human rights abuses around the world. For this reason, over the last decade, risks of human rights violations and conflict financing associated with the supply chain of minerals and metals have become increasingly the subject of regulations.

The first law of this kind was the *Dodd-Frank Act*, passed in 2010 in the United States and requiring U.S. publicly-listed companies to check their tin, tungsten, tantalum (3T) and gold supply chains, if they might originate in Congo or its neighbouring countries, to take steps to address risks, and to report on their efforts to the U.S. Securities and Exchange Commission. More recently, in Europe, the *EU Conflict Minerals Regulation* will come into force on January 1st, 2021, laying down supply chain due diligence obligations for EU importers of 3T and gold originating from conflict-affected and high-risk areas (CAHRAs). While these regulations currently affect directly only selected minerals and metals, the introduction of these requirements has created market expectations that today extend to almost all natural resources.

A principal instrument used for ensuring compliance with such regulations and market expectations is the *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas* (OECD Guidance), which provides the internationally accepted 5-step framework for risk-based due diligence.



The five steps, described in the OECD Guidance Annex I, are:

1. establish strong company management systems;
2. identify and assess risk in the supply chain;
3. design and implement a strategy to respond to identified risks;
4. carry out independent third-party audit of supply chain due diligence at identified points in the supply chain; and
5. report on supply chain due diligence.

The OECD Guidance may be used by any company potentially sourcing any minerals or metals from, and/or operating in, CAHRAs, and is intended to cultivate transparent, conflict-free supply chains and sustainable corporate engagement in the minerals sector. In particular, the OECD Guidance intends to provide recommendations to companies to identify, assess, and respond to risks listed in its Annex II, which are:

- > Serious human rights abuses, including:
 - > any forms of torture, cruel, inhuman and degrading treatment;
 - > any forms of forced or compulsory labour;
 - > the worst forms of child labour;
 - > other gross human rights violations and abuses such as widespread sexual violence;
 - > war crimes or other serious violations of international humanitarian law, crimes against humanity or genocide;
- > support to *non-state armed groups*;
- > risks associated to the contracting of public or private security forces;
- > bribery and fraudulent misrepresentation of the origin of minerals;
- > money laundering; and
- > non-payment of taxes, fees, and royalties due to governments.

These are the risks that companies should take into consideration when conducting due diligence on their minerals supply chains originating from CAHRAs, which the OECD Guidance defines as follows:

“Conflict-affected and high-risk areas are identified by the presence of armed conflict, widespread violence or other risks of harm to people. Armed conflict may take a variety of forms, such as a conflict of international or non-international character, which may involve two or more states, or may consist of wars of liberation, or insurgencies, civil wars, etc. High-risk areas may include areas of political instability or repression, institutional weakness, insecurity, collapse of civil infrastructure and widespread violence. Such areas are often characterised by widespread human rights abuses and violations of national or international law.”⁸⁵

Companies that do not source external coal, and are at the origin of the supply chain, should still implement due diligence, to identify, assess, and respond to risks in their own operations. Such process may be integrated into the companies’ own operational policies and procedures, such as the human rights policy, the anti-corruption policy etc. Companies participating in toll agreements should include the material received under such agreements within the scope of their due diligence process.

85. OECD, *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas: Third Edition*, Paris, Page 13, Accessed online: 30 December 2020, <<https://www.oecd.org/daf/inv/mne/OECD-Due-Diligence-Guidance-Minerals-Edition3.pdf>>.



II. PROVISIONS AND PERFORMANCE DETERMINATION

- > **Provision 5.11** Companies will adopt and implement a responsible supply chain policy with respect to sourcing from conflict-affected and high-risk areas. The policy will be consistent at a minimum with Annex II of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (OECD Guidance), and will be implemented through a due diligence system aligned with the OECD Guidance Annex I and with requirements of [Provisions 2.1](#) and [2.2](#) of this Code.

Explanation

Companies should, in line with the recommendations of the OECD Guidance for step 1 of due diligence, adopt a responsible supply chain policy with respect to sourcing from CAHRAs, with the purpose to formalise the company commitment to responsible sourcing and production. This policy should include:

- > a commitment to implement the five-steps due diligence process defined in the OECD Guidance Annex I;
- > a commitment to identify, assess, and respond to risks of adverse impacts including, at a minimum, those listed in the OECD Guidance Annex II;
- > a description of a clear and coherent management process for managing risks of adverse impacts identified;
- > the date when the policy became effective; and
- > for companies operating in an EITI implementing country, a commitment to support the implementation of the principles and criteria of the EITI.

Companies may adopt a stand-alone policy, or incorporate it into existing policies on CSR, sustainability, or another alternative equivalent.

To implement the policy, companies should develop a due diligence system aligned with the OECD Guidance Annex I, including the development, documentation and implementation of a management system (see [Provisions 2.1 and 2.2 on Management Systems](#)).

To this end, companies should:

- > develop documented procedures, which provide clear instructions and guidance to management and employees on how to carry out due diligence;
- > clearly define roles and responsibilities;
- > identify and make financial and human resources needed for implementing the system available;
- > develop training programmes, targeted, at a minimum, to relevant management and employees participating in the system;
- > implement monitoring protocols to evaluate the performance of the system; and
- > evaluate any potential gaps identified in the system and the implementation of corrective actions.

Companies should enable the implementation of due diligence practices by their customers, by making relevant information available to downstream companies, assessors, and to any joint initiative or institutionalised mechanism with the mandate to collect and process information for risk assessments, with due regard to business confidentiality and other competitive concerns.

Performance Determination

Meets:

The company has adopted and implemented a responsible supply chain policy with respect to sourcing from CAHRAs. The policy is consistent with Annex II of the OECD Guidance and is implemented through a due diligence system aligned with the OECD Guidance Annex I and with requirements of [Provisions 2.1 and 2.2 on Management Systems](#).



Substantially Meets:

The company has adopted a responsible supply chain policy with respect to sourcing from CAHRAs, and the policy is consistent with Annex II of the OECD Guidance, however, there are isolated incidents of gaps or lapse in implementation that are non-systemic.

Partially Meets:

The company:

- › has adopted a responsible supply chain policy with respect to sourcing from CAHRAs, and the policy is consistent with Annex II of the OECD Guidance, however, implementation of the due diligence system is incomplete; or
- › is in the process of developing such due diligence system, but the system is not yet complete.

Misses:

The company has not adopted and does not implement a responsible supply chain policy with respect to sourcing from CAHRAs.

-
- › **Provision 5.12** Companies will, in accordance with their responsible supply chain policy as required by [Provision 5.11](#) of the Code, identify potential risks associated with the extracting, trading, handling, and exporting of minerals from conflict-affected and high-risk areas, through the identification of red flag locations of mineral origin and transit and supplier red flags listed in the OECD Guidance.
-

Explanation

Companies involved in the extraction, transport, trade, handling, processing, and export of coal generate positive effects, including economic growth. However, companies operating in, or sourcing from, CAHRAs, may be at higher risk of contributing to or being associated with significant adverse impacts.

To identify the risks of adverse impacts covered by the policy of [Provision 5.11 on Conflict-Affected and High-Risk Areas](#) on and consistent with the OECD Guidance Annex II risks, companies should, in line with the recommendations of the OECD Guidance for step 2 of due diligence, gather information to determine the presence of red flags, which are risk warnings linked to the location of a mineral's origin and its transit route (and/or to a supplier's sourcing practices).

Companies should identify red flags, by taking into consideration, at a minimum, the red flags listed in the OECD Guidance Supplement on Tin, Tantalum, and Tungsten, which are:

- › Red flag locations of mineral origin and transit:
 - › *“the minerals originate from or have been transported via a CAHRA;*
 - › *the minerals are claimed to originate from a country that has limited known reserves, likely resources or expected production levels of the mineral in question (i.e. the declared volumes of mineral from that country are out of keeping with its known reserves or expected production levels);*
 - › *the minerals are claimed to originate from a country in which minerals from CAHRA are known to transit.”*
- › Supplier red flags:
 - › *“the company's suppliers or other known upstream companies have shareholder or other interests in companies that supply minerals from or operate in one of the above-mentioned red flag locations of mineral origin and transit;*
 - › *the company's suppliers' or other known upstream companies are known to have sourced minerals from a red flag location of mineral origin and transit in the last 12 months.”*



It is acknowledged, however, that for coal mining operations that do not source material from external companies, supplier red flags do not apply.

To identify the presence of red flags, companies should document and make the following information available to companies downstream:

- › country of origin of coal extracted, held, and/or processed during the assessment period;
- › quantities expressed in volume or weight of coal extracted.

Such information may be collected through the company's system of internal control. To identify potential red flags, companies should determine whether they operate in a CAHRA. To determine whether a certain country may fall under the definition of a CAHRA, companies should develop and consistently implement a methodology which includes credible sources of information. Companies may refer to resources provided by industry-level initiatives or indicative lists of CAHRAs issued by governments.

Companies should report to senior management the findings from the red flags identification and CAHRA determination processes.

A 'red flag' does not automatically confirm that the mining operations are associated with an actual adverse impact. Rather, it alerts that there is a higher risk that such an impact may be present or occur. Where red flags are identified, companies should proceed with enhanced due diligence, by carrying out a risk assessment as per [Provision 5.13 on Conflict-Affected and High-Risk Areas](#).

Companies should make relevant information available to downstream companies, assessors, and to any joint initiative or institutionalised mechanism with the mandate to collect and process information for risk assessments, with due regard to business confidentiality and other competitive concerns.

Performance Determination

Meets:

The company carries out a red flags identification process to identify potential risks associated with the extracting, trading, handling, and exporting minerals from CAHRAs, through the identification of potential red flags listed in the OECD Guidance (3T Supplement).

Substantially Meets:

The company carries out a red flags identification process to identify potential risks associated with the extracting, trading, handling, and exporting minerals from CAHRAs, however, the red flags used do not include all those listed in the OECD Guidance (3T Supplement).

Partially Meets:

The company has started to collect information to carry out a red flags identification process, however, a determination on the presence of red flags has not yet been made.

Misses:

The company does not carry out a red flags identification process to identify potential risks associated with the extracting, trading, handling, and exporting minerals from CAHRAs.

-
- › **Provision 5.13** Companies will undertake enhanced due diligence measures if they identify the presence of any red flag locations of mineral origin and transit and/or supplier red flags as required by [Provision 5.12](#) of the Code.
-



Explanation

Companies that identify red flags during the red flags identification process (see [Provision 5.12 on Conflict-Affected and High-Risk Areas](#)) should, in line with the recommendations of the OECD Guidance for step 2 of due diligence, carry out a risk assessment in order to collect detailed information on the factual circumstances of the red-flagged operations, and determine the presence of risks including, at a minimum, those listed in the OECD Guidance Annex II.

If the company's mining operations are located in a red flag location of material origin and transit, the company should take steps to map the factual circumstances of the presence of Annex II risks at its operations using social impact assessment, security and human rights risk assessments. These assessments may be informed by a combination of sources and activities, including:

- > consultation with local and central governments and civil society organisations;
- > baseline social, security, human rights reports and other relevant studies;
- > media and external research reports;
- > internal and local incident reports;
- > an on-the-ground assessment;
- > information collected through the company's grievance mechanism;
- > information generated through the company's system of internal control;
- > on-the-ground assessments.

Companies should report to senior management the findings from the risk assessment. Where risks or actual impacts are identified, companies should respond to such risks (see [Provision 5.14 on Conflict-Affected and High-Risk Areas](#)).

Companies should make relevant information available to downstream companies, assessors, and to any joint initiative or institutionalised mechanism with the mandate to collect and process information for risk assessments, with due regard to business confidentiality and other competitive concerns.

Performance Determination

Meets:

The company carries out enhanced due diligence, with the purpose to identify the presence of risks of adverse impacts listed in the OECD Guidance Annex II in red-flagged operations.

Substantially Meets:

The company carries out enhanced due diligence, with the purpose to identify the presence of risks of adverse impacts listed in the OECD Guidance Annex II in red-flagged operations, however, the information collected for risks assessment presents minor gaps.

Partially Meets:

The company carries out enhanced due diligence, with the purpose to identify the presence of risks of adverse impacts listed in the OECD Guidance Annex II in red-flagged operations, however:

- > the information collected for risk-assessments presents major gaps;
- > not all OECD Guidance Annex II risks are included in the scope of the assessment; and/or
- > not all red-flagged supply chains are included in the scope of the assessment.

Misses:

The company does not carry out enhanced due diligence.



> **Provision 5.14** Companies will, if they assess the presence of risks of adverse impacts during the enhanced due diligence process as required by [Provision 5.13](#), design and implement a strategy to respond to such risks.

Explanation

Companies that assess risks or actual adverse impacts through enhanced due diligence (see [Provision 5.13 on Conflict-Affected and High-Risk Areas](#)) should, in line with the recommendations of the OECD Guidance for step 3 of due diligence, design a strategy and implement a risk management plan to respond to such risks.

A risk management plan is intended as a procedural framework that companies implement to take actions to mitigate risks or actual adverse impacts identified during the risk assessment process in accordance with their strategy.

The strategy and risk management plan should be consistent with the company's responsible supply chain policy (see [Provision 5.11 on Conflict-Affected and High-Risk Areas](#)) and appropriate to the type and scale of the risks. Where the risks sit within a company's own operations, the company should implement effective measures to mitigate such risks.

Companies should engage relevant stakeholders and, if needed, review the risk management plan to take into account questions, concerns and alternative suggestions for risk management presented by stakeholders. Depending on the risks identified, relevant stakeholders may include affected stakeholders, local authorities and/or civil society.

A successful risk management plan is one which leads to significant improvements and whose effectiveness can be tracked through appropriate qualitative and quantitative indicators. For this reason, the risk management plan should:

- > include mitigation actions, including clear performance objectives and qualitative and/or quantitative indicators to measure and promote significant improvements within reasonable timescales;
- > be developed in consultation with affected stakeholders, to agree on the strategy for measurable mitigation actions as part of the risk management plan.

Companies should evaluate the effective implementation of the risk management plan at planned intervals and report findings to senior management. If there is no significant measurable improvement within 6 months companies should review the risk management plan and take appropriate improvement action.

Companies should make relevant information available to downstream companies, assessors, and to any joint initiative or institutionalised mechanism with the mandate to collect and process information for risk assessment, with due regard to business confidentiality and other competitive concerns.

Performance Determination

Meets:

The company has designed a strategy and implements a risk management plan to respond to risks assessed through enhanced due diligence ([Provision 5.13 on Conflict-Affected and High-Risk Areas](#)).



Substantially Meets:

> The company has designed a strategy and implements a risk management plan to respond to risks assessed through enhanced due diligence ([Provision 5.13 on Conflict-Affected and High-Risk Areas](#)). However, while there is evidence that implementation of the plan is advanced, implementation has not started for all parts of the plan where the plan indicates they should have started.

Partially Meets:

The company has designed a strategy and implements a risk management plan to respond to risks assessed through enhanced due diligence ([Provision 5.13 on Conflict-Affected and High-Risk Areas](#)). However, the implementation of the plan has not started; or the company is in the process of developing such plan.

Misses:

The company:

- > has not designed a strategy and has not developed a risk management plan; or
- > did not carry out enhanced due diligence ([Provision 5.13 on Conflict-Affected and High-Risk Areas](#)).

-
- > **Provision 5.15** Companies will publicly report annually on due diligence undertaken to ensure responsible mineral supply chains from conflict-affected and high-risk areas.
-

Explanation

Companies should report annually on their due diligence policies and practices, in line with the recommendations of the OECD Guidance for step 5 of due diligence.

Reporting is a fundamental step in the due diligence process, as it promotes transparency and accountability. Through reporting, companies should provide information, with due regard for business confidentiality and other competitive concerns, on:

- > the company's responsible supply chain policy (see [Provision 5.11 on Conflict-Affected and High-Risk Areas](#));
- > the management system developed, documented, and implemented for due diligence undertaken to ensure responsible mineral supply chains from CAHRAs;
- > the system of control and transparency designed and implemented to collect and retain information necessary for red flags identification and for the following steps of the due diligence process, where relevant (see [Provisions 5.12 - 5.14 on Conflict-Affected and High-Risk Areas](#));
- > a summary of the methodology adopted, and the results of the red flags identification process obtained during the assessment period;
- > where red flags are raised, a summary of the methodology adopted, and the results of the enhanced due diligence obtained in the assessment reporting period;
- > where risks are identified during the enhanced due diligence, the strategy adopted to respond to such risks, including a summary of the risk management plan and of the actions taken during the assessment period to mitigate risks and whether improvement was made towards eliminating such risks.

See [V Further Information](#) for additional guidance on how to write a due diligence report. Such information may be integrated into the sustainability, CSR, or other annual reports. Such information may be provided at the site level for all sites, or at the company level.



Performance Determination

Meets:

The company publicly reports annually on due diligence undertaken to ensure responsible mineral supply chains from CAHRAs.

Substantially Meets:

The company reports annually on due diligence undertaken to ensure responsible mineral supply chains from CAHRAs. However, However, there are minor gaps in the information reported.

Partially Meets:

The company reports annually on due diligence undertaken to ensure responsible mineral supply chains from CAHRAs. However, there are major gaps in the information reported.

Misses:

The company does not publicly report on due diligence undertaken to ensure responsible mineral supply chains from CAHRAs.

III. VERIFICATION

Data Collection Method

Conformance with the provisions on CAHRAs is assessed through document review and through interviews with the company's management team.

Conformance with the provisions, where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
5.11		✓	✓			
5.12		✓	✓			
5.13		✓	✓			
5.14		✓	✓			
5.15		✓	✓			

Examples and Types of Evidence

- > Responsible supply chains policy with respect to sourcing from CAHRAs;
- > documented procedure and/or methodology for CAHRA determination;
- > documented procedure for red flags identification and enhanced due diligence;
- > red flags identification report, risk assessment reports, and risk mitigation plan(s);
- > reports from on-the-ground risk assessments;
- > records of communications and engagement processes with relevant stakeholders;
- > public statement of involvement in industry initiatives for collaboration on due diligence implementation, including, but not limited to, annual report, website, regulatory submissions, filings, or corporate sustainability report;
- > publicly available due diligence report;



Site Assessment

Interviews

During interviews with management, managers will demonstrate or describe:

- › the company's responsible supply chain policy with respect to sourcing from or operating in CAHRAs;
- › that the company exercises due diligence in accordance with the OECD Guidance;
- › the OECD Guidance five-step framework and OECD Guidance Annex II risks;
- › that they are aware of resources used to identify a CAHRA and identify red flags associated with mineral supply chains;
- › clear lines of accountability and responsibility within the company for the oversight, implementation and reporting of the due diligence system.

IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
2 Policy and Management	2.1 and 2.2: Companies should implement the responsible supply chain policy through the implementation of a management system that meets the requirements of management systems described in Provisions 2.1 and 2.2 on Management Systems .
3 Transparency	3.1 – 3.3: Companies reporting on due diligence should include, for companies that operate in an EITI implementing country, information on how the company meets the expectations for EITI supporting companies as set out by the EITI. Companies' due diligence report may be integrated into sustainability, CSR, or other annual reports developed to conform with Provision 3.1 on Sustainability Reporting .
6 Labour Rights	6.26 and 6.27: As part of the due diligence system, companies should establish a company-level, or industry-wide, grievance mechanism as an early-warning risk-awareness system.
8 Communities and Stakeholders	8.1 – 8.5: As part of the due diligence process, companies should strengthen company engagement with suppliers and, where possible, assist suppliers in building capacities with a view to improving due diligence performance. In addition, companies should engage relevant stakeholders for the design and implementation of the risk management plan.

V. FURTHER INFORMATION

- › OECD, *Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (OECD Guidance)* (available [here](#)). This Guidance developed by the OECD for any company potentially sourcing any minerals or metals from CAHRA and intended to cultivate transparent, conflict-free supply chains and sustainable corporate engagement in the minerals sector.
- › Responsible Minerals Initiative (RMI), *Public Due Diligence Report Writing Guidance* (available [here](#)). RMI provides a template and guidance on due diligence reporting for companies participating in RMI's Responsible Minerals Assurance Process. This template and guidance can be used as a general framework and adapted by all companies seeking more information on due diligence reporting.



06

LABOUR RIGHTS

Companies will uphold the rights of workers and ensure dignified and respectful working conditions in line with the ILO eight fundamental Conventions and other relevant ILO Conventions.



Introduction

Labour rights, also referred to as workers' rights, are rights relating to labour relations between employers and employees. These rights are codified in national and international labour and employment law and aim at ensuring that all men and women work in conditions of freedom, equity, security and dignity.

The ILO has codified subjects that are considered to be fundamental principles and rights at work in eight 'fundamental' conventions, covering subjects that are considered to be fundamental principles and rights at work: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation. These principles are also covered by the ILO Declaration on Fundamental Principles and Rights at Work (1998).

The eight fundamental Conventions are:

1. Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87);
2. Right to Organise and Collective Bargaining Convention, 1949 (No. 98);
3. Forced Labour Convention, 1930 (No. 29) (and its 2014 Protocol);
4. Abolition of Forced Labour Convention, 1957 (No. 105);
5. Minimum Age Convention, 1973 (No. 138);
6. Worst Forms of Child Labour Convention, 1999 (No. 182);
7. Equal Remuneration Convention, 1951 (No. 100);
8. Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

Companies should uphold these Conventions, as further explained in the following sections.

Bettercoal expectations on Labour Rights include Provisions on:

- › [Employment Terms \(Provisions 6.1 – 6.4\)](#)
- › [Child Labour \(Provisions 6.5 – 6.7\)](#)
- › [Forced Labour \(Provision 6.8\)](#)
- › [Freedom of Association and Collective Bargaining \(Provisions 6.9 – 6.12\)](#)
- › [Non-Discrimination \(Provision 6.13\)](#)
- › [Disciplinary Practices & Harassment \(Provisions 6.14 – 6.15\)](#)
- › [Working Hours \(Provisions 6.16 – 6.20\)](#)
- › [Remuneration \(Provisions 6.21 – 6.25\)](#)
- › [Worker Grievance Mechanism \(Provisions 6.26 – 6.27\)](#)



Employment Terms (Provisions 6.1 – 6.4)



I. INTRODUCTION

Employment terms are the responsibilities and benefits of a job as agreed upon by an employer and employee at the time of hiring.⁸⁶ Such terms generally include job responsibilities, standard work hours, over time, vacation, sick days, starting salary, compensation and benefits.

Employment terms should be reflected in an employment contract, a legal instrument that formalises and documents the employer and employee's reciprocal rights and obligations. Employment terms are an important instrument for employees, as they represent the key legal vehicle through which the employee can access his or her legal rights and is protected against potential force has been the subject of mistreatment.

Over the past few decades, a number of employment arrangements such as homeworking, successive short-term contracts, apprenticeships, subcontracting have emerged to accommodate an increasingly flexible economy. These types of fixed contracts may, when adopted appropriately, bring about benefits to workers. For example, apprenticeships can be a legitimate opportunity to train and introduce young professionals to the global economy. On the other hand, these contracts are often misused by companies to circumvent their legal obligations, for example, to pay the young professional a lower wage or fewer benefits. Where used inappropriately, fixed contracts make workers vulnerable to exploitation.

Laws and regulations protecting workers are normally enshrined into national law, as well as into collective agreements, written contract negotiated through collective bargaining by one or more trade unions with the management of a company or with employers' association. Collective agreements normally regulate key employment terms such as minimum wages, benefits, duties and responsibilities of employers and employees, and dispute resolution processes. Collective agreements – as well as the law – normally also protect workers in delicate circumstances such as retrenchment.

II. PROVISIONS AND PERFORMANCE DETERMINATION

- > **Provision 6.1** Companies will provide employees with clear information, including in writing and in their language, regarding their employment rights under national and local labour and employment law, and any applicable collective agreements including information on their rights relating to working hours, wages, overtime, compensation, and benefits. Companies will provide employees with such information upon the beginning of the working relationship, when any material changes occur, and at any time on request.
-

Explanation

Companies should provide employees with clear information regarding the terms of employment, including the employees' rights under national and local law and under collective agreements.

⁸⁶. Investopedia, *Terms of Employment*, Accessed online: 30 December 2020, <<https://www.investopedia.com/terms/t/terms-of-employment.asp>>.

Because minimum standards for employment terms are normally set by national legislation and evolve together with changes in the labour market, employment contract requirements will differ from country to country and are likely to change over time.

It is important that companies are aware of their legal requirements, and that they communicate to employees and document their employment terms through written contracts. Employment contracts should be compliant with all applicable laws and regulations as well as collective agreements, and be communicated to employees in a way that is understandable. This includes communicating employment terms in the employees' native language both in writing and verbally, especially where it comes to employees who may be particularly vulnerable to exploitation, on the basis of their immigration status, literacy, or language barriers.

The company should provide a copy of the employment contract to employees upon beginning the working relationship in a language that employees understand, record it, and make it available any time on request. Where material changes may occur, companies should agree with the employee an amended, written employment contract and keep a record.

Performance Determination

Meets:

The company provides employees with clear information, including in writing and in their language, regarding their employment rights under all applicable laws and collective agreements upon beginning the working relationship, when any material changes occur, and at any time on request.

Substantially Meets:

The company provides employees with information regarding their employment rights under all applicable laws and collective agreements upon beginning the working relationship, when any material changes occur, and at any time on request. However, information is not clearly communicated to employees, for example, it is not communicated in their language.

Partially Meets:

The company provides employees with clear information, including in writing regarding their employment rights. However, contracts are missing all mandatory components required by applicable laws and collective agreements.

Misses:

The company does not provide employees with contracts that are compliant with all applicable laws and collective agreements.

> **Provision 6.2** Companies will fulfil their labour and social security obligations, and will not avoid doing so by using contracted labour or through the excessive use of fixed-term contracts instead of regular employment relationships.

Explanation

Companies should ensure that they do not avoid fulfilling their labour and social security obligations through the use of contracted labour or excessive use of fixed-term contracts, such as labour-only contracts, apprenticeship schemes, consecutive short-term employment contracts, and/or subcontracting, to cover ongoing, routine tasks necessary for the company to operate. Companies should be aware of their legal obligations and of the type of employment



arrangements that may be prohibited in their jurisdictions, as well as any relevant guidelines or criteria defining minimum standards of contracting arrangements.

For example, specific guidelines or criteria may apply to apprenticeship schemes. Specific limitations may be permitted to period of training and the minimum level of compensation. Apprenticeship schemes, to be legitimate, should serve the purpose to train or impart skills, in view of a regular employment.

Fixed-term contracts may be considered excessive when the company employs large numbers of workers to perform ongoing, routine tasks; if the company renews the fixed-term contract of a temporary worker numerous times over a long period of time.

Performance Determination

Meets:

The company has developed and implemented systems to ensure they fulfil their labour and social security obligations by using *regular employment relationships* and indefinite term contracts instead of excessive use of contracted labour or fixed-term contracts.

Substantially Meets:

The company has developed systems to ensure they fulfil their labour and social security obligations, but there are isolated incidents of gaps or lapse in implementation that are non-systemic.

Partially Meets:

The company:

- > has developed systems to ensure they fulfil their labour and social security obligations, but implementation has not started or is incomplete; or
- > is in the process of developing such systems, but the systems are not yet complete.

Misses:

The company does not have systems in place to fulfil their labour and social security obligations by using regular employment relationships and indefinite term contracts instead of excessive use of contracted labour or fixed-term contracts.

-
- > **Provision 6.3** Companies will develop a retrenchment plan to reduce the impacts of retrenchment on employees and ensure a just transition for employees affected by mine closure planning and/or prior to implementing any collective dismissals. The plan will:
 - a) be developed in consultation with employees, workers' organisations and, where appropriate, the government;
 - b) be based on the principle of non-discrimination; and
 - c) seek alternatives to retrenchment.
-

Explanation

Retrenchment, sometimes also called redundancy, downsizing or lay-offs, refers to cutting down or cutting off resources as a result of a economic or technical adverse circumstances, or as a result of a company re-organisation or restructuring. In the context of mine closure, retrenchment refers to the process of downscaling the workforce in anticipation of the cessation of mining operations.



Although retrenchment may sometimes be necessary for securing future employment for large sections of the workforce, for example, in times of economic crisis, companies should recur to retrenchment as a last resort. Before implementing any collective dismissal, companies should first seek alternatives. Options to achieve savings and that could be considered as alternative to job losses include:⁸⁷

- › introducing a freeze on new hires;
- › enforcing retirement ages;
- › negotiating working-time reduction programs;
- › internal transfers and redeployment;
- › active performance management and identification of productivity gains;
- › long-term maintenance works during low production periods.

To determine whether a retrenchment is necessary, companies should gain full knowledge of all relevant laws and regulations protecting employees and of the economic context in which the company is operating, for example, the extent to which employees would be employable in the local job market given their skills.

Where retrenchment is determined to be necessary, companies should develop a retrenchment plan to minimise the impact of job losses on employees and communities.

The retrenchment plan should include information on:

- › the revised size of the workforce;
- › a draft timeframe for implementation;
- › the criteria used to determine which employees will be dismissed;
- › action taken to mitigate the impact of job loss on employees and communities, including retraining, redeployment, early retirement;
- › an appeal or grievance mechanism in place to ensure that employees and/or their representatives can raise concerns.

The retrenchment plan should be developed based on consultation with stakeholders and seek to ensure that the selection of employees for dismissal is based on principles that are fair and transparent and do not discriminate against particular groups. To this end, companies should commence consultation with stakeholders early, in particular, with employees and their representatives, and where relevant, with government agencies, such as the Labour Ministry. Companies should also work with relevant stakeholders to ensure that each stakeholder group takes appropriate action and fulfils their own responsibilities. For example:

- › governments, to encourage governments to safeguard a share of its mineral-related revenues to continue to provide benefits after mining operations cease;
- › local communities should develop economic transition plans to design and implement a vision for a post-mining economy;
- › workers and worker organisations should to build their capacity to manage financial assets well and avoid unsustainable debt burdens.

When developing a retrenchment plan, companies should consider the gender and ethnic breakdown of the employees to be retrenched versus those who are to be retained, and ensure that vulnerable groups will not be discriminated against.

If possible, companies should carry out interviews with every person affected by the retrenchment, and be prepared to review individual selection where necessary. Companies should also make severance payments in a timely manner and carry out assistance programs such as training outplacement, job assistance, and economic development opportunities, for employees and, where possible, for their families and local communities.

87. IFC, *Performance Standard 2 Labour and Working Conditions*, 2012, Accessed online: 30 December 2020, <https://www.ifc.org/wps/wcm/connect/88f1f09e-5fe4-4fad-9286-33ecb221ab23/PS2_English_2012.pdf?MOD=AJPERES&CVID=jiVQIns>.



Performance Determination

Meets:

The company has developed a retrenchment plan that meets all requirements of Provision 6.3 on Employment Terms.

Substantially Meets:

N/A

Partially Meets:

The company has developed a retrenchment plan. However, the plan does not meet all requirements of Provision 6.3 on Employment Terms.

Misses:

The company has carried out, or is in the process of carrying out, collective dismissals without first developing a retrenchment plan that meets all requirements of Provision 6.3 on Employment Terms.

-
- > **Provision 6.4** Companies will maintain employee records related to their employment conditions as allowed and required by applicable laws and industry good practice.
-

Explanation

Companies should maintain employee records of all employees, to demonstrate compliance with all applicable laws and regulations as well as conformance with Bettercoal expectations in relation to labour rights, including, but not limited to, minimum age requirements (see Provision 6.5 on Child Labour), freedom of association and collective bargaining (see Provisions 6.9 - 6.12 on Freedom of Association and Collective Bargaining), working hours (see Provisions 6.16 - 6.20 on Working Hours), and remuneration (see Provisions 6.21 - 6.25 on Remuneration).

Employee records include, at a minimum:

- > time records;
- > payroll records and payslips showing timely wage payment;
- > records relating to employment relationships such as copies of employment contracts, hiring disciplinary notices and termination records.

Time and payroll records should include accurate information on:⁸⁸

- > employee information:
 - > employee's full name and social security number or other identification number;
 - > address;
 - > birth date;
 - > sex;
 - > occupation.
- > hours worked:
 - > time and day of week when employee's workweek begins;
 - > hours worked each day, including time in and time out
 - > total regular and overtime hours worked per day/per week (separately recorded).

88. U.S. Department of Labor, *Fact Sheet #21: Recordkeeping Requirements under the Fair Labor Standards Act (FLSA) and SEDEX Supplier Workbook Part 1: Labour Standards*, 2008, Accessed online: 30 December 2020 <<https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/whdfs21.pdf>>.



- › wages and payments:
 - › regular base rate and overtime rate;
 - › total regular and overtime earnings (separately recorded);
 - › all additions to or deductions from the employee’s wages;
 - › benefits;
 - › bonuses;
 - › total wages (gross and net earnings) paid each pay period;
 - › date of payment and pay period covered by the payment.

Companies should keep a record of all changes in employees’ employment status and corresponding changes in wages and benefits.

Companies should maintain personal employee files for every employee, and to make time and payroll records (covering, at a minimum, the previous 12 months) available for the assessor to review.

Companies should maintain such records for at least the minimum period prescribed by all applicable laws and requirements and industry good practice.

Performance Determination

Meets:

The company maintains employee records related to their employment conditions as allowed and required by applicable laws.

Substantially Meets:

N/A

Partially Meets:

The company maintains employee records related to their employment conditions as allowed and required by applicable laws. However, records are missing for all employees.

Misses:

The company:

- › does not maintain employee records related to their employment conditions as allowed and required by applicable laws; or
- › maintains employee records, however, these are found to be manipulated or falsified.

III. VERIFICATION

Data Collection Method

Conformance with the provisions on employment terms is assessed through document review and through interviews with the company’s employees and management team.

Conformance with the provisions, where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.



During interviews with employees, they can demonstrate or describe:

- > a good understanding of their employment terms and rights under contract;
- > that they have received their contract in a language that they understand;
- > that they have been provided with a copy of their employment contract, and know how to obtain a copy of their employment contracts from the employer;
- > where applicable, that they have been consulted for the development of the retrenchment plan, and for finding alternative solutions to retrenchment;
- > what documents they had to provide upon hire;
- > how they record working hours in the time records;
- > what information payslips contain.



IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
1 Business Integrity	1.1: Companies should be compliant with all applicable national laws and regulations, as well as collective bargaining agreements, put in place to offer worker protections. For this reason, companies should have a system in place to be aware of, and compliant with, legal requirements on employment terms and contracts. Companies should also be aware of national rules for dealing with collective job losses and reorganisation when developing and implementing a retrenchment plan.
2 Policy and Management	2.10: Companies should communicate to their contractors responsible for the employment of workers working at the site their expectations regarding employment terms and contracts.
6 Labour Rights	<p>6.16 – 6.25: Requirements for working hours and remuneration to be reflected in the records.</p> <p>6.26 and 6.27: When developing a retrenchment plan, companies should ensure that employees have access to a grievance mechanism to raise concerns with the implementation of retrenchment, for example, with the selection of employees who are dismissed, in order to detect and prevent any allegation of discrimination.</p>

V. FURTHER INFORMATION

- > The ILO Governance and Tripartism Department (available [here](#)) provides advice and assistance on a range of topics related to the governance of labour and employment relations based on ILO conventions and recommendations and offers a wide range of resources on the topic
- > Social Accountability International (SAI), *Guidance Document for Social Accountability 8000 (SA8000®:2014)* (available [here](#)) provides guidance on responsible employment practices.
- > IFC, *Guidance Note 2 on Performance Standard 2 Labour and Working Conditions* (available [here](#)). Guidance Note 2 corresponds to Performance Standard 2, which recognises that the pursuit of economic growth through employment creation and income generation should be accompanied by protection of the fundamental rights of workers.
- > IFC, *Good Practice Note Managing Retrenchment* (available [here](#)) provides further guidance on how to develop and implement a retrenchment plan responsibly.

Child Labour (Provisions 6.5 – 6.7)



I. INTRODUCTION

Child labour is a severe issue, affecting more than 152 million children worldwide.⁸⁹ Due to the complexities of the underlying socio-economic factors that are the root causes of child labour, it is an issue that requires proactive participation by the private sector, in collaboration with local governments and stakeholders, in order to be effectively prevented, managed, and eradicated.

II. PROVISIONS AND PERFORMANCE DETERMINATION

- > **Provision 6.5** Companies will develop, document and implement systems aligned with the requirements of **Provisions 2.1** and **2.2** of this Code to ensure they comply with minimum age standards and do not employ or allow children to work who are under the age of 15, the age for completing compulsory education, or the legal minimum age for employment in the country, whichever age is greatest in adherence to the ILO Minimum Age Convention, 1973 (No. 138).

Explanation

Companies should develop, document and implement systems to ensure compliance with minimum age requirements (see **Provisions 2.1 and 2.2 on Management Systems**) to prevent child labour.

According to ILO Minimum Age Convention, 1973 (No. 138), a *child* is a person under the age of 18. Not all work carried out by a person under the age of 18 is classified as ‘child labour’. In fact, whether or not particular forms of work can be called ‘child labour’ depends on the child’s age, the type and hours of work performed, the conditions under which it is performed and the relevant laws in individual countries.

In general, ‘child labour’ refers to work that interferes with children’s schooling, by depriving them of the opportunity to attend school, obliging them to leave school prematurely, or requiring them to attempt to combine school attendance with excessively long and heavy workloads.⁹⁰

To protect children from the risk of interference with their schooling, the minimum age for employment “shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.”⁹¹ In limited circumstances, children of the age of 14 can be employed in countries where “the economy and educational facilities are insufficiently developed”.⁹²

89. ILO, *Child Labour* [website], Accessed online: 30 December 2020, <<https://www.ilo.org/global/topics/child-labour/lang-en/index.htm>>.

90. ILO, *What is Child Labour*, Accessed online: 30 December 2020, <<https://www.ilo.org/ipec/facts/lang-en/index.htm>>.

91. ILO, *Minimum Age Convention (No. 138)*, Adopted 26 Jun 1973, Entered into force 19 Jun 1976, Accessed online: 30 December 2020, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138>.

92. *Ibid.*

Performance Determination

Meets:

The company has developed and implements a system to comply with minimum age standards and to ensure that it does not employ children under the age of 15, the age for completing compulsory education, or the legal minimum age for employment in the country, whichever is greatest.

Substantially Meets:

N/A

Partially Meets:

The company:

- > has developed a system to comply with minimum age standards and to ensure that it does not employ children under the age of 15, the age for completing compulsory education, or the legal minimum age for employment in the country, whichever is greatest, but implementation has not started or is incomplete; or
- > is in the process of developing such a system, but the system is not yet complete.

Misses:

The company does not have a system in place to comply with minimum age standards and to ensure that it does not employ children under the age of 15, the age for completing compulsory education, or the legal minimum age for employment in the country, whichever is greatest.

-
- > **Provision 6.6** Companies will develop, document and implement systems aligned with the requirements of **Provisions 2.1** and **2.2** of this Code to prevent the Worst Forms of Child Labour, including the exposure of employees under the age of 18 to hazardous work that is likely to compromise their health, safety and/or morals in adherence to the ILO Worst Forms of Child Labour Convention, 1999 (No. 182).
-

Explanation

While child labour can take many forms, when implementing a system for preventing child labour (see **Provisions 2.1 and 2.2 on Management Systems**), priority should be given to the eradication of work that “*by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of children.*”⁹³ Such forms of child labour, known as ‘*hazardous child labour*’ or ‘*hazardous work*’, include work that is carried out in dangerous or unhealthy conditions and could thus result in a child being killed, injured, or made ill. Because of the severity of its consequences, the minimum age for employment falling under the definition of hazardous work shall not be less than 18 years.

Hazardous work constitutes one of the ‘*Worst Forms of Child Labour (WFCL)*’, which also includes:⁹⁴

- > *all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom, and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;*
- > *the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;*

93. ILO, *Worst Forms of Child Labour Convention, 1999 (No. 182)*, Adopted 17 Jun 1999, Entered into force 19 Nov 2000, Accessed online: 30 December 2020, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182>.

94. *Ibid.*



> the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties.

According to the ILO, hazardous child labour is the largest category of the WFCL, with an estimated 73 million children aged 5-17 working in dangerous conditions in a wide range of sectors, including agriculture, mining, construction, and manufacturing, among others.⁹⁵

It should be noted that child labour in the mining sector is usually considered to be hazardous as it meets one or more of the following criteria specified in the ILO Worst Forms of Child Labour Recommendation, 1999 (No. 190):

- > work which exposes children to physical, psychological or sexual abuse;
- > work underground, underwater, at dangerous heights or in confined spaces;
- > work with dangerous machinery, equipment and tools, or which involves the manual handling or transporting of heavy loads;
- > work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health;
- > work under particularly difficult conditions, such as work for long hours or during the night, or work in which the child is unreasonably confined to the premises of the employer.

Performance Determination

Meets:

The company has developed and implements a system to protect employees under 18 years old from exposure to hazardous work and to prevent the WFCL.

Substantially Meets:

N/A

Partially Meets:

The company:

- > has developed a system to protect employees under 18 years old from exposure to hazardous work and to prevent the WFCL, but implementation has not started or is incomplete; or
- > is in the process of developing such a system, but the system is not yet complete.

Misses:

The company does not have a system in place to protect employees under 18 years from exposure to hazardous work and to prevent the WFCL.

-
- > **Provision 6.7** Companies will, if they discover that a child under the minimum age as required by [Provision 6.5](#) of the Code, is performing work on their premises or on the premises of their business partners, undertake to:
- a) remove the child immediately from his or her job; and
 - b) develop and implement remediation procedures that provide the child with support in his or her transition to legal work or schooling, and that take into consideration the welfare of the child and the financial situation of the child's family.
-

95. ILO, *International Programme for the Elimination of Child Labour*, Accessed online: 30 December 2020, <<https://www.ilo.org/ipec/facts/WorstFormsofChildLabour/Hazardouschildlabour/lang-en/index.htm>>.



Explanation

Companies should take steps to prevent, assess, and eliminate child labour. In particular, where instances of child labour are identified, companies should take both short-term and long-term remediation action.

In fact, while it is universally accepted that child labour, and in particular the WFCL, should be eradicated, effective remediation goes beyond the mere removal of a child from the company operations. Banning the hire of underage workers may solve the problem of child labour in one company, but not remove the issues that caused it.

Child labour is often rooted in complex socio-economic issues, such as poverty and a lack of alternative opportunities. Where instances of child labour are identified, companies should undertake both immediate and long-term actions to contribute to preventing and eliminating child labour.

Immediate actions that companies can take include:

- › ceasing to hire children below the minimum age;
- › removing children from hazardous work.

Long-term actions that companies can take include:

- › Supporting the child and his or her education and welfare, such as by:
 - › supporting the costs of schooling;
 - › paying wages while the child attends school;
 - › providing transitional schools for children who have fallen behind their peer group; and
 - › offering vocational training programmes for older children.
- › Supporting the child's family, such as by:
 - › organising credit and other income-generating activities for parents and family members of legal working age, by encouraging microfinance; and
 - › improving wages and hiring children's family members.

Performance Determination

Meets:

The company has developed and implements a system to address and remediate child labour, should instances of child labour be discovered in the company premises. Such systems include, at a minimum, the removal of the child from their job and the implementation of remediation procedures to support the child in the transition to legal work or schooling.

Substantially Meets:

The company has developed a system to address and remediate child labour, should instances of child labour be discovered in the company premises, but implementation of remediation procedures to support the child in the transition to legal work or schooling is incomplete.

Partially Meets:

The company:

- › has developed a system to address and remediate child labour, should instances of child labour be discovered in the company premises, but implementation has not yet started; or
- › is in the process of developing such a system, but the system is not yet complete.

Misses:

The company does not have a system in place to address and remediate child labour, should instances of child labour be discovered in the company premises or on the premises of its business partners.



III. VERIFICATION

Data Collection Method

Conformance with the provisions on child labour is assessed through observation, document review, and interviews with the company’s employees and management team.

Conformance with the provisions, where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
6.5	✓	✓	✓	✓		
6.6	✓	✓	✓	✓		
6.7		✓	✓	✓		

Examples and Types of Evidence

- > Policy and procedures that state the company commitment to respect the relevant minimum age, and/or to prevent, address, and remediate child labour, and/or to adhere to ILO Conventions No. 138 and No. 182;
- > corporate Code of Conduct including provisions related to company adherence to the ILO Conventions No. 138 and No. 182;
- > recruitment policy and age verification procedure for new hires;
- > procedure to identify hazardous work (if employing persons below the age of 18);
- > third-party assured reporting on the implementation of the child labour policy and procedures on a publicly available website, in an annual report, or in a corporate sustainability report, at least annually;
- > third-party assurance of a formal management system to ensure adherence to ILO Conventions No. 138 and No. 182, such as SA8000.⁹⁶

Site Assessment

Interviews

During interviews with management, managers can demonstrate or describe:

- > a good understanding of the company’s policy prohibiting child labour and where to find a formal written or electronic copy of the policy;
- > the age verification process, including how the company performs checks on the validity of documentation and whether they require proof of age before employment;
- > how the company identifies hazardous tasks and how employees under 18 are prevented from conducting hazardous work, if applicable;
- > the remediation process in the event that children are found working at the company or on the premises of its business partners;
- > the reporting and child labour investigation procedures and lines of accountability and responsibility within the organisation for the oversight and implementation of the system to prevent, address, and remediate child labour;
- > how employees are trained on the company’s policy prohibiting child labour.

96. Social Accountability International (SAI), *About SA 8000 Standard*, Accessed online: 30 December 2020, <www.sa-intl.org/programs/sa8000/>.



During interviews with employees, they can demonstrate or describe:

- > a basic understanding of the company’s policy prohibiting child labour and where to find a formal written electronic copy of the policy;
- > the type of training they have received on the company’s policy prohibiting child labour and on the relevant procedures;
- > that, to the extent of their knowledge, there are no children working for the company below the stipulated age and/or employed in hazardous work;
- > that they are not under the legally stipulated age, are not performing hazardous work if under 18 years of age, and did not start working for the company when they were below the legally stipulated age.

Site Walk-Through

During the Site Walk-Through, the assessor:

- > does not observe any children working at the site under the legally stipulated age;
- > does not observe any children working at the site or employees under the age of 18 engaged in hazardous work.

IV REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
1 Business Integrity	1.1: When ensuring compliance with minimum age standards, companies should refer to <u>Provision 1.1 on Legal Compliance</u> .
2 Policy and Management	<p>2.1 and 2.2: When developing systems to prevent and remediate child labour and the WFCL, companies should refer to <u>Provisions 2.1 and 2.2 on Management Systems</u>.</p> <p>2.3 – 2.7: When conducting social and human rights risk and impact assessments, companies should include an assessment of the risk of child labour.</p>
5 Human Rights	<p>5.1 and 5.2: When conducting human rights due diligence, companies should include an assessment of the risk of child labour.</p> <p>5.11 – 5.15: When conducting due diligence on supply chains originating from CAHRAs, companies should consider the risk of WFCL.</p>

V. FURTHER INFORMATION

- > ILO, *Checkpoints for Companies – Eliminating and Preventing Child Labour* (available [here](#)).
- Detailed guidance on the steps that companies can take to prevent, assess, and eliminate child labour, including examples of both immediate and long-term actions for remediating child labour without causing negative consequences for the livelihood of the child and their family.
- > ILO, International Organisation for Employers (IOE), *Child Labour Guidance Tool for Business* (available [here](#)) provides guidelines on how to do business with respect for children’s rights.



Forced Labour (Provision 6.8)



I. INTRODUCTION

An estimated 40.3 million individuals live in *modern slavery*,⁹⁷ a non-legal umbrella term comprising multiple forms of exploitation, including slavery, practices similar to slavery (debt bondage, serfdom, children working in slavery or slavery-like conditions, domestic servitude, sexual slavery and servile forms of marriage),⁹⁸ forced labour (also referred to as compulsory labour), the worst forms of child labour and human trafficking. The term ‘modern slavery’ is however sometimes used as a synonym for forced *labour*.

The ILO defines *forced labour* as “*work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.*”⁹⁹ Forced labour can thus be understood as work that is performed involuntarily and under the menace of any penalty. Today, an estimated 24.9 million people around the world are subject to forced labour, of which 16 million people are exploited in the private sector, coerced to work through the use of violence or intimidation, or by more subtle means such as retention of identity papers or threats of denunciation to immigration authorities, or manipulated debt.

In particular, forms of forced labour include:

- *Prison or penal labour*: although prison labour *per se* is not considered forced labour under international law, prison labour may amount to forced labour when work is carried out involuntarily by prisoners who have not been convicted in a court of law and whose work is not supervised by a public authority. It also includes involuntary work done by a prisoner for the benefit of a private undertaking;
- *Indentured labour*: the term refers to work offered by a third party, often a parent or guardian, in exchange for money. Indentured labourers are forced to work either for a fixed time, or until the employers decide (arbitrarily) that they have received fair value;
- *Bonded labour*: also known as debt bondage, this term refers to instances when a worker mortgages his or her services or those of family members to someone providing credit in order to repay the loan or advance. Bonded labour can trap workers in debt to a particular employer for years, sometimes even for generations.

Finally, *human trafficking* is defined as “*the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.*”^{100 101} Human trafficking is linked to forced labour when organised criminal networks or individuals carry out deceptive recruitment, racketeering, and blackmailing for the purpose of labour exploitation.

97. ILO, *Forced labour, modern slavery and human trafficking*, 2014, Accessed online: December 2020, <<https://www.ilo.org/global/topics/forced-labour/lang-en/index.htm>>.

98. Article 1 of the 1956 Supplementary Convention on Slavery contains definitions of the practices similar to slavery.

99. ILO, *Forced Labour Convention, 1930 (No. 29)*, Adopted 28 Jun 1930, Entered into force 01 May 1932, Accessed online: 30 December 2020, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029>.

100. UN Human Rights Council, *Protocol to Prevent, Suppress and Punish Trafficking In Persons, Especially Women and Children*, Accessed online: 30 December 2020, <<https://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx>>

101. UN Human Rights Council, *Protocol against the Smuggling of Migrants by Land, Air and Sea, supplementing the United Nations Convention against Transnational Organized Crime*, Accessed online: 30 December 2020, <<https://www.ohchr.org/EN/ProfessionalInterest/Pages/TransnationalOrganizedCrime.aspx>>.

Freedom from forced labour is enshrined in the Universal Declaration of Human Rights: *No One Shall be Held in Slavery or Servitude*. Forced labour is also the subject of two ILO Conventions:¹⁰²

› The Forced Labour Convention, 1930 (No. 29), which prohibits all forms of forced labour (with the exception of five specific circumstances: compulsory military service, normal civic obligations, minor communal services, legitimate prison labour and work exacted in emergencies) and requires that the illegal extraction of forced labour be punishable as a penal offence.

› The Abolition of Forced Labour Convention, 1957 (No. 105), which prohibits forced labour as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system; as a method of mobilising and using labour for purposes of economic development; as a means of labour discipline; as a punishment for having participated in strikes; and as a means of racial, social, national or religious discrimination.

In 2014, the ILO adopted the Protocol of 2014 to the Forced Labour Convention, 1930, a legally binding instrument that establishes ILO member States' obligations to prevent forced labour, protect victims, and provide them with access to remedies.

Both forced labour conventions enjoy nearly universal ratification. In any case, because freedom from forced labour is also fundamental human right, and the elimination of all forms of forced labour is included in the ILO Declaration on Fundamental Principles and Rights at Work, all ILO member States have to respect the principle of the elimination of forced labour regardless of ratification of the two conventions.

For human trafficking specifically, key legal instruments at the international level include the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons Especially Women and Children and the UN Protocol against the Smuggling of Migrants by Land, Air, and Sea both supplementing the UN Convention against Transnational Organized Crime.¹⁰³

Laws and regulations regarding modern slavery, forced labour, and human trafficking, are also enshrined into national legislations, which may pose additional requirements to companies for the purpose to prevent, protect, and remedy these human rights violations, and to report on the actions taken. This is the case, for example, of the Modern Slavery Act adopted in the United Kingdom and Australia, of the California Transparency in Supply Chains Act in the United States, and of the Duty of Care Law in France.

II. PROVISIONS AND PERFORMANCE DETERMINATION

- › **Provision 6.8** Companies will develop, document and implement systems aligned with the requirements of [Provisions 2.1](#) and [2.2](#) of this Code to not employ or in any way support or benefit from the use of any form of forced labour or modern slavery including prison, indentured, bonded, slave or other forms of forced labour, or participate in acts of human trafficking and/or sexual exploitation in adherence to the ILO Forced Labour Convention, 1930 (No. 29) and the ILO Abolition of Forced Labour Convention, 1957 (No. 105).

102. ILO, *What is Forced Labour, Modern Slavery and Human Trafficking*, Accessed online: 30 December 2020, <<https://www.ilo.org/global/topics/forced-labour/definition/lang-en/index.htm>>.

103. UN Office on Drugs and Crime, *Convention Against Transnational Organized Crime*, Accessed online: 30 December 2020, <<https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>>.



Explanation

To ensure that they do not employ or in any way support or benefit from the use of any form of forced labour or modern slavery, companies should develop and implement a system in line with the requirements of Provisions 2.1 and 2.2 on Management Systems, including:

- › the adoption, implementation and communication of a policy (either stand-alone or as part of the human rights policy or other relevant document), which clearly states the company's values and commitment to prevent all forms of forced labour, modern slavery and human trafficking;
- › the adoption and designation of procedures, roles and responsibilities, resources, and training.

Companies should continuously monitor the effective implementation of the system and evaluate the potential need of corrective actions. The system should be communicated internally and externally, as appropriate, to all relevant stakeholders.

Not all forms of exploitation amount to forced labour. Indicators that can be used to ascertain when a situation of exploitation amounts to forced labour include:¹⁰⁴

1. abuse of vulnerability;
2. deception;
3. restriction of movement;
4. isolation;
5. physical and sexual violence;
6. intimidation and threats;
7. retention of identity documents;
8. withholding of wages;
9. debt bondage;
10. abusive working and living conditions;
11. excessive overtime.

To prevent the use of forced labour, companies should:

- › prevent the unreasonable restrictions of freedom of movement of employees in the workplace or in on-site housing. For example, companies should:
 - › ensure that employees can leave their workstation to access food, water, toilets or medical care;
 - › ensure that employees can leave the workplace at the end of their shift and in any case of danger to their health and safety.
- › prohibit the retention of original copies of employee personal documentation, such as national identity papers and passports, except for work-related administrative processes such as to obtain a work visa;
- › prohibit the charging of any form of deposit, recruitment fee, or equipment advance paid by employees either directly or through recruitment agencies;
- › avoid deceptive recruitment practices and work only with formally licensed recruitment agencies or individuals;
- › avoid practices that prevent employees from terminating their employment after reasonable notice, as per employment terms, and as established by applicable law.

Companies should be aware that migrant workers are particularly vulnerable to exploitation. For this reason, companies should be aware of the presence of migrants within their workforce and, in such cases, ensure that their recruitment was carried out legitimately, with no deception, coercion or recruitment fees.

104. ILO, *Indicators of Forced Labour*, Accessed online: 30 December 2020, <https://www.ilo.org/wcmsp5/groups/public/...ed_norm/...declaration/documents/publication/wcms_203832.pdf>.



Performance Determination

Meets:

The company has developed and implemented a system to not employ or in any way support or benefit from the use of any form of forced labour, modern slavery human trafficking and/or sexual exploitation.

Substantially Meets:

N/A

Partially Meets:

The company:

- > has developed a system to not employ or in any way support or benefit from the use of any form of forced labour, modern slavery human trafficking and/or sexual exploitation. However, such system is not fully implemented; or
- > is in the process of developing such a system, but the system is not yet complete.

Misses:

The company does not have a system in place to not employ or in any way support or benefit from the use of any form of forced labour, modern slavery, human trafficking, and/or sexual exploitation.

III. VERIFICATION

Data Collection Method

Conformance with the provision on forced labour is assessed through observation, document review, and through interviews with the company's employees, contracted workers, and management team.

Conformance with the provision, where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
6.8	✓	✓	✓	✓	✓	✓

Examples and Types of Evidence

- > Policy and procedures that state the company commitment to not employ or in any way support or benefit from the use of any form of forced labour, modern slavery human trafficking and/or sexual exploitation, and/or to adhere to ILO Conventions No. 29 and No. 105;
- > Corporate Code of Conduct including provisions related to company adherence to the ILO Conventions No. 29 and No. 105;
- > risk assessment of potential for forced labour issues in the company's operations;
- > third-party assured reporting on the implementation of the forced labour and/or human rights policy;
- > Modern Slavery Report, where required by national law;



- > third-party assurance of a formal management system to ensure adherence to ILO Conventions No. 29 and No. 105, such as SA8000;¹⁰⁵
- > government inspection reports.



Site Assessment

Interviews

During interviews with management, managers can demonstrate or describe:

- > a good understanding of the company's policy and know where to find a written or formal electronic copy of the policy prohibiting forced labour, modern slavery, human trafficking, and/or sexual exploitation;
- > the different forms of forced labour including prison, indentured, bonded, slave, or other forms of forced labour;
- > the implementation of preventive controls, including a risk assessment of forced labour;
- > reporting and investigation procedures;
- > clear lines of accountability and responsibility within the company for the oversight and implementation of the system;
- > how employees are trained on the company's forced labour policy.

During interviews with employees and contractors, they can demonstrate:

- > a basic understanding of the company's policies and know where to find a written or formal electronic copy of the policy prohibiting forced labour, modern slavery, human trafficking, and/or sexual exploitation;
- > they have received training on the policies and know where and how to file a report or allegation;
- > they can provide information on how they receive payments, directly or indirectly, and, when indirectly, without incurring into any costs, fees, or deposits in exchange to securing employment;
- > they can provide information on the recruitment process, or their contractual status, on their ability to move freely and to potentially quit the employment freely;
- > document review of personnel files confirms that employees' original documents are not withheld.

Site Walk-Through

During the Site Walk-Through, the assessor:

- > does not observe restrictions on workers' freedom of movement;
- > does not observe any workers who appear to be working at the company involuntarily.

IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
1 Business Integrity	1.1: Companies should be aware of legal requirements in relation to forced labour, modern slavery and human trafficking. These include legal requirements related to employment terms, due diligence, and reporting on steps taken to prevent forced labour in their operations and supply chains.

105. SAI, *About SA 8000 Standard*, Accessed online: 30 December 2020, <www.sa-intl.org/programs/sa8000/>.

2 Policy and Management	2.1 – 2.2: Companies should, when developing and implementing a system to ensure that they in no way support or benefit from the use of any form of forced labour or modern slavery or participate in acts of human trafficking and/or sexual exploitation, consider <u>Provisions 2.1 and 2.2 on Management Systems</u> .
	2.3 – 2.7: Companies should include risks of forced labour, modern slavery, human trafficking and sexual exploitation when conducting their impact assessments
2 Policy and Management	2.10 – 2.14: Companies should ensure that they in no way support or benefit from the use of any form of forced labour or modern slavery or participate in acts of human trafficking and/or sexual exploitation. This includes ensuring that the company is not associated to such forms of associations indirectly, through the actions of their suppliers or other business partners, including contractors, sub-contractors and recruitment agencies. To this end, companies should include an assessment of potential forced labour risks in their due diligence process. In particular, when sourcing from CAHRAs.
5 Human Rights	5.1 – 5.2: Companies should consider risks of forced labour, modern slavery, human trafficking and sexual exploitation when conducting their human rights due diligence.
6 Labour Rights	6.1 – 6.2: Companies should use appropriate employment contracts, in line with <u>Provisions 6.1 - 6.4 on Employment Terms</u> .
	6.26 – 6.27: Companies should ensure that employees have the possibility to report any potential infringement to the company’s policy against forced labour through the grievance mechanism.



V. FURTHER INFORMATION

- > ILO’s, *Global Business Network on Forced Labour* (available [here](#)) provides various resources to businesses on how to prevent and respond to forced labour.
- > ILO’s, *Employers’ Frequently Asked Questions: A Handbook for Employers & Business Special Action Programme to Combat Forced Labour* (available [here](#)) provides further information on what is expected of companies to prevent and respond to forced labour.
- > The U.S. State Department’s Office to Monitor and Combat Trafficking in Persons, Verité, Made in a Free World, and the Aspen Institute, *The Responsible Sourcing Tool* (available [here](#)). The Tool is the result of the collaboration of four institutions committed to fighting human trafficking. Users, including companies, can use the tool to understand and prevent risks of human trafficking in supply chains.

Freedom of Association and Collective Bargaining (Provisions 6.9 – 6.12)



I. INTRODUCTION

Freedom of association is a fundamental human right. Employees' freedom to join unions or worker organisations and participate in *collective bargaining* are foundational building blocks for healthy employer - employee relations.

Respecting employees' rights of freedom of association and collective bargaining will help companies to comply with legal requirements, avoid penalties, as well as improve trust between employees and management, higher employee retention and satisfaction, more effective resolution of employee grievances.

The right to freedom of association is proclaimed in the Universal Declaration of Human Rights.¹⁰⁶ Freedom of association and collective bargaining are among the founding principles of the ILO and are described in such ILO Conventions as:

- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)¹⁰⁷ – this fundamental convention sets forth the right for workers and employers to establish and join organisations of their own choosing without previous authorisation.
- Right to Organise and Collective Bargaining Convention, 1949 (No. 98)¹⁰⁸ – this fundamental convention provides that workers shall enjoy adequate protection against acts of anti-union discrimination, including requirements that a worker not join a union or relinquish trade union membership for employment, or dismissal of a worker because of union membership or participation in union activities.
- Workers' Representatives Convention, 1971 (No. 135)¹⁰⁹ – this convention provides that workers' representatives shall enjoy effective protection against any act prejudicial to them, including dismissal, based on their status or activities as a workers' representative or on union membership or participation in union activities, in so far as they act in conformity with existing laws or collective agreements or other jointly agreed arrangements.

Based on those conventions, freedom of association and collective bargaining can be characterised by six main features:¹¹⁰

1. The right to form and join organisations – Workers have the right to form or join any workplace they choose, without interference from employers or the government.
2. Non-interference in election or duties of union representatives – Union members must be free to choose their representatives. Elected officers should be free to carry out their duties without interference, as long as they comply with applicable law and any collective bargaining agreement.
3. The free functioning of trade unions – Neither management nor government should interfere in the internal affairs of a trade union. ILO Convention 98 makes it clear that such interference includes employers' financial contributions to a union. This is not the same as providing agreed facilities, such as an office or telephone.

106. UN, *Universal Declaration of Human Rights: Article 20 (1948)*, 1948, Accessed online: 30 December 2020, <www.un.org/en/universal-declaration-human-rights/index.html>.

107. ILO, *Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)*, Accessed online: 30 December 2020, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C087>.

108. ILO, *Right to Organise and Collective Bargaining Convention, 1949 (No. 98)*, Accessed online: 30 December 2020 <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C098:NO>.

109. ILO, *Workers' Representatives Convention, 1971 (No. 135)*, Accessed online: 30 December 2020, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C135:NO>.

110. Ethical Trade Initiative (ETI), *Freedom of Association in Company Supply Chains: A Practical Guide*, 2013, Accessed online: 30 December 2020, <www.ethicaltrade.org/sites/default/files/shared_resources/foa_in_company_supply_chains.pdf>.

- 4. The union’s right to form or join federations and confederations – This freedom is particularly important in jurisdictions where unions only include employees from a single mine site.
- 5. Non-interference by non-union bodies – Legally-based non-union worker organisations exist in some countries; these must not undermine the position of trade unions or their representatives.
- 6. The right to collective bargaining – Collective bargaining can only take place between independent representative employees’ organisations, on the one hand, and employers, on the other. ‘Independent’ means separate from and uninfluenced by either public authorities or employers.



II. PROVISIONS AND PERFORMANCE DETERMINATION

> **Provision 6.9** Companies will respect the right to freedom of association and will not prevent or discourage employees from electing employee representatives, or forming or joining workers’ organisations of their choosing in line with the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the ILO Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

Explanation

At work employees have the right to freely form workers’ organisations. Workers who do not wish to join such organisations also have their rights protected and cannot be coerced into joining against their will.

Freedom of association does not mean that companies should organise workforces or invite unions into the workplace. It simply means that employers must not interfere in an employee’s decision to join an association or discriminate against the employee for their choice.

Interference is any act designed to promote the establishment of workers organisations under the domination of employers or employers’ organisation, or to support workers organisations by financial or other means, with the object of placing them under the control of employers or their organisations. ILO Convention No. 98 concerning the Right to Organize and Collective Bargaining¹¹¹ includes protection against interference. Protection from employers’ interference includes all stages of the employment relationship, from hiring to termination.

Upon employment, companies should ensure that their employees understand their right to organise, which they are free to do without any interference from the company and without any negative consequences or retaliation. To facilitate that, companies can establish a formal process for communicating, in an unbiased way, with employees about their rights under relevant laws and any applicable collective agreement, including their right to freely join or form trade unions. It is important not to favour any particular union or workers’ association, as well as not force employees to join or leave one.

Companies should also not interfere or obstruct in any way the election of union representatives.

Employees’ representatives need to have access to facilities needed to carry out their functions in the workplace. This includes access to designated non-work areas during organizing efforts for the purposes of communicating with employees.

111 ILO, C098 - *Right to Organise and Collective Bargaining Convention, 1949 (No. 98)*, 1949, Accessed online: 3 January 2020, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312243>.

Performance Determination

Meets:

The company has developed and implemented a system to ensure respect of employee rights to freedom of association.

Substantially Meets:

The company has developed a system to ensure respect of employee rights to freedom of association, but there are isolated incidents of gaps or lapse in implementation that are non-systemic.

Partially Meets:

The company:

- > has developed a system to ensure respect of employee rights to freedom of association, but implementation has not started or is incomplete; or
- > is in the process of developing such a system, but the system is not yet complete.

Misses:

The company does not have a system in place to respect employee rights to freedom of association.

-
- > **Provision 6.10** Companies will not discriminate or retaliate against employees who participate or seek to participate in workers' organisations.
-

Explanation

Companies should not discourage workers from forming or joining a workers' organisation or discriminate or retaliate against workers who attempt to form or join workers' organisations. ILO Convention No. 98 includes protection against anti-union discrimination. Anti-union discrimination includes any action that makes a worker's employment dependent on giving up union membership or not joining a union. For example, refusing to hire employees who have been members or leaders of workers' organisations at other companies (for reasons unrelated to qualifications or job performance) would constitute *discrimination* (see [Provision 6.13 on Non-Discrimination](#)).

Other forms of discrimination or retaliation would include such actions that cause:

- > actions that cause the dismissal or prejudice a worker because of union membership or participation in union activities;
- > demoting or reassigning workers;
- > outsourcing or shifting work among facilities, in response to union activities;
- > use of short-term contracts to undermine a worker organizing effort.

Performance Determination

Meets:

The company has developed and implemented a system to prevent discrimination and /or retaliation against employees who participate or seek to participate in workers' organisations.

Substantially Meets:

The company has developed a system to prevent discrimination and/or retaliation against employees who participate or seek to participate in workers' organisations, but there are isolated incidents of gaps or lapse in implementation that are non-systemic.



Partially Meets:

The company:

- › has developed a system to prevent discrimination and/or retaliation against employees who participate or seek to participate in workers' organisations, but implementation has not started or is incomplete; or
- › is in the process of developing such a system, but the system is not yet complete.

Misses:

The company does not have a system in place to prevent discrimination and/or retaliation against employees who participate or seek to participate in workers' organisations.

-
- › **Provision 6.11** Companies will respect and support the right of employees to collective bargaining in line with the ILO Right to Organise and Collective Bargaining Convention, 1949 (No. 98) and adhere to collective bargaining agreements where such agreements exist. Companies will engage with their workers' representatives and workers' organisations and provide them with information necessary for meaningful negotiation in a timely manner.
-

Explanation

The right to organise and form organisations is the prerequisite for sound collective bargaining and social dialogue. *Collective bargaining* is a voluntary process that takes place between employees' representatives and employers' representatives. It usually focuses on negotiating the terms and conditions of employment, such as wages, working hours, working conditions, grievance procedures and the rights and responsibilities of both employees and employers.

The principles for the negotiation include:

- › Companies should negotiate and bargain in good faith, which involves a willingness to discuss, compromise and reach a mutually agreed solution.
 - › Companies need to engage with workers' representatives and workers' organisations, and provide them with information needed for meaningful negotiation in a timely manner. "In a timely manner" will vary based on the issues being discussed. The company and workers' representatives should agree on the timeframes for receipt of information that is critical to any negotiations.
 - › There should be a genuine effort to reach agreement in reasonable time.
- The mutually acceptable result of collective bargaining is called a 'collective bargaining agreement'. All collective bargaining agreements should comply with applicable law. Companies should be aware of their legal obligations related to that.

Once a collective bargaining agreement is reached – whether at a company, sector or national level – it should be implemented within the company.

If a company is already a party to a collective bargaining agreement with a workers' organisation, the terms of the agreement need to be respected.

Performance Determination

Meets:

The company has developed and implemented a system to ensure respect of employee rights to collective bargaining.



Substantially Meets:

The company has developed a system to ensure respect of employee rights to collective bargaining, but there are isolated incidents of gaps or lapse in implementation that are non-systemic.

Partially Meets:

The company:

- > has developed a system to ensure respect of employee rights to collective bargaining, but implementation has not started or is incomplete; or
- > is in the process of developing such a system, but the system is not yet complete.

Misses:

The company does not have a system in place to respect employee rights to collective bargaining.

-
- > **Provision 6.12** Companies that operate in countries where the right to freedom of association and collective bargaining is restricted under law will support alternative means for independent free association and bargaining for employees.
-

Explanation

In a number of countries, or in particular sectors, freedom of association and/or collective bargaining is substantially restricted by law. This may occur in a number of ways:

- > In some countries unions are completely banned. For example, in most of the Gulf States (Bahrain, Oman, Qatar, Saudi Arabia, United Arab Emirates) trade unions are completely prohibited.
- > In some countries, workers' organisations may exist but are controlled or subject to approval by the state. For example, in China and Vietnam unions are controlled by the government controlled and are not independent.

There are some instances where either particular categories of workers (e.g. migrant workers) or workers in particular sectors, such as export processing zones, are excluded from the right to associate freely and bargain collectively. In any of these types of situations, where the right to freedom of association and collective bargaining is restricted, companies should respect and support legal alternative means for workers to associate. Methods to enable alternative mechanisms include but are not limited to recognizing worker committees and allowing workers to choose their own representatives for dialogue and negotiation over terms and conditions of employment with the employer in a manner that does not contravene national law.

Companies should consider how to engage with freely elected representatives of the workforce in internal committees dealing with such issues as health and safety, harassment or migrant workers' housing. Companies should not pressure workers to join a company-controlled organisation in place of an organisation created and controlled by workers.

Performance Determination

Meets:

Where national law restricts workers' organisations, the company has developed and implemented a system to support employees to develop alternative means for independent free association and bargaining for employees.



Substantially Meets:

Where national law restricts workers' organisations, the company has developed a system to support employees to develop alternative means for independent free association and bargaining for employees, but there are isolated incidents of gaps or lapse in implementation that are non-systemic.

Partially Meets:

Where national law restricts workers' organisations, the company:

- > has developed a system to support employees to develop alternative means for independent free association and bargaining for employees, but implementation has not started or is incomplete; or
- > is in the process of developing such a system, but the system is not yet complete.

Misses:

Where national law restricts workers' organisations, the company does not have a system in place to support employees to develop alternative means for independent free association and bargaining for employees.

III. VERIFICATION

Data Collection Method

Conformance with the provisions on freedom of association and collective bargaining is assessed through document review, and interviews with the company's employees, management team and trade union representatives at the company level, regional level, and country level if applicable.

Conformance with the provisions, where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
6.9		✓	✓	✓		✓
6.10		✓	✓	✓		✓
6.11		✓	✓	✓		✓
6.12		✓	✓	✓		✓

Examples and Types of Evidence

- > Policy and procedures committing to practices that adhere to ILO Conventions 87 and 98;
- > where legislation restricts the right to freedom of association and collective bargaining, a record of the relevant laws and regulations restricting freedom of association and collective bargaining;
- > policy that allows employees to develop alternative mechanisms to express their grievances and protect their rights regarding working conditions and terms of employment;
- > evidence that company informs employees that they are free to join a workers' organisation of their choosing without any negative consequences or retaliation;
- > evidence of training of relevant personnel;



- > records of meetings with worker representatives and other relevant stakeholders;
- > trade union election records;
- > existence of functioning workers' organisations or an alternative mechanism;
- > valid collective bargaining agreement;
- > functioning grievance mechanism.



Site Assessment

Interviews

During interviews with management, managers can demonstrate or describe:

- > a good understanding of the company's policy on freedom of association and collective bargaining, and where to find a formal written or electronic copy of the policy;
- > the right of workers to freedom of association and collective bargaining and how the company is ensuring it;
- > how the company allows employees to freely elect representatives;
- > how the company negotiates with workers' organisations
- > how the company prevents discrimination or sanctions against employees who belong to or represent a workers' organisation;
- > how employees are trained on the company's policy freedom of association policy;
- > a good understanding of a current company's collective bargaining agreement if exists;
- > relevant laws restricting freedom of association and the company's policy to support employees to develop alternative means for independent free association and bargaining.

During interviews with employees, they can demonstrate or describe:

- > a basic understanding of the company's policy on freedom of association and collective bargaining and where to find a formal written electronic copy of the policy;
- > the type of training they have received on the company's policy on freedom of association and collective bargaining and on the relevant procedures;
- > where and how they can file a report or allegation relating to obstruction of their right to freedom of association;
- > not being not discriminated against or subjected to unfair labour practices due to their affiliation with a worker's organisation;
- > not being pressured to join a company-controlled organisation in place of an organisation created and controlled by employees;
- > where freedom of association and collective bargaining is restricted by law, ability to participate in legal alternative means of association.

During interviews with union representatives or representatives of worker organisations, representatives demonstrate or describe:

- > that the company does not restrict access to or interfere with employees' efforts to organise or bargain collectively.

IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
1 Business Integrity	1.1: Companies should be aware of legal requirements on freedom of association and collective bargaining.
2 Policy and Management	2.1 and 2.2: When developing systems to ensure respect of employee rights to freedom of association and collective bargaining, companies should refer to <u>Provisions 2.1 and 2.2 on Management Systems</u> .

2.3 – 2.8: When conducting social and human rights risk and impact assessments, companies should include an assessment of the risk of infringement of the right to freedom of association and collective bargaining.

5 Human Rights

5.1 and 5.2: When conducting human rights due diligence, companies should include an assessment of the risk of infringement of the right to freedom of association and collective bargaining.

6 Labour Rights

6.1 – 6.4: Companies should use appropriate employment contracts, in line with Provisions 6.1 - 6.4 on Employment Terms.

6.13: When establishing non-discrimination and equal opportunities policies, companies should ensure protection against anti-union discrimination.

6.26 and 6.27: Companies should ensure that employees have the possibility to report any freedom of association and collective bargaining forced labour through the grievance mechanism.

V. FURTHER INFORMATION

- > ILO, *Helpdesk on Business and Freedom of Association Q&As* (available [here](#)). The ILO's Q&A page addressing Freedom of Association in Business.
- > IFC, *Guidance Note on Performance Standard 2 Working Conditions* (available [here](#)). Guidance Note 2 corresponds to Performance Standard 2, which recognises that the pursuit of economic growth through employment creation and income generation should be accompanied by protection of the fundamental rights of workers.
- > Better Work, *Guidance Sheet 4: Freedom of Association and Collective Bargaining* (2013) (available [here](#)). Guidance regarding ILO Convention 87 on Freedom of Association and Protection of the Right to Organise.
- > ETI, *Freedom of Association in Company Supply Chains: A Practical Guide*, 2013 (available [here](#)). This ETI guide provides practical help to companies in identifying and understanding the impacts of their operations on the fundamental rights of freedom of association and collective bargaining.
- > Sedex and Verité, *Sedex Supplier Workbook*, Chapter 1.3: Freedom of Association and Collective Bargaining, 2014 (available [here](#)). The Workbook provides Sedex members and suppliers around the world with useful guidance to help improve labour standards, reduce adverse environmental impacts and ensure their businesses operate in an ethical manner.



Non-Discrimination (Provision 6.13)



I. INTRODUCTION

Discrimination in occupation and employment can take many forms and occur in all kinds of work settings. It can affect access to employment and result in different treatment of employees once they are employed with regards to their responsibilities, working conditions, training and promotion opportunities, or job security.

As per the ILO,¹¹² millions of women and men around the world are denied access to jobs and training, receive low wages or are restricted to certain occupations simply on the basis of their gender, skin colour, ethnicity or religion, without regard to their capabilities and skills. In a number of developed countries, for example, women workers still earn between 20% and 25% less than male colleagues performing equal work or work of equal value, which shows how slow progress has been over recent years in this regard (see [Provision 6.24 on Remuneration](#)).

Discriminatory practices can be direct or indirect. Direct discrimination arises when an explicit distinction, preference or exclusion is made on one or more grounds. For example, a job advertisement for “men only” would constitute direct discrimination.

Indirect discrimination refers to situations, measures or practices that are apparently neutral but which in fact have an adverse impact on persons from a certain group. The latter type of discrimination, because of its more hidden nature, is the most difficult to tackle. Harassment (behaviour that creates an intimidating, hostile or humiliating working environment) is also considered discrimination when it is based on discriminatory grounds (see [Provision 6.14 on Disciplinary Practices and Harassment](#)). For employers, discrimination can be difficult to identify in practice, particularly when it is indirect. Sometimes rules, practices or attitudes have the appearance of being neutral but in fact lead to exclusions, harassment or preferential treatment.

Freedom from discrimination is a fundamental human right and is essential for workers to be able to choose their employment freely, develop their potential to the full and reap economic rewards on the basis of merit.

Non-discrimination principles are proclaimed in the Universal Declaration of Human Rights.¹¹³

There are a number of ILO conventions that are relevant in relation to non-discrimination and equality of opportunity and treatment. These include, but are not limited to:

- › Equal Remuneration Convention, 1951 (No. 100)¹¹⁴ – this fundamental convention requires ratifying countries to ensure the application to all workers of the principle of equal remuneration for men and women for work of equal value.
- › Discrimination (Employment and Occupation) Convention, 1958 (No. 111)¹¹⁵ – this fundamental Convention defines discrimination as “*any distinction, exclusion or preference*

112. ILO, *International Labour Standards on Equality of opportunity and treatment*, Accessed online: 30 December 2020, <http://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/equality-of-opportunity-and-treatment/lang-en/index.htm#P27_6412>.

113. UN, *Universal Declaration of Human Rights, Article 20*, 1948, Accessed online: 30 December 2020, <www.un.org/en/universal-declaration-human-rights/index.html>.

114. ILO, *Equal Remuneration Convention, 1951 (No. 100)*, Accessed online: 30 December 2020, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C100>.

115. ILO, *Discrimination (Employment and Occupation) Convention, 1958 (No. 111)*, Accessed online: 30 December 2020, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C111:NO>.

made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation". The Convention also provides for the possibility of extending the list of prohibited grounds of discrimination. The Convention covers discrimination in relation to access to education and vocational training, access to employment and to particular occupations, as well as terms and conditions of employment.

> Workers with Family Responsibilities Convention, 1981 (No. 156)¹¹⁶ – this convention sets an obligation to enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities.

> Violence and Harassment Convention, 2019 (No. 190)¹¹⁷ – this convention recognises the right of everyone to a world of work free from violence and harassment, including *gender-based violence and harassment*.

II. PROVISIONS AND PERFORMANCE DETERMINATION

> **Provision 6.13** Companies will develop, document and implement systems aligned with the requirements of [Provisions 2.1](#) and [2.2](#) of this Code to provide equal opportunities for all employees, and will take measures to prevent discrimination in hiring, remuneration, access to promotion or training, termination or retirement based on personal characteristics, unrelated to inherent job requirements at the workplace such as gender, ethnicity, race, religion, sexual orientation, age or any other condition that could give rise to discrimination in line with the ILO Equal Remuneration Convention, 1951 (No. 100) and ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

Explanation

Discrimination in employment is defined as any distinction, exclusion, or preference with respect to recruitment, hiring, firing, working conditions, or terms of employment made on the basis of personal characteristics unrelated to inherent job requirements that nullifies or impairs equality of opportunity or treatment in employment or occupation.¹¹⁸

Inherent job requirements refer to genuine occupational qualifications that are necessary to perform the job in question.

Laws in many countries forbid discrimination based on a range of factors and typically reflect discrimination grounds described in the international standards. For detailed overview of the possible discrimination grounds, please see the Further Information section.

Not all preferential treatment towards a selected group of employees constitutes discrimination. Local laws can set specific requirements to promote local employment, increase employment of underrepresented groups in the workforce or in particular occupations in order to remedy past discrimination.

116. ILO, *Workers with Family Responsibilities Convention, 1981 (No. 156)*, Accessed online: 30 December 2020, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:::NO:12100:P12100_ILO_CODE:C156:NO>.

117. ILO, *Violence and Harassment Convention, 2019 (No. 190)*, Accessed online: 30 December 2020, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0:::NO::P12100_ILO_CODE:C190>.

118. IFC, *Guidance Note on Performance Standard 2: Labour and Working Conditions*, 2012, Accessed online: 30 December 2020, <https://www.ifc.org/wps/wcm/connect/9fc3aaef-14c3-4489-acf1-a1c43d7f86ec/GN_English_2012_Full-Documents_updated_June-27-2019.pdf?MOD=AJPERES&CVID=mRQmrEJ>.



To prevent discrimination at the workplace, companies should develop and implement a system in line with the requirements of Provisions 2.1 and 2.2 on Management Systems, including:

- > the adoption, implementation and communication of a policy (either standalone or as part of the human rights policy or other relevant document), which clearly states the company's values and commitment to prevent all forms of discrimination in hiring, compensation, access to training, promotion, termination or retirement;
- > the assessment of risks of discrimination;
- > the adoption and designation of procedures, roles and responsibilities, resources, and training to implement the above-mentioned policy.

Companies should continuously monitor the effective implementation of the system and evaluate the potential need of corrective actions. The system should be communicated internally and externally, as appropriate, to all relevant stakeholders.

Companies should maintain records to demonstrate that no discriminatory practices took place upon hiring and over the course of employment. This includes records of those seeking employment and those hired in a manner that allows independent review of whether hiring decisions show preference for any gender, ethnicity, race, religion, sexual orientation, age or other condition that could give rise to discrimination.

Companies should also take and document affirmative steps to ensure that job opportunities are advertised or otherwise made known to any identifiable groups that are currently underrepresented in the company's work force, in order to promote diversity and non-discrimination.

Performance Determination

Meets:

The company has developed and implemented a system to provide equal opportunities for all employees and to take measures to prevent discrimination in hiring, remuneration, access to promotion or training, termination or retirement based on personal characteristics unrelated to inherent job requirements at the workplace.

Substantially Meets:

The company has developed a system to provide equal opportunities for all employees and to take measures to prevent discrimination in hiring, remuneration, access to promotion or training, termination or retirement based on personal characteristics unrelated to inherent job requirements at the workplace, but there are isolated incidents of gaps or lapse in implementation that are non-systemic.

Partially Meets:

The company:

- > has developed a system to provide equal opportunities for all employees and to take measures to prevent discrimination in hiring, remuneration, access to promotion or training, termination or retirement based on personal characteristics unrelated to inherent job requirements at the workplace, but implementation has not started or is incomplete; or
- > is in the process of developing such a system, but the system is not yet complete.

Misses:

The company does not have a system in place to provide equal opportunities for all employees and to take measures to prevent discrimination in hiring, remuneration, access to promotion or training, termination or retirement based on personal characteristics unrelated to inherent job requirements at the workplace.



- > the type of training they have received on the company's policy on non-discrimination and on the relevant procedures;
- > where and how they can file a report or allegation relating to being subject of discrimination;
- > not being discriminated against or subjected to discriminatory practices.

During interviews with external stakeholders, stakeholders demonstrate or describe:

- > that the company does not practice discrimination against any individuals or groups.

Site Walk-Through

During the Site Walk-Through, the assessor:

- > does not observe any visible signs of discrimination at the company.

IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
1 Business Integrity	1.1: Companies should be aware of legal requirements on non-discrimination.
2 Policy and Management	<p>2.1 and 2.2: When developing systems to ensure respect of employee rights not to be discriminated, companies should refer to <u>Provisions 2.1 and 2.2 on Management Systems</u>.</p> <p>2.3 – 2.8: When conducting social and human rights risk and impact assessments, companies should include an assessment of the risk of discrimination.</p>
5 Human Rights	5.1 and 5.2: When conducting human rights due diligence, companies should include an assessment of the risk of discrimination.
6 Labour Rights	<p>6.1 – 6.4: Companies should use appropriate employment contracts, in line with <u>Provisions 6.1 - 6.4 on Employment Terms</u>.</p> <p>6.10: When establishing non-discrimination and equal opportunities policies, companies should ensure protection against anti-union discrimination.</p> <p>6.24: When establishing non-discrimination and equal opportunities policies, companies should ensure provision of equal pay for work of equal value.</p> <p>6.26 – 6.27: Companies should ensure that employees have the possibility to report any cases of discrimination through the grievance mechanism.</p>



V. FURTHER INFORMATION

- > ILO, *Helpdesk on Business and discrimination and equality Q&As* (available [here](#)). The ILO's Q&A page addressing Discrimination and Equality in Business.
- > IFC, *Guidance Note on Performance Standard 2: Labour and Working Conditions* (available [here](#)). Guidance Note 2 corresponds to Performance Standard 2, which recognises that the pursuit of economic growth through employment creation and income generation should be accompanied by protection of the fundamental rights of workers.
- > IFC, *Good Practice Note: Non-Discrimination and Equal Opportunity, 2006* (available [here](#)). The Good Practice Note draws on many examples and case studies to illustrate how today's companies are taking positive action in the equal-opportunity arena.
- > Better Work, *Guidance Sheet 2: Discrimination, 2013* (available [here](#)). Guidance sheet regarding ILO Convention 100 and Recommendation 90 on Equal Remuneration, and ILO Convention 111 and Recommendation 111 on Discrimination (Employment and Occupation).
- > Sedex and Verité, *Sedex Supplier Workbook, Chapter 1.8: Discrimination, 2014* (available [here](#)). This Workbook provides Sedex members and suppliers around the world with useful guidance to help improve labour standards, reduce adverse environmental impacts and ensure their businesses operate in an ethical manner.

Disciplinary Practices & Harassment (Provisions 6.14 – 6.15)

I. INTRODUCTION

Discipline in the workplace should be viewed as a way to correct problem behaviours or performance issues. It should never be a form of punishment to an employee. Unfortunately, in some workplaces, discipline can take an extreme form. Examples of unreasonable practices can include: being forced to do push-ups, run laps, or stand in the sun for extended periods, being beaten or hit over the head, threats of violence, sexual or racial harassment, and withholding of wages, food or services.

Harassment at the workplace can take place in many different forms, from a single supervisor publicly shouting at a worker to a group of workers consistently harassing someone because of their gender, religion or ethnicity. More severe forms of harassment include intimidation, threats and physical or sexual violence.¹¹⁹

119. RJC, *Code of Practices Guidance*, 2019, Accessed online: 2 January 2020, <https://www.responsiblejewellery.com/wp-content/uploads/SD_RJC_COP-guidance-V1.3-December-2020.pdf>.



BOX 5: FOCUS ON SEXUAL HARASSMENT*

Sexual harassment in the workplace is a growing concern. While men and boys can experience sexual violence and harassment, the vast majority of victims are women and girls.

The ILO defines sexual harassment as a sex-based behaviour that is both unwelcome and offensive to its recipient. It can take two forms:

- › Quid pro quo, in which a job benefit—such as a pay rise, a promotion or even continued employment—is made conditional on the victim acceding to demands to engage in some form of sexual behaviour.
- › Hostile working environment in which the harassment behaviour creates conditions that are intimidating or humiliating for the victim.

Sexual harassment in the workplace can be both physical and psychological. It includes behaviours that are:

- › **Physical:** for example, physical violence, sexual assault, touching, unnecessary close proximity.
- › **Verbal:** for example, comments and questions about appearance, lifestyle or sexual orientation, offensive phone calls, inappropriate ‘jokes’.
- › **Non-verbal:** for example, wolf whistling, making sexually suggestive gestures, displaying sexual materials.

* ILO, *Sexual Harassment at Work: Fact Sheet*, Accessed online: 2 January 2020, <www.ilo.org/wcmsp5/groups/public/...ed_norm/...declaration/documents/publication/wcms_decl_fs_96_en.pdf>.

Workplace *violence and harassment* remains a widespread phenomenon, present in all countries and disregarding sectors, occupations and work arrangements.

In 2019 ILO has adopted the Convention No. 190 and Recommendation No. 206 on Violence and Harassment¹²⁰ – those instruments recognise the right of everyone to a world of work free from violence and harassment, including gender-based violence and harassment.

II. PROVISIONS AND PERFORMANCE DETERMINATION

- › **Provision 6.14** Companies will develop, document and implement systems aligned with the requirements of Provisions 2.1 and 2.2 of this Code to prevent and address harassment, intimidation, and/or exploitation in the workplace.

Explanation

To prevent and address harassment, intimidation and/or exploitation in the workplace, companies should develop and implement a system in line with the requirements of Provisions 2.1 and 2.2 on Management Systems, including:

- › the adoption, implementation and communication of a policy (either standalone or as part of the human rights policy or other relevant document), which clearly states the company’s values and commitment to prevent any type of harassment, intimidation and / or exploitation in the workplace;

120. ILO, *Violence and Harassment Convention, 2019 (No. 190)*, 2019, Accessed online: 2 January 2020, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190>.



- › the assessment of risks of harassment;
- › the adoption and designation of procedures, roles and responsibilities, resources, and training to implement the above-mentioned policy.

Company's policy and procedures should define and address harassment, including cases of harassment that can occur outside the workplace. Definitions of harassment should include *bullying*, the ongoing and deliberate misuse of power in relationships through repeated verbal, physical and/or social behaviour that intends to cause physical, social and/or psychological harm.

Outside of the workplace, cases of harassment covered by the policy and procedures should include business trips or social events (for example, after-work drinks) and non-work-related communications between co-workers (sharing messages and photos).

Companies should provide training to workers and supervisors so that they understand what harassment is, how to report it and why it will not be tolerated. Companies should ensure reports of harassment are properly handled and should consider what extra protection is needed for vulnerable workers (see [Provisions 6.26 - 6.27 on Worker Grievance Mechanism](#)).

Performance Determination

Meets:

The company has developed and implemented a system to prevent and address harassment, intimidation and/or exploitation in the workplace.

Substantially Meets:

The company has developed a system to prevent and address harassment, intimidation and/or exploitation in the workplace, but there are isolated incidents of gaps or lapse in implementation that are non-systemic.

Partially Meets:

The company:

- › has developed a system to prevent and address harassment, intimidation and/or exploitation in the workplace, but implementation has not started or is incomplete; or
- › is in the process of developing such a system, but the system is not yet complete.

Misses:

The company does not have a system in place to prevent and address harassment, intimidation and/or exploitation in the workplace.

-
- › **Provision 6.15** Companies will develop, document and implement systems aligned with the requirements of [Provisions 2.1](#) and [2.2](#) of this Code to ensure employees are not subjected to any form or threat of corporal punishment, harsh or degrading treatment, sexual or physical harassment, mental, physical or verbal abuse, coercion or intimidation, or monetary fines as disciplinary measures.
-

Explanation

Disciplinary procedures are a set way for dealing with disciplinary issues. They make sure that a company's standards of conduct and performance at work are followed. They also provide a fair and humane method of dealing with workers who fail to meet these standards.



To ensure employees are not subjected to any form or threat of corporal punishment; harsh or degrading treatment; sexual or physical harassment; mental, physical or verbal abuse; coercion or intimidation; or monetary fines as disciplinary measures, companies should develop and implement a system in line with the requirements of [Provisions 2.1 and 2.2 on Management Systems](#), including:

- › the adoption, implementation and communication of a policy (either stand-alone or as part of the human rights policy or other relevant document), which clearly states the company's values and commitment to prevent any type of corporal punishment; harsh or degrading treatment; sexual or physical harassment; mental, physical or verbal abuse; coercion or intimidation; or monetary fines as disciplinary measures;
- › the assessment of risks of such practices. The risks of inappropriate disciplinary measures may be higher or more evident in specific countries, sectors or roles (such as security provision);
- › the adoption and designation of procedures, roles and responsibilities, resources, and training to implement the above-mentioned policy. Supervisors and contractors, such as security forces, should be trained in how to appropriately manage any disciplinary issues.

Companies should apply disciplinary measures, if and when required, consistently and fairly among all employees. Those measures should not be used to humiliate or intimidate employees. Used disciplinary measures should not include:

- › any deductions to wages including monetary fines (see [Provision 6.8 on Forced Labour](#) and see [Provision 6.21 on Remuneration](#));
- › retaliation for submitting a grievance or complaint (see [Provisions 6.26 - 6.27 on Worker Grievance Mechanism](#));
- › compulsory labour as a punishment (see [Provision 6.8 on Forced Labour](#)).

Performance Determination

Meets:

The company has developed and implemented a system to ensure employees are not subjected to any form or threat of corporal punishment; harsh or degrading treatment; sexual or physical harassment; mental, physical or verbal abuse; coercion or intimidation; or monetary fines as disciplinary measures.

Substantially Meets:

The company has developed a system to ensure employees are not subjected to any form or threat of corporal punishment; harsh or degrading treatment; sexual or physical harassment; mental, physical or verbal abuse; coercion or intimidation; or monetary fines as disciplinary measures, but there are isolated incidents of gaps or lapse in implementation that are non-systemic.

Partially Meets:

The company:

- › has developed a system to ensure employees are not subjected to any form or threat of corporal punishment; harsh or degrading treatment; sexual or physical harassment; mental, physical or verbal abuse; coercion or intimidation; or monetary fines as disciplinary measures, but implementation has not started or is incomplete; or
- › is in the process of developing such a system, but the system is not yet complete.

Misses:

The company does not have a system in place to ensure employees are not subjected to any form or threat of corporal punishment; harsh or degrading treatment; sexual or physical harassment; mental, physical or verbal abuse; coercion or intimidation; or monetary fines as disciplinary measures.



III. VERIFICATION

Data Collection Method

Conformance with the provisions on disciplinary practices and harassment is assessed through observation, document review, and interviews with the company's employees and management team.

Conformance with the provisions, where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
6.14	✓	✓	✓	✓		
6.15	✓	✓	✓	✓		

Examples and Types of Evidence

- > Policy and procedures on anti-harassment and disciplinary measures;
- > employee handbook or collective bargaining agreement;
- > human resources policies;
- > evidence of training of relevant personnel;
- > evidence of communication of policies and procedures to all employees and contractors;
- > recruitment, new employee selection, promotion and dismissal procedures;
- > government inspection reports;
- > functioning grievance mechanism.

Site Assessment

Interviews

During interviews with management, managers can demonstrate or describe:

- > a good understanding of the company's policy on anti-harassment and disciplinary measures, and where to find a formal written or electronic copy of the policy;
- > disciplinary measures the company has in place and their application;
- > how the company identifies and reports discriminatory practices including corresponding applicable sanctions;
- > how employees can report cases of harassment, abuse, and unjustified disciplinary measures;
- > how company investigates cases of harassment, abuse, and unjustified disciplinary measures;
- > who is accountable and responsible within the organisation for the oversight and implementation of the policy, relevant procedures, and measures;
- > how employees are trained on the company's policies and procedures.

During interviews with employees, they can demonstrate or describe:

- > a basic understanding of the company's policy on anti-harassment and disciplinary measures and where to find a formal written electronic copy of the policy;
- > the type of training they have received on the company's policy on anti-harassment and disciplinary measures, and on the relevant procedures;
- > where and how they can file a report or allegation relating to being subject of harassment, abuse;
- > not being harassed or abused.



Site Walk-Through

During the Site Walk-Through, the assessor:

- › does not observe any visible signs of harassment or unacceptable disciplinary measures applied at the company.

IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
1 Business Integrity	1.1: Companies should be aware of legal requirements on anti-harassment and disciplinary measures.
2 Policy and Management	2.1 and 2.2: When developing systems to ensure respect of employee rights not to be harassed, companies should refer to <u>Provisions 2.1 and 2.2 on Management Systems</u> .
	2.3 – 2.8: When conducting social and human rights risk and impact assessments, companies should include an assessment of the risk of harassment.
5 Human Rights	5.1 and 5.2: When conducting human rights due diligence, companies should include an assessment of the risk of harassment.
6 Labour Rights	6.1 – 6.4: Companies should use appropriate employment contracts, in line with <u>Provisions 6.1 - 6.4 on Employment Terms</u> .
	6.8: When establishing forced labour policies, companies should ensure no use of compulsory labour as disciplinary punishments.
	6.13: When establishing non-discrimination and equal opportunities policies, companies should ensure protection against harassment due to discrimination.
	6.21: When establishing disciplinary procedures, companies should ensure no deductions from wages or monetary fines as disciplinary measures.
	6.26 – 6.27: Companies should ensure that employees have the possibility to report any cases of harassment and abuse through the grievance mechanism.



V. FURTHER INFORMATION

- > ILO, *Helpdesk on Business and discrimination and equality Q&As* (available [here](#)). ILO's Q&A page addressing Discrimination and Equality in Business.
- > IFC, *Guidance Note on Performance Standard 2: Labour and Working Conditions* (available [here](#)). Guidance Note 2 corresponds to Performance Standard 2, which recognises that the pursuit of economic growth through employment creation and income generation should be accompanied by protection of the fundamental rights of workers.
- > ILO International Training Centre, *Gender-Based Violence in Global Supply Chains: Resource Kit, 2016* (available [here](#)). Practical strategies aimed to facilitate the implementation of legislation, while also forging new approaches to addressing gender-based violence in the workplace.
- > IFC, *Good Practice Note: Non-Discrimination and Equal Opportunity, 2006* (available [here](#)). This Good Practice Note draws on examples and case studies to illustrate how today's companies are taking positive action in the equal-opportunity arena.
- > Sedex and Verité, *Sedex Supplier Workbook, Chapter 1.10: Discipline and Grievance, 2014* (available [here](#)). This Workbook provides Sedex members and suppliers around the world with useful guidance to help improve labour standards, reduce adverse environmental impacts and ensure their businesses operate in an ethical manner.

Working Hours (Provisions 6.16 - 6.20)

I. INTRODUCTION

The regulation of working time is one of the oldest concerns of labour legislation. Already in the early 19th century, it was recognised that working excessive hours posed a danger to workers' health and to their families for all types of operations. In particular, for mining operations, a combination of remote sites, a migrant or expatriate workforce, and premium compensation for working long shifts makes long working hours a common problem in the mining industry.

The very first ILO Convention – Hours of Work Convention, 1919 (No.1)¹²¹ sets limited hours of work and provided for adequate rest periods for workers. Today, ILO standards on working time provide the framework for regulated hours of work, daily and weekly rest periods, and annual holidays. Standards on part-time work have become increasingly important instruments for addressing such issues as job creation and promoting equality between men and women.













There are a number of ILO conventions that are relevant in relation to working hours. See table below.¹²²

ILO Convention	Year	International standard for workers
ILO-1 Hours of Work (Industry)		Maximum working hours of 8 per day; or 48 hours per week.

121. ILO, *Hours of Work Convention, 1919 (No.1)*, 1919, Accessed online: 2 January 2020, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C001>.

122. RJC, *Code of Practices Guidance*, 2019, Accessed online: 2 January 2020, <https://www.responsiblejewellery.com/wp-content/uploads/SD_RJC_COP-guidance-V1.3-December-2020.pdf>.



ILO-30 Hours of Work (Commerce and Offices)	1930	Maximum working hours of 8 per day; or 48 hours per week.	
ILO-116 Reduction of Hours of Work	1962	Maximum working hours per week of 40 hours. A principle prominent in high-income countries.	
ILO-14 Weekly Rest (Industry)	1921	At least 24 hours consecutive rest each week. Employers may agree alternative arrangements in consultation with trade unions or another worker representative.	
ILO-106 Weekly Rest (Commerce and Offices)	1957	At least 24 hours consecutive rest each week. Employers may agree alternative arrangements in consultation with trade unions or another worker representative.	
ILO-132 Holidays with Pay (Revised)	1970	At least 3 weeks of guaranteed holiday each year.	
ILO-183 Maternity Protection	2000	Access to maternity leave for women following childbirth. Time during the day to breastfeed for women returning to work after maternity leave.	
			
			
			
			
			
			

II. PROVISIONS AND PERFORMANCE DETERMINATION

- > **Provision 6.16** Companies will apply normal working hours that comply with applicable laws. Where specific laws and regulations do not exist, working hours will not exceed, on a regular basis, a maximum of 48 hours per working week in accordance with the ILO Hours of Work (Industry) Convention, 1919 (No.1).

Explanation

In the majority of countries, national laws and regulations set standards for the maximum number of working hours for various sectors, including mining. National laws set a limit on the number of normal working hours an employee can work each week, although precise limits may vary from country to country.

Companies should identify and be familiar with all national laws on working hours, rest periods and leave in their country of operations and any specific regulations for their industry type (see [Provision 1.1 on Legal Compliance](#)).

In the absence of such national laws, the companies should follow international standards. As per ILO's Hours of Work Convention, 1919 (No.1)¹²³ the normal working week is limited to 48

123. ILO, *Hours of Work Convention, 1919 (No.1)*, 1919, Accessed online: 2 January 2020, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C001>.

hours, consisting of the amount of non-overtime hours an employee works per week. National or local law, or a collective bargaining agreement can define the limit as less than 48 hours per week. The Convention allows for some departure from maximum working-hour limits in certain circumstances.

If existing national laws and collective bargaining agreements differ from the limits described above, the company should follow whichever is more stringent. That is:

- > if country law sets a weekly limit above 48 hours, companies should follow the limits described above; and
- > if it sets a limit below 48 hours, companies should comply with local law / collective bargaining agreements.

However, exceptions to the weekly working hour limits and weekly rest standards may be applicable to mining operations that operate on a roster cycle or rotational shift basis, or in emergency situations. The companies should follow applicable laws and collective bargaining agreements with regards to those exceptions (see [Provision 6.20 on Working Hour Exceptions](#)).

Companies should also be aware about special requirements on working hours applicable to certain categories of employees such as employees under 18 years of age and pregnant employees, to ensure that these workers are not put at risk of working *overtime* or of working during time periods when they legally cannot work. For example, in many countries such categories of workers are not allowed by law to work at night.

There might be a need for an employee to work beyond the normal working week. Such working time is considered overtime. International standards set working hour limits at 60 hours total per week (regular and overtime). Different countries, local laws and collective bargaining agreements may accept different standards. In all cases, overtime should be voluntary.

The companies should develop a timekeeping system such as timecards, or other type of record of working hours for all employees. The system should be designed in a way that the company can accurately track all working hours and ensure that the set limits are not exceeded within given time period (see [Provision 6.4 on Maintenance of Records](#)).

Companies should continuously monitor the effective implementation of the timekeeping system and evaluate the potential need of corrective actions to reduce excessive working hours. For example, companies should plan to see how they can reduce overtime by adjusting capacity and timelines or hiring temporary personnel during a peak season.

Companies should provide training to management staff in charge of monitoring and recording of working hours. In addition, all employees should be informed about their rights with regards to working hours and set limits, voluntary overtime and company's timekeeping system, including the process to report errors if relevant in time reporting.

Companies should continuously monitor the effective implementation of the system and evaluate the potential need for corrective actions. The system should be communicated internally and externally, as appropriate, to all relevant stakeholders.

Performance Determination

Meets:

The company has developed and implemented a system to keep employees' regular working hours within legally required limits or, where no legal limits exists, within forty-eight regular hours in the week.



Substantially Meets:

The company has developed a system to keep employees' overtime working hours within legally required limits or, where no legal limits exist, within twelve hours overtime in the week, but there are isolated incidents of gaps or lapse in implementation that are non-systemic.

Partially Meets:

The company:

- > has developed a system to keep employees' overtime working hours within legally required limits or, where no legal limits exist, within twelve hours overtime in the week, but implementation has not started or is incomplete; or
- > is in the process of developing such a system, but the system is not yet complete.

Misses:

The company does not have a system in place to keep employees' overtime working hours within legally required limits or where no legal limits exist, within twelve hours overtime in the week.

-
- > **Provision 6.18** Companies will provide employees with all legally mandated leave, including maternity and paternity leave, compassionate leave, and paid annual leave. Where no applicable law exists, paid annual leave will be provided in accordance with the ILO Holidays with Pay Convention, 1970 (No. 132).
-

Explanation

As part of working agreements and as required by national laws, companies should provide to employees all legally mandated leave such as:

- > paid annual leave
- > maternity and paternity leave
- > compassionate leave

National laws in many countries stipulate requirements with regards to mandated leave, but precise entitlements may vary from country to country.

Where national law does not exist, companies should follow international standards. For example, ILO Holidays with Pay Convention, 1970 (No. 132) on provision of paid annual leave or ILO Convention 183 Maternity Protection 200048 provides for access to maternity leave for women following childbirth.

Performance Determination

Meets:

The company has developed and implemented a system to provide employees with all mandated leave.

Substantially Meets:

The company has developed a system to provide employees with all mandated leave, but there are isolated incidents of gaps or lapse in implementation that are non-systemic.

Partially Meets:

The company:

- > has developed a system to provide employees with all mandated leave, but implementation has not started or is incomplete; or
- > is in the process of developing such a system, but the system is not yet complete.



Misses:

The company does not have a system in place to provide employees with all mandated leave.

-
- > **Provision 6.19** Companies will provide all employees with at least one rest day in seven consecutive working days in accordance with the ILO Weekly Rest (Industry) Convention, 1921 (No. 14). Exceptions may be allowed as per Provision 6.20 of this Code.
-

Explanation

As part of working agreements and as required by national laws, companies should provide to employees with rest periods, including weekly rest.

As per Article 2 of ILO's Hours of Work (Commerce and Offices) Convention, 1930 (No. 30)¹²⁴, rest periods are defined as periods during which the persons employed are not at the disposal of the employer. When it comes to weekly rest, all employees, in a period of seven days, should be provided with a period of rest comprising at least 24 consecutive hours.¹²⁵

Companies should use their timekeeping system to monitor provision of weekly rest to ensure that all employees are provided with at least one rest day in seven consecutive working days (see Provision 6.20 on Working Hour Exceptions).

Performance Determination

Meets:

The company has developed and implemented a system to provide employees with weekly rest.

Substantially Meets:

The company has developed a system to provide employees with weekly rest, but there are isolated incidents of gaps or lapse in implementation that are non-systemic.

Partially Meets:

The company:

- > has developed a system to provide employees with weekly rest, but implementation has not started or is incomplete; or
- > is in the process of developing such a system, but the system is not yet complete.

Misses:

The company does not have a system in place to provide employees with weekly rest.

-
- > **Provision 6.20** Exceptions to the number of regular and overtime hours and provision of rest days are allowed in special circumstances, such as employees on a fly-in fly-out roster, and when there is a national law and freely negotiated collective bargaining agreement allowing higher limits and averaging of working time.
-

124. ILO, *Hours of Work (Commerce and Offices) Convention, 1930 (No. 30), Article 2, 1930*, Accessed online: 2 January 2020, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312175>.

125. ILO, *Weekly Rest (Industry) Convention, 1921 (No. 14), 1921*, Accessed online: 2 January 2020, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C014:NO>.



Explanation

Exceptions to the regular and overtime working hour limits and weekly rest standards may be allowed in special circumstances and relevant to the mining operations that operate on a roster cycle or rotational shift basis, or in emergency situations.

As per Bettercoal expectations, companies can apply such exceptions only if the following conditions are present:

- › national law allowing such exceptions; and
- › freely negotiated collective bargaining agreement is in force that allows variances to the rest periods and working hours (see [Provision 6.11 on Collective Bargaining](#)).

Companies should ensure that all such exceptions are documented in their working hour policies, employment contracts and communicated to all employees. Companies should also prove and have documentary evidence to justify those exceptions.

Performance Determination

Meets:

The company applies exceptions to the number of regular and overtime hours and provision of rest days due to specifics of its operations and that are allowed by national law and freely negotiated collective bargaining agreement.

Substantially Meets:

The company has developed a system to provide employees with weekly rest, but there are isolated incidents of gaps or lapse in implementation that are non-systemic.

Partially Meets:

The company applies exceptions to the number of regular and overtime hours and provision of rest days due to specifics of its operations and that are allowed by national law and freely negotiated collective bargaining agreement, but those have not been communicated to all employees and / or documented in timekeeping system.

Misses:

The company applies exceptions to the number of regular and overtime hours and provision of rest days due to specifics of its operations, but those are not allowed by national law and / or there is no freely negotiated collective bargaining agreement.

III. VERIFICATION

Data Collection Method

Conformance with the provisions on working hours is assessed through observation, document review, and interviews with the company's employees, management team and other stakeholders.

Conformance with the provisions, where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.



Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
6.16	✓	✓	✓	✓		
6.17	✓	✓	✓	✓		
6.18	✓	✓	✓	✓		
6.19	✓	✓	✓	✓		
6.20	✓	✓	✓	✓		✓

Examples and Types of Evidence

- > Policy and procedures committing to legally required working hours, or, where no legal limits exist, no more than forty-eight regular hours and twelve hours overtime in the week, and to ensure one day of rest in seven and provision annual leave and other mandated leave;
- > voluntary overtime policy;
- > policy on applying exceptions to working hours and weekly rest if applicable;
- > employee handbook;
- > working time schedule;
- > collective bargaining agreement;
- > human resources policies;
- > evidence of training of relevant personnel;
- > evidence of communication of policies and procedures to all employees and contractors;
- > time records;
- > functioning grievance mechanism;
- > disclosure of third-party assurance of adherence to working hours limits and provision of rest on public website, annual report, or corporate sustainability report at least annually;
- > government inspection reports.

Site Assessment

Interviews

During interviews with management, managers can demonstrate or describe:

- > a good understanding of the company's policy on working hours and rest periods, and where to find a formal written or electronic copy of the policy;
- > the daily and weekly hours allowed by law or collective bargaining agreement;
- > how the company records working hours and how it uses it to monitor and control working hours and overtime, and provision of adequate rest periods;
- > how the company requires overtime and guarantees that it is voluntary;
- > what type of benefits including paid annual leave and any other type leave the company provides;
- > who is accountable and responsible within the organisation for the oversight and implementation of the working hour policy, relevant procedures, and measures;
- > how the company allows employees to report any mistakes identified in the timekeeping system;
- > how employees are trained on the company's policies and procedures;
- > the approach of the company to apply exceptions to the working hour arrangements.

During interviews with employees, they can demonstrate or describe:

- > a basic understanding of applicable limits on working hours including overtime and their entitlement to rest days and annual leave;
- > the type of training they have received on the company's policies on working hours, overtime, and on the relevant procedures;



- > confirm that overtime working hours including overtime are within legal limits;
- > confirm that overtime is voluntary, and they can decline to work overtime, without fear of sanctions;
- > an understanding of company's grievance procedures.

During interviews with union representatives or representatives of worker organisations, representatives demonstrate or describe:

- > that collective bargaining agreement was not negotiated as a result of coercion, intimidation, or duress.

Site Walk-Through

During the Site Walk-Through, the assessor can observe:

- > relevant documentation related to the working hours, such as working time schedule, posted prominently in designated locations.

IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
1 Business Integrity	1.1: Companies should be aware of legal requirements on working hours.
2 Policy and Management	2.1 and 2.2: When developing systems to ensure adherence to working hour limits, companies should refer to <u>Provisions 2.1 and 2.2 on Management Systems</u> .
6 Labour Rights	<p>6.1 – 6.4: Companies should use appropriate employment contracts, in line with <u>Provisions 6.1 - 6.4 on Employment Terms</u>.</p> <p>6.8: When establishing the need for workers to work overtime, companies should ensure no use of forced labour.</p> <p>6.11: When establishing exceptions to working hour limits and weekly rest, companies should ensure that free collective bargaining process is in place.</p> <p>6.26 and 6.27: Companies should ensure that employees have the possibility to report any cases of discrimination through the grievance mechanism.</p>

V. FURTHER INFORMATION

- > ILO, *Helpdesk on Business and working time Q&As* (available [here](#)). ILO's Q&A page addressing issues with Working Time in Business.
- > IFC, *Guidance Note on Performance Standard 2: Labour and Working Conditions* (available [here](#)). Guidance Note 2 corresponds to Performance Standard 2, which recognises that the pursuit of economic growth through employment creation and income generation should be accompanied by protection of the fundamental rights of workers.



- › Better Work, *Guidance Sheet 8: Working Time*, 2013, (available [here](#)). Guidance on ILO Conventions 1 Hours of Work (Industry), 14 on Weekly Rest (Industry), 132 on Holidays with Pay (revised), and 183 on Maternity Protection.
- › Sedex and Verité, *Sedex Supplier Workbook*, Chapter 1.7: Working Hours, 2014, (available [here](#)). This Workbook is an excellent resource that provides Sedex members and suppliers around the world with useful guidance to help improve labour standards, reduce adverse environmental impacts and ensure their businesses operate in an ethical manner.

Remuneration (Provisions 6.21 - 6.25)

I. INTRODUCTION

Remuneration is one of the most important conditions of work that has the most direct and tangible effect on the everyday life of employees. Although receiving wages is essential for livelihood of employees and their families, still in many countries access to adequate and regular wages is still not guaranteed.

In some cases, employees might not receive the wages they were supposed to due to the bankruptcy of the company. In other cases, employees receive a large portion of their wage in kind. Such situations can push the employees concerned into poverty. In certain cases, such practices may expose the employees to the risk of debt bondage or forced labour.¹²⁶

The right to just and favourable remuneration is proclaimed in the Universal Declaration of Human Rights.¹²⁷ Today, the ILO standards on wages provide the framework for regular payment of wages, the protection of wages in the event of the insolvency of the employer and the fixing of minimum wage levels. Those issues are described in such ILO Conventions as:

- › Protection of Wages Convention, 1949 (No. 95)¹²⁸ – this convention requires payment of wages in legal tender at regular basis; in cases where partial payment of wages is in kind, the value of such allowances should be fair and reasonable. In cases of employer insolvency, wages shall enjoy a priority in the distribution of liquidated assets.
- › Minimum Wage Fixing Machinery Convention, 1928 (No. 26)¹²⁹ – this convention required signatory nations to establish a minimum wage-fixing body that should ‘take account of the necessity of enabling the workers to maintain a suitable standard of living’.
- › Minimum Wage Fixing Convention, 1970 (No. 131)¹³⁰ – this convention requires ratifying states to establish a minimum wage fixing machinery capable of determining and periodically reviewing and adjusting minimum wage rates having the force of law. It outlined the factors that must be included when calculating a minimum wage.
- › Protection of Workers’ Claims (Employer’s Insolvency) Convention, 1992 (No. 173)¹³¹ – this convention provides for the protection of wage claims in insolvency and bankruptcy.

126 ILO, *International Labour Standards on Wages*, Accessed online: 2 January 2020, <<https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/wages/lang-en/index.htm>>.

127 UN, *Universal Declaration of Human Rights: Article 23.3*, 1984, Accessed online: 2 January 2020, <www.un.org/en/universal-declaration-human-rights/index.html>.

128 ILO, *Protection of Wages Convention, 1949 (No. 95)*, 1949, Accessed online: 2 January 2020, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C095:NO>.

129. ILO, *Minimum Wage Fixing Machinery Convention, 1928 (No. 26)*, 1928, Accessed online: 2 January 2020, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312171:NO>.

130. ILO, *Minimum Wage Fixing Convention, 1970 (No. 131)*, Accessed online: 2 January 2020, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C131:NO>.

131. ILO, *Protection of Workers’ Claims (Employer’s Insolvency) Convention, 1992 (No. 173)*, 1992, Accessed online: 2 January 2020, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C173:NO>.



> Equal Remuneration Convention, 1951 (No. 100)¹³² – this convention lays down the principle of equal remuneration for men and women workers for work of equal value.



II. PROVISIONS AND PERFORMANCE DETERMINATION

> **Provision 6.21** Companies will pay employees' wages that meet or exceed whichever is the higher of applicable legal minimum wages, agreed through collective wage agreements or the prevailing industry standard.



Explanation

More than 90 per cent of countries have legislation setting standards for the minimum wages on the country level or region level, or for sectors and specific job positions. Wages may also be directly negotiated through collective bargaining agreements between employers and employees represented by independent trade unions or other worker representatives (see [Provision 6.11 on Collective Bargaining](#)).



The minimum wage is defined as the lowest amount of remuneration that an employer can legally pay wage earners for the work performed during a given period, which cannot be reduced by collective agreement or an individual contract.¹³³ It is generally set on an hourly, daily or monthly basis or may be production-based /p performance-related. Wages calculated on a production-based /performance-related rate basis should not be less than legally mandated minimum wage.



Companies should identify and be familiar with all national laws on wages in their country of operations and any specific regulations for their industry type (see [Provision 1.1 on Legal Compliance](#)) and provide adequate remuneration in accordance with those requirements.



The relevant minimum wage rate can vary according to the region, type of operation, skill level of the employee and/or category such as probationary, temporary, and apprentice employees:

- > Apprentices - If the company has apprentices, the company should ensure that they are paid at least legal minimum wage set for them;
- > Part-time employees – for such employees, the company should calculate pro-rata wages based on full-time rates;
- > Employees on probation or training – when such arrangements are legally allowed, the company should ensure that they do not pay below the legal minimum applicable for that category of work; and any substandard wages for this period are limited to a defined period of time that is strictly adhered to and clearly communicated to employees.



The purpose of a minimum wage, which sets a minimum amount should also be distinguished from collective bargaining, which can be used to set wages above an existing minimum.

Where no minimum wage is defined through the regulatory system, the companies should define a minimum wage for its employees based on common industry practices in the region or country where it operates – an industry wage.

132. ILO, *Equal Remuneration Convention, 1951 (No. 100)*, 1951, Accessed online: 2 January 2020, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C100:NO>.

133. ILO, *What is a Minimum Wage?*, Accessed online: 2 January 2020, <https://www.ilo.org/global/topics/wages/minimum-wages/definition/WCMS_439072/lang-en/index.htm>.

An *industry wage* is the average rate of pay for workforce members of a specific profession in a particular industrial sector (e.g. mining) within a given geographical area, such as a country or province.

The companies should develop a payroll system to record wages paid to all employees. The system should be designed in a way that the company can accurately track all working hours, wages, and deductions done within given time period (see [Provision 6.4 on Maintenance of Records](#)).

Performance Determination

Meets:

The company has developed and implemented a system to pay employees' wages that meet or exceed whichever is the higher of applicable legal minimum wages, agreed through collective wage agreements or the prevailing industry standard.

Substantially Meets:

The company has developed a system to pay employees' wages that meet or exceed whichever is the higher of applicable legal minimum wages, agreed through collective wage agreements or the prevailing industry standard, but there are isolated incidents of gaps or lapse in implementation that are non-systemic.

Partially Meets:

The company:
> has developed a system to pay employees' wages that meet or exceed whichever is the higher of applicable legal minimum wages, agreed through collective wage agreements or the prevailing industry standard. But implementation has not started or is incomplete; or
> is in the process of developing such a system, but the system is not yet complete.

Misses:

The company does not have a system in place to pay employees' wages that meet or exceed whichever is the higher of applicable legal minimum wages, agreed through collective wage agreements or the prevailing industry standard.

> **Provision 6.22** Companies will determine the living wage in their country of operation in cooperation with stakeholders, and will develop, and where possible, implement a plan on payment of the living wage to all employees over time.

Explanation

Living wage is remuneration received for a standard work week sufficient enough to support a decent standard of living for a worker and their family. by a worker in a particular place sufficient to afford a decent standard of living for the worker and their family. Elements of a decent standard of living include food, water, housing, education, health care, transport, clothing, and other essential needs including provision for unexpected events.¹³⁴ Majority of countries have laws on setting minimum wage rates (see [Provision 6.21 on Remuneration](#)). Ideally, the minimum wage is calculated as a 'living wage' that can cover the minimum needs of the worker and his or her family, in light of the country's prevailing economic and social conditions. But this is not always the case, especially in labour-intensive

134. SAI, *Social Accountability 8000: International Standard*, 2014, Accessed online: 2 January 2020, <<https://sa-intl.org/wp-content/uploads/2020/02/SA8000Standard2014.pdf>>



countries. This can lead to a detrimental cycle of employees taking on too much work and overtime to make ends meet.

A living wage may be higher than the legal minimum wage. The companies should conduct a living wage study in cooperation with relevant stakeholders and identify existing sources of information on living wage rates applicable to the region.

Organisations and initiatives such as the MIT Living Wage Calculator,¹³⁵ and the Global Living Wage Coalition (GLWC) seek to provide high quality and consistent knowledge and data about living wage levels. The GLWC has adopted a common definition for living wage.¹³⁶

Based on the living wage study results, the companies should develop a plan on how they can ensure payment of the living wage to all employees over time.

Performance Determination

Meets:

The company has conducted a living wage study, developed and where possible, implemented a plan on payment of the living wage to all employees over time.

Substantially Meets:

The company has conducted a living wage study, developed a plan on payment of the living wage to all employees over time, but implementation is incomplete.

Partially Meets:

The company:

- › has conducted a living wage study, developed a plan on payment of the living wage to all employees over time, but implementation has not started; or
- › is in the process of developing such a plan, but it is not yet complete.

Misses:

The company has not conducted a living wage study, and /or did not develop a plan on payment of the living wage to all employees over time.

› **Provision 6.23** Companies will pay wages by a method that is reasonable for employees and in a timely manner.

Explanation

The companies should pay employees in a manner convenient for them and directly to the employee, and not a third party. The payment could be done via:

- › bank transfer to an account controlled by an employee;
- › cash;
- › cheque; or
- › or similar.

135. Massachusetts Institute of Technology (MIT), *Living Wage Calculator*, Accessed online: 2 January 2020, <<https://livingwage.mit.edu>>.

136. Global Living Wage Coalition, *What is a Living Wage?*, Accessed online: 2 January 2020, <<https://www.globalliving-wage.org/about/what-is-a-living-wage/>>.



The companies should not offer promissory notes, coupons or merchandise in lieu of wages as those approaches can cause delays or force employees buy specifically from the company-owned store, limiting their choices and tying them to their employer.

Under certain circumstances ILO Convention No.95¹³⁷ allows for the partial payments in kind of wages particularly when such form of payment is permissible by national legal requirements or as per a collective bargaining agreement, customary, appropriate for the personal use and benefit of workers and their families, and the value of such allowances is fair and reasonable.

The companies should have clear procedures for calculating, checking and distributing wages, as well as a clear process for reviewing and correcting payment errors and communicate it to employees so that they know what to do if their wages have been incorrectly calculated. Employees should be able to report any incorrect payments without a fear of retaliation (see [Provisions 6.26 on Worker Grievance](#)). The companies should inform employees about their wages and how they are calculated in a language they understand. Usually, it is done by providing wage slips that clearly show and explain the rates of pay, as well as any benefits paid, or deductions made. Only deductions, advances and loans authorized by national law are permitted and, if made or provided, actions shall only be taken with the full consent and understanding of workers. The imposition of disciplinary penalties by way of wage deductions is prohibited.

The companies should provide payments to employees on a regular and timely manner. The frequency of payments – weekly, fortnightly or monthly, for example – should be pre-determined and respected.

Performance Determination

Meets:

The company has developed and implemented a system to pay wages by a method that is reasonable for employees and in a timely manner.

Substantially Meets:

The company has developed a system to pay wages by a method that is reasonable for employees and in a timely manner, but there are isolated incidents of gaps or lapse in implementation that are non-systemic.

Partially Meets:

The company:

- › has developed a system to pay wages by a method that is reasonable for employees and in a timely manner, but implementation has not started or is incomplete; or
- › is in the process of developing such a system, but the system is not yet complete.

Misses:

The company does not have a system in place to pay wages by a method that is reasonable for employees and in a timely manner.

› **Provision 6.24** Companies will provide equal pay for work of equal value.

137. ILO, *Protection of Wages Convention, 1949 (No. 95)*, 1949, Accessed online: 2 January 2020, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:::NO:12100:P12100_ILO_CODE:C095:NO>.



Explanation

Discrimination is a widely spread concern in employment, including in relation to the gender pay gap. Equal pay means that all employees have the right to receive equal remuneration for work of equal value.

Work of equal value can mean a job that is the same or similar, as well as a job that is not the same but is of equal value. This distinction is important because women's and men's work may involve different types of qualifications, skills, responsibilities, or working conditions, yet be of equal value, and, therefore, merit equal pay.¹³⁸

Equal pay relates to the full range of payments and benefits, including basic pay, non-salary payments, bonuses and allowances.

The companies should ensure that their wage setting system is based on the principle of equal pay for an equal value to ensure no discrimination at their operations (see [Provision 6.13 on Non-Discrimination](#)).

Performance Determination

Meets:

The company has developed and implemented a system to provide employees with equal pay for work of equal value.

Substantially Meets:

The company has developed a system to provide employees with equal pay for work of equal value, but there are isolated incidents of gaps or lapse in implementation that are non-systemic.

Partially Meets:

The company:

- › has developed a system to provide employees with equal pay for work of equal value, but implementation has not started or is incomplete; or
- › is in the process of developing such a system, but the system is not yet complete.

Misses:

The company does not have a system in place to provide employees equal pay for work of equal value.

-
- › **Provision 6.25** Companies will pay employees a premium rate for work performed beyond the normal working hours in accordance with applicable laws.
-

Explanation

There might be need for an employee to work beyond the normal working week. For such work – overtime, work on public holidays, weekly rest days and at night, the companies should pay employees a higher pay.

138. UN Women, *Explainer: Everything you Need to Know about Pushing for Equal Pay*, 2020, Accessed online: 2 January 2020, <<https://www.unwomen.org/en/news/stories/2020/9/explainer-everything-you-need-to-know-about-equal-pay>>.



The rate for these hours may be set by legal requirements or by collective agreement (whichever is higher applies). Different rates may apply for regular overtime, and for overtime worked at night, on public holidays, and on weekly rest days.

If there is no applicable law or collective bargaining agreement (or if neither provides specific direction on overtime pay), the companies should calculate overtime pay at a premium rate, that is, a higher rate than the normal working week rate. This should at least match prevailing industry standards. As per Article 6 of ILO's Hours of Work Convention, 1919 (No.1)¹³⁹ the rate of pay for overtime is set at not less than one-and-a-quarter times the regular wage rate, which should be used as a benchmark in the absence of applicable laws or collective bargaining agreement.

Performance Determination

Meets:

The company has developed and implemented a system to pay employees a premium rate for work performed beyond the normal working hours in accordance with applicable laws.

Substantially Meets:

The company has developed a system to pay employees a premium rate for work performed beyond the normal working hours in accordance with applicable laws, but there are isolated incidents of gaps or lapse in implementation that are non-systemic.

Partially Meets:

The company:

- › has developed a system to pay employees a premium rate for work performed beyond the normal working hours in accordance with applicable laws, but implementation has not started or is incomplete; or
- › is in the process of developing such a system, but the system is not yet complete.

Misses:

The company does not have a system in place to pay employees a premium rate for work performed beyond the normal working hours in accordance with applicable laws.

III. VERIFICATION

Data Collection Method

Conformance with the provisions on remuneration is assessed through observation, document review, and interviews with the company's employees, management team and other stakeholders.

Conformance with the provisions, where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

139. ILO, *Hours of Work Convention, 1919 (No.1)*, 1919, Accessed online: 2 January 2020, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C001>.



Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
6.21	✓	✓	✓	✓		✓
6.22	✓	✓	✓	✓		✓
6.23	✓	✓	✓	✓		
6.24	✓	✓	✓	✓		
6.25	✓	✓	✓	✓		

Examples and Types of Evidence

- > Policy and procedures committing to payment of employee wages which equal or exceed minimum wage or the appropriate industry wage or living wage;
- > wage rates matrix;
- > analyses of industry wages in the area of mining operations;
- > living wage calculation study;
- > employee handbook;
- > collective bargaining agreement;
- > human resources policies;
- > evidence of training of relevant personnel;
- > evidence of communication of policies and procedures to all employees and contractors;
- > time records;
- > payroll records;
- > wage slips;
- > functioning grievance mechanism;
- > disclosure of third-party assurance of remuneration practices on public website, annual report, or corporate sustainability report at least annually;
- > government inspection reports.

Site Assessment

Interviews

During interviews with management, managers can demonstrate or describe:

- > a good understanding of the company's policy on remuneration, and where to find a formal written or electronic copy of the policy;
- > minimum wages set by law or collective bargaining agreement;
- > the system to monitor working hours which enables accurate calculation of pay;
- > how the company keeps payroll records;
- > process for monitoring changes in national law and collective agreements where they exist, as it relates to remuneration;
- > the payroll procedure and how it ensures that all payments are made on time and directly to the employee and not to another party or intermediary;
- > who is accountable and responsible within the organisation for the oversight and implementation of the remuneration, relevant procedures, and measures;
- > process to ensure that workers receive a clear written or formal electronic record of payments made to them;
- > how the company allows employees to report any mistakes identified in the payroll system;
- > how employees are trained on the company's policies and procedures.



During interviews with employees, they can demonstrate or describe:

- > a basic understanding of company's wage payment system;
- > the type of training they have received on the company's policies on remuneration, and on the relevant procedures;
- > confirm that wages are paid on time and they receive written or formal electronic record of the payment on or before the payment is made;
- > confirm that wages are paid to their bank accounts or by using other methods;
- > confirm that overtime is voluntary, and is paid at a premium rate as mandated by local law;
- > an understanding of company's grievance procedures.

During interviews with union representatives or representatives of worker organisations, representatives demonstrate or describe:

- > that collective bargaining agreement was not negotiated as a result of coercion, intimidation, or duress.

Site Walk-Through

During the Site Walk-Through, the assessor can observe:

- > relevant documentation related to remuneration, posted prominently in designated locations.

IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
1 Business Integrity	1.1: Companies should be aware of legal requirements on remuneration.
2 Policy and Management	2.1 and 2.2: When developing systems remuneration, companies should refer to <u>Provisions 2.1 and 2.2 on Management Systems</u> .
6 Labour Rights	<p>6.1 – 6.4: Companies should use appropriate employment contracts, in line with <u>Provisions 6.1 - 6.4 on Employment Terms</u>.</p> <p>6.13: When establishing wage rates, companies should ensure that there are no discriminatory practices in place.</p> <p>6.26 and 6.27: Companies should ensure that employees have the possibility to report any cases of discrimination in remuneration or calculation mistakes through the grievance mechanism.</p>

V. FURTHER INFORMATION

- > ILO, *Helpdesk on Business, Wages and Benefits Q&As* (available [here](#)). ILO's Q&A page addressing issues with remuneration in business.
- > IFC, *Guidance Note on Performance Standard 2: Labour and Working Conditions* (available [here](#)). Guidance Note 2 corresponds to Performance Standard 2, which recognises that the pursuit of economic growth through employment creation and income generation should be accompanied by protection of the fundamental rights of workers.



- › Better Work, *Guidance Sheet 5: Compensation*, 2013 (available [here](#)). Guidance on wage payments.
- › Sedex and Verité, *Sedex Supplier Workbook*, Chapter 1.6: Wages, 2014 (available [here](#)). This workbook is an excellent resource that provides Sedex members and suppliers around the world with useful guidance to help improve labour standards, reduce negative environmental impacts and ensure their businesses operate in an ethical manner.
- › Global Living Wage Coalition, *What is a Living Wage?* (available [here](#)) provides overview of living wage calculation methodology.



Worker Grievance Mechanism (Provisions 6.26 - 6.27)

I. INTRODUCTION

Worker grievance mechanisms are formal complaint processes put in place by companies for employees, other workers, and their representatives, for raising concerns about being negatively affected by a company's activities and operations.

Essentially, grievance mechanisms are systems consisting of procedures, roles and rules for receiving complaints, normally on workplace-related conditions and concerns of labour and/or human rights violations, and for providing remedy. By allowing workers to raise concerns through confidential channels, without fear of retaliation, companies can detect potential labour and human rights impacts, and take appropriate corrective and remediation actions, enabling the company to continuously improve the working environment and prevent escalated consequences such as legal action.

Grievance mechanisms, to be effective, are expected to be:

- › *“legitimate: enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes;*
- › *accessible: being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access;*
- › *predictable: providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation;*
- › *equitable: seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms;*
- › *transparent: keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake;*
- › *rights-compatible: ensuring that outcomes and remedies accord with internationally recognised human rights;*
- › *a source of continuous learning: drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms.”¹⁴⁰*

140. UN Human Rights Council, *Guiding Principles on Business and Human Rights*, 2011, Accessed online: 2 January 2020, <https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf>.

II PROVISIONS AND PERFORMANCE DETERMINATION

- > **Provision 6.26** Companies will develop and implement a gender-sensitive worker grievance mechanism that enables employees and their representative organisations, where they exist, to raise workplace concerns, including anonymously, via an accessible and transparent process covering all Principles of the Code and that is readily available to the most vulnerable persons, groups and organisations. Companies will ensure effective protection of workers who submit a grievance.

Explanation

Companies should develop and implement a worker grievance mechanism to enable employees and their representatives to raise concerns related to workplace conditions, concerns of labour and/or human rights violations, and other issue areas covered by the Principles of Bettercoal Code.

To this end, companies should develop a documented grievance procedure which clearly outlines the process for stakeholders, in this case, employees and their representatives to report and resolve grievances. In particular, the grievance procedure will include information on:

- > how to file a grievance, for example, through a grievance complaint form available on the company's website, a hotline, a complaints box, by email, and / or via postal mail;
- > who the employee should contact about a grievance and how;
- > the grievance investigation and hearing procedure;
- > the timeframe adopted by the company to investigate the grievance received.

Employees should be aware of the existence of the grievance mechanism and know how to use it. To this end, information on the grievance procedure should be included in the employee handbook, communicated at the time of recruitment, and easily accessible. The procedure could also be posted on company notice boards and in workshops, changing rooms, and other areas where employees gather. The procedure should be in a language that is understood by employees. Translation into different languages or the use of visual aids might be needed to guarantee accessibility.

Employees should be provided with the ability to lodge their grievances without fear of victimisation or retaliation, for example, in the forms of dismissal, probation, punitive transfers, withholding of promotions, loss of status and benefits, reduction of pay and work hours, isolation, blacklisting and threats of such actions. Companies should protect the confidentiality of the employee, and ensure that the employee can raise concerns other than to immediate supervisors. Companies should also consider providing employees with the possibility to lodge a grievance anonymously. This could, however, impact the company's ability to provide a remedy to the affected individual or group.

To further protect employees, companies should treat any of these forms of harassment, retaliation, victimisation and discrimination as a disciplinary matter, with penalties up to and including dismissal, and should extend protection to employees who lodge grievances in good faith, even where these may turn out to be unsubstantiated. Instead, companies should establish appropriate sanctions for employees who knowingly make a false report.

Once a grievance is lodged, companies should address concerns promptly, using a formal and transparent process as laid out in the grievance procedure. Unless the employee has chosen to remain anonymous, the company should hold a grievance hearing process, a meeting with the employee and to discuss his or her concerns formally. Companies should ensure that employees are aware that they have the right to be accompanied to the meeting by a colleague



or a trade union representative. Following the hearing process, companies should provide timely feedback to the individual or group who reported the grievance.

Where grievances are found to be based on legitimate complaints, companies should take appropriate action to resolve or find a solution to the complaints. This normally includes appointing a committee to deal with the grievance, including management, supervisors and employees' representatives.

Remedy can take a variety of different forms, depending on the type and severity of the adverse impact caused. Forms of remedy include:

- › restitution, meaning a reimbursement for a loss or injury;
- › rehabilitation, meaning, support in the process of recovery to normal conditions;
- › financial and non-financial compensation; and
- › punitive sanctions (whether criminal or administrative, such as fines).

Any remediation action taken should be monitored and reviewed, as appropriate, to ensure the cause of complaint is effectively addressed. If, for any reason, the grievance cannot be effectively resolved, companies should engage through an appropriate dispute resolution mechanism. The grievance mechanism should not impede access to other judicial or administrative remedies that might be available under the law or through existing arbitration procedures, or substitute for grievance mechanisms provided through collective agreements.

Companies should maintain a record of all grievances lodged, of the outcome of each grievance investigation and, where applicable, remediation. Companies should ensure that relevant findings are brought to management's attention and addressed expeditiously.

Companies should also ensure that the grievance mechanism is gender-sensitive, and readily available to the most vulnerable groups. Where there may be gender, ethnic, or other tensions at work, companies ensure adequate representation of such groups in grievance committees and the accessibility of the grievance mechanism to these groups.

Where a grievance mechanism is provided through a collective bargaining agreement, companies are encouraged to utilise such mechanism, for those employees covered by the agreement.

Performance Determination

Meets:

The company has developed and implements a worker grievance mechanism that covers all requirements of this provision.

Substantially Meets:

The company has developed and implements a worker grievance mechanism that covers all requirements of this provision. However, implementation is incomplete (but at least 75% of employees are informed).

Partially Meets:

The company:

- › has developed a worker grievance mechanism that covers all requirements of this provision, but implementation has not yet started or is incomplete (less than 75% of employees are informed); or
- › is in the process of developing such mechanism, but the mechanism is not yet complete.

Misses:

The company has not developed a worker grievance mechanism.



-
- > **Provision 6.27** Companies will ensure that contracted workers are aware of and have access to the worker grievance mechanism described in Provision 6.26 of this Code.
-

Explanation

Companies should provide access to the worker grievance mechanism to *contracted workers*. To this end, companies should communicate the grievance mechanism effectively, including electronically and/or by posting it in communal area, as described in Provision 6.26 on Worker Grievance Mechanism.

Performance Determination

Meets:

The company provides access to and ensures that contracted workers are aware of the worker grievance mechanism described in Provision 6.26 on Worker Grievance Mechanism.

Substantially Meets:

The company provides access to contracted workers to the worker grievance mechanism described in Provision 6.26 on Worker Grievance Mechanism. However, this is not effectively communicated to contracted workers (but at least 75% of contracted workers are informed).

Partially Meets:

The company:

- > provides access to contracted workers to the worker grievance mechanism described in Provision 6.26 on Worker Grievance Mechanism. However, not all contractors are covered by the grievance mechanism (less than 75% of contracted workers are informed); or
- > is in the process of extending access to the worker grievance mechanism to all contracted workers.

Misses:

The company:

- > does not provides access to contracted workers to the worker grievance mechanism described in Provision 6.26 on Worker Grievance Mechanism; or
- > does not have a worker grievance mechanism.

III. VERIFICATION

Data Collection Method

Conformance with the provisions on worker grievance mechanism is assessed through observation, document review, and through interviews with the company's management team, employees, and contracted workers.

Conformance with the provisions, where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.



Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
6.26	✓	✓	✓	✓		
6.27	✓	✓	✓	✓	✓	

Examples and Types of Evidence

- > Grievance mechanism procedure;
- > grievance investigation reports;
- > formal and documented indications on how employees and workers can raise anonymous complaints;
- > grievance mechanism documentation, including written records of grievances lodged and company responses;
- > communication to all employees on the existence of the grievance mechanism, its scope, and its procedures;
- > evidence of training of relevant personnel;
- > remedy determination and remedial action reports;
- > grievance mechanism effectiveness key performance indicators and monitoring/management review.

Site Assessment

Interviews

During interviews with management, managers can demonstrate or describe:

- > a good understanding of the company's grievance mechanism and the process to collect, maintain, and respond to grievances;
- > that where a trade union, a workers' committee or other type of workers' organisation exists, it can lodge grievances and it is consulted and involved in handling them;
- > the grievance reporting and investigation procedures;
- > clear lines of accountability and responsibility within the organisation for the oversight and implementation of the mechanism;
- > that the company maintains grievance records and resolutions, and that management analyses grievances to identify the root causes of complaints and grievances and any underlying patterns;
- > how employees are trained on and made aware of the grievance mechanism;

During interviews with employees and contracted workers, they can demonstrate or describe:

- > a basic understanding of the company's grievance mechanism and where to find a written or formal electronic copy the grievance procedure;
- > that they have received training on the procedure and know where and how to lodge a grievance;
- > that where a worker organisation exist, they are involved in investigating grievances;
- > that there are confidential and anonymous ways to lodge grievances and that they are not disciplined for lodging grievances;
- > that the outcomes of grievance investigations are communicated to those who lodged the grievances and other relevant stakeholders.

Site Walk-Through

During the Site Walk-Through, the assessor can observe:

- > relevant documentation related to the grievance mechanism, such as the grievance procedure, posted prominently in designated locations.



IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
2 Policy and Management	2.1 and 2.2: Companies should, when developing and implementing a worker grievance mechanism, consider <u>Provisions 2.1 and 2.2 on Management Systems</u> .
8 Communities and Stakeholders	8.16 – 8.18: Companies should, in addition to a worker grievance mechanism, develop and implement an operational-level grievance mechanism that is accessible to affected communities and all relevant stakeholders.

V. FURTHER INFORMATION

- > IFC, *Guidance Note 2 on Performance Standard 2 Labour and Working Conditions* (available [here](#)). Guidance Note 2 corresponds to Performance Standard 2, which recognises that the pursuit of economic growth through employment creation and income generation should be accompanied by protection of the fundamental rights of workers.
- > The Office of the High Commissioner for Human Rights, *Guiding Principles for Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework* (available [here](#)). Guidance on the first global standard for preventing and addressing the risk of adverse impacts on human rights linked to business activity, including standards for the implementation of an effective grievance mechanism.



07

OCCUPATIONAL HEALTH AND SAFETY (OHS)

Companies will provide safe and healthy working conditions for all workers, both employees and contractors.



Introduction

Mining is associated with working in hazardous and dangerous environments that create risks of occupational accidents, injuries, and illnesses.

According to the ILO, despite considerable efforts in many countries, the rates of death, injury, and disease among the world's mineworkers remain high, and mining remains the most hazardous occupation when the number of people exposed to risk is taken into account.¹⁴¹

Most countries have regulations that establish mandatory *occupational health and safety* standards in the mining sector and have agencies to enforce the regulations through regular inspections.

Companies have a responsibility to understand the risks and hazards of their operations, to avoid and mitigate those risks and to contribute to creating a safe and healthy workplace. To meet these responsibilities, companies should take the following actions, which are further described below:

- › Develop and implement an occupational health and safety management system;
- › Assess and eliminate or control workplace hazards;
- › Provide occupational health and safety training and communication;
- › Establish accident and incident reporting systems;
- › Ensure worker health and wellbeing;
- › Establish emergency preparedness procedures and measures; and
- › Provide safe worker housing.

The components of Principle 7 apply to direct employees as well as to contractors working on-site.

Bettercoal expectations on Occupational Health and Safety include Provisions on:

- › [Management Systems \(Provision 7.1\)](#)
- › [Workplace Hazards \(Provisions 7.2 – 7.12\)](#)
- › [Emergency Preparedness \(Provisions 7.13 – 7.15\)](#)
- › [Occupational Health and Safety Training and Communication \(Provisions 7.16 – 7.18\)](#)
- › [Accident and Incident Reporting \(Provisions 7.19 – 7.20\)](#)
- › [Work Health and Wellbeing \(Provisions 7.21 – 7.26\)](#)
- › [Worker Housing \(Provision 7.27\)](#)

141. ILO, *Mining (coal; other Mining) sector*, Accessed online: 2 January 2020, <<https://www.ilo.org/global/industries-and-sectors/mining/lang-en/index.htm>>.



Management Systems (Provision 7.1)



I. INTRODUCTION

An occupational health and safety management system is essential for managing workplace risks. An OHS management system allows companies to protect employees and contractors, comply with regulatory and other compliance requirements, demonstrate a commitment to worker health and safety, improve performance in a structured manner, implement a systematic approach to managing risks, drive cultural change, improve morale and productivity, reduce costs and potentially reduce insurance premiums.

II. PROVISIONS AND PERFORMANCE DETERMINATION



- > **Provision 7.1** Companies will:
- a) develop, document and implement OHS systems aligned with the requirements of **Provisions 2.1** and **2.2** of this Code and applicable international standards, including the ILO's occupational health and safety conventions, protocols and recommendations;
 - b) appoint a senior management representative to be responsible for ensuring a safe and healthy workplace environment for all workers, and for implementing the health and safety requirements of the Bettercoal Code;
 - c) adopt, implement and communicate an OHS policy endorsed and supported by appointed senior management representatives through designation of responsibility and allocation of resources; and
 - d) regularly audit, review and monitor the OHS management systems.



Explanation

Companies should establish a system or multiple systems that address and manage OHS risks. Companies should ensure that there are sufficient financial and human resources to implement the system and monitor its effectiveness. Companies should consider the need for personnel competency, engineering and other controls, as well as resources that may be required for monitoring during implementation and internal and external auditing.

Components of an OHS management system include, but are not limited to:

- > OHS policy;
- > designated roles and responsibilities, including at the senior management level;
- > financial resources;
- > OHS management systems manual;
- > requirements for Hazard Identification, Risk Assessment & Control;
- > training and communication;
- > incident reporting and investigation;
- > OHS internal audit procedures;
- > worker health monitoring;
- > emergency response plans;
- > first aid and medical facilities;
- > emergency drills;
- > code of conduct or other document establishing workers' rights and responsibilities;

- › OHS contractor requirements;
- › incident investigation and reporting;
- › OHS performance data tracking and reporting;
- › documentation, recordkeeping, data control and information management;
- › independent verification of the OHS management system and specific aspects (e.g. emergency preparedness, functioning of fire safety equipment, safety training programmes, structural integrity, etc.) at appropriate intervals.

International standards for OHS management include *ILO Convention 176 – Safety and Health in Mines* (1995), *ILO Recommendation 183 – Safety and Health in Mines*, *ILO Code of Practice – Safety and health in underground coal mines* (2006), *ILO Code of Practice – Safety and Health in opencast mines* (1991), and *ISO 45001:2018 Occupational Health and Safety Management Systems*, which replaced *OHSAS 18001:2007 Occupational Health and Safety Management Certification* in 2017.

Performance Determination

Meets:

The company has developed and implemented OHS systems aligned with [Provisions 2.1 and 2.2 on Management Systems](#) of this Code and international standards. The OHS systems include senior management responsibility; adoption and communication of an OHS policy; and a regular audit, review and monitoring of the OHS management systems.

Substantially Meets:

The company has developed and implemented OHS systems aligned with [Provisions 2.1 and 2.2 on Management Systems](#) of this Code and international standards, however minor or isolated gaps in implementation were identified due to inadequate documentation, communication and/or review and monitoring.

Partially Meets:

The company has developed OHS systems aligned with [Provisions 2.1 and 2.2 on Management Systems](#) of this Code and international standards, however, implementation of the systems has not yet started or is incomplete.

Misses:

The company does not have any systems in place to manage OHS.

III. VERIFICATION

Data Collection Method

Conformance with the provision on OHS management systems is assessed through document review, and interviews with the company's employees, contracted workers, and management team.

Conformance with the provision, where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.



Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
7.1		✓	✓	✓	✓	

Examples and Types of Evidence

- › Policy and procedures that state the company’s commitment to OHS;
- › OHS management systems manual;
- › a documented assessment of the presence of important biodiversity, ecosystems and the nature of land use in the areas of the company’s operation and the actual and potential risk of its activities on these features;
- › a register of relevant legal requirements related to OHS;
- › job descriptions and procedures identifying roles and responsibilities in relation to implementing OHS systems;
- › allocation of budgetary resources to OHS management;
- › personnel competency for managing OHS;
- › completed task-related hazard risk assessments;
- › documentation of training and communication;
- › OHS contractor requirements;
- › internal and external audit reports;
- › third-party assurance of a formal management system that covers the management of OHS, such as ISO 45001.

Site Assessment

Interviews

During interviews with management, managers can demonstrate or describe:

- › a good understanding of the company’s policy to implement the OHS management system;
- › how the company has established roles and responsibilities, including expectations for senior, middle level, and operational management;
- › examples of how the OHS management system is implemented;
- › whether the company has established OHS performance targets;
- › how they have allocated resources for the implementation of the OHS systems and how they have determined whether such resources are sufficient;
- › the process for preventing and minimising risks to workers’ health and safety;
- › whether the management system is regularly reviewed and continuously improved.

During interviews with employees, they can demonstrate or describe:

- › a basic understanding of the company’s policy on OHS and to whom to ask for more information in case of feedback on safety practices and conditions;
- › the type and content of the training they have received on the company’s OHS policy.

During interviews with affected communities and stakeholders, they can demonstrate or describe:

- › whether there have been any recent major safety incidents;
- › whether the company has any outstanding fines or pending investigations for safety incidents or violations;
- › whether the company has improved its OHS management over time.



IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
1 Business Integrity	1.1: When ensuring compliance with minimum standards for OHS systems, companies should refer to Provision 1.1 on Legal Compliance .
2 Policy and Management	<p>2.1 and 2.2: When developing OHS systems, companies should refer to Provisions 2.1 and 2.2 on Management Systems.</p> <p>2.9 and 2.11: When developing OHS systems, companies should refer to Provisions 2.9 and 2.11 on Business Partners.</p>
7 Occupational Health and Safety (OHS)	<p>7.16 and 7.17: When developing OHS training and communication, PPE, appropriate safeguards, and chemical management should be included.</p> <p>7.27: When identifying safety hazards, companies should include worker housing.</p>

V. FURTHER INFORMATION

- > ILO, *Safety and Health in Mines Recommendation (No. 183)*, 1995 (available [here](#)). The ILO's provisions regarding mine safety.
- > ILO, *Occupational Safety and Health Recommendation (No. 164)*, 1981 (available [here](#)). The ILO's provisions regarding health and safety in the work environment.
- > IFC, World Bank Group, *Environmental, Health, and Safety Guidelines for Mining*, December 2007 (available [here](#)). Technical reference documents with general and industry specific examples of Good International Industry Practice (GIIP).
- > IFC, World Bank Group, *Environmental, Health, and Safety Guidelines, General EHS Guidelines, 2.0 Occupational Health and Safety*, April 2007 (available [here](#)). Guidance and examples of reasonable precautions to implement in managing principal risks to occupational health and safety.
- > ILO, *Handbook: Safety and health in underground mines*, May 2006 (available [here](#)). This Handbook describes requirements for coal underground mines.
- > ILO, *Code of practice on safety and health in opencast mines*, December 2018 (available [here](#)). This Code reflects the many changes in the industry, its workforce, the roles of the competent authorities, employers, workers and their organizations, and the development of new ILO instruments on occupational safety and health (OSH), including the Safety and Health in Mines Convention, 1995 (No. 176).
- > ILO, *Building a Preventative Safety and Health Culture in Mines: A guide to the Safety and Health in Mines Convention*, 1995 (No. 176) and Recommendation (No. 183), 2017 (available [here](#)). This guide provides an overview of the requirements in Convention No. 176 as well as the supplementing guidance in the Safety and Health in Mines Recommendation, (1995) No. 183.
- > ILO, *Guidelines on occupational safety and health management systems, Second edition*, 2009 (available [here](#)). These Guidelines require coherent policies to protect workers from occupational hazards and risks while improving productivity. They present practical approaches and tools for assisting organizations, competent national institutions, employers, workers and other partners in establishing, implementing and improving occupational safety and health management systems, with the aim of reducing work-related injuries, ill health, diseases, incidents and deaths.



Workplace Hazards (Provisions 7.2 – 7.12)



I. INTRODUCTION

Key hazards related to mining include, but are not limited to: *hazardous substances*; use of explosives and detonating devices; moving machinery; electrocution; slips, trips and falls; noise and vibration; rock falls; ground subsidence; vehicle collisions; heat stress; release of noxious gases, catastrophic failure of mine infrastructure; exposure to dust; and flooding.¹⁴²

Occupational health impacts related to the mining industry may include physical injuries; musculoskeletal disorders associated with repetitive work activities; noise-induced hearing loss; hand-arm vibration syndrome; skin cancer; dermatitis; heat exhaustion; hypothermia; eye disorders from radiation exposure; asphyxiation; pneumonia; respiratory disorders and lung diseases such as silicosis and pneumoconiosis (black lung); damage to internal organs and other effects related to chemical/metal exposures; and exposure to vector-borne diseases such as malaria, yellow fever, dengue and others.¹⁴³ Health impacts may be difficult to detect as they develop over time.

Companies have a responsibility to identify and assess the risks and hazards associated with mining operations, and, where workers are exposed to physical, chemical or biological hazards, to take appropriate measures to eliminate or minimise the risks resulting from exposure to those hazards. To meet these responsibilities, companies should take the following actions, which are further described below:

- › Assess risks;
- › Develop and implement a risk management plan;
- › Ensure effective worker consultation;
- › Provide personal protective equipment;
- › Ensure adequately constructed and maintained workplaces;
- › Provide appropriate machinery safeguards;
- › Ensure safe noise levels;
- › Provide appropriate monitoring systems;
- › Ensure adequate worker hygiene; and
- › Ensure adequate and appropriate labelling and storage of all chemicals.

-
- › **Provision 7.2** Companies will, as part of the OHS systems described in [Provision 7.1](#) of this Code, undertake and document an assessment to identify and assess the risks to the health and safety of all workers associated with their operations.
-

Explanation

Companies have a responsibility to implement ongoing, systematic health and safety risk assessment processes. Risk assessments should follow recognised methodologies for industrial operations, such as the *ICMM Good Practice Guidance on Occupational Health Risk Assessment*.¹⁴⁴

142. ICMM, *Good Practice Guidance on Occupational Health Risk Assessment – Second Edition*, 2016, Accessed online: 2 January 2020, <https://www.icmm.com/website/publications/pdfs/health-and-safety/161212_health-and-safety_health-risk-assessment_2nd-edition.pdf>.

143. *Ibid.*

144. *Ibid.*

Explanation

Companies have a responsibility to develop, implement and regularly review and update a risk management plan that prioritises measures to eliminate significant hazards, and outlines controls to effectively minimise adverse impacts and protect workers and others from remaining hazards.¹⁴⁷

BOX 6: FOCUS ON HIERARCHY OF CONTROLS

Companies should put in place adequate controls to manage workplace hazards. In order of reliability, effectiveness and likelihood of reducing exposures, these controls include:

- > elimination;
- > substitution;
- > source or process modification;
- > automation;
- > engineering (including isolation/containment/enclosure);
- > administration (including education and training);
- > personal protective equipment.*

* ICMM, *Good Practice Guidance on Occupational Health Risk Assessment: second edition*, 2016, Accessed online: 2 January 2020, <https://www.icmm.com/website/publications/pdfs/health-and-safety/161212_health-and-safety_health-risk-assessment_2nd-edition.pdf>.

Where elimination is not possible, controls may include machinery safeguards; limitation of exposure; personal protective equipment; ventilation; monitoring of conditions, including noise, temperature, dust, gases, and fires; material safety data sheets; training and communication.

Performance Determination

Meets:

The company has developed and implemented a risk management plan to eliminate and control hazards associated with the company's operations.

Substantially Meets:

N/A

Partially Meets:

The company has developed a risk management plan, but implementation is incomplete and/or the plan does not comprehensively cover all significant workplace risks and hazards.

Misses:

The company has not developed a risk management plan.

-
- > **Provision 7.4** Companies will ensure effective worker consultation and participation in matters relating to occupational health and safety, including health and safety risk identification and assessment.
-

147. IRMA, *Standard for Responsible Mining*, 2018, Accessed online: 2 January 2020, <https://responsiblemining.net/wp-content/uploads/2018/07/IRMA_STANDARD_v.1.0_FINAL_2018-1.pdf>.



Explanation

Companies have a responsibility to ensure participation of workers and workers' representatives in health and safety risk identification, assessment and mitigation.

Meaningful participation of workers and their representatives is critical to the effectiveness of an OHS management system. Workers often know the most about potential hazards associated with their jobs based on their experience working in a particular area or process. Worker participation means that workers are involved in identifying risks and establishing, implementing, evaluating, and improving the OHS management system. To promote worker participation, all workers should:

- > be encouraged to participate in the programme and feel comfortable providing input and reporting safety or health concerns.
- > have access to information they need to participate effectively in the programme.
- > have opportunities to participate in all phases of programme design and implementation.
- > not experience retaliation when they raise safety and health concerns; report injuries, illnesses, and hazards; or exercise safety and health rights.¹⁴⁸

Where workers are represented by a union, worker representatives should also participate in the risk identification and OHS management system.

Companies can encourage worker participation by:

- > providing sufficient time and resources to facilitate worker participation; for example, holding safety and health meetings during regular working hours;
- > using both formal and informal channels to get workers' input on potential risks or improvements, including surveys or roundtables and suggestion boxes or team meetings;
- > ensuring that workers from all levels of the organisation can participate regardless of their skill level, education, or language; and
- > providing frequent and regular feedback to show workers that their safety and health concerns are being heard and addressed.¹⁴⁹

Companies should ensure that reporting safety incidents or concerns does not jeopardise the award of incentive-based prizes, rewards, or bonuses and that the structure of such incentive programmes does not adversely impact worker health and safety.

Performance Determination

Meets:

The company has developed and implemented processes aligned with this provision. The company conducts effective consultation and participation with workers relating to occupational health and safety matters, including risk identification and management.

Substantially Meets:

N/A

Partially Meets:

The company has developed procedures aligned with this provision, but implementation is incomplete. The company conducts effective consultation and participation with workers relating to some occupational health and safety matters, but does not systematically engage workers in risk identification and management.

148. U.S. Department of Labor, *Occupational Safety and Health Administration Recommended Practices for Safety and Health Programs: Worker Participation*, Accessed online: 7 August 2020, <<https://www.osha.gov/shpguidelines/worker-participation.html>>.

149. *Ibid.*



Misses:

The company does not have any processes in place for effective worker consultation and participation with workers relating to occupational health and safety matters.

-
- > **Provision 7.5** Companies will identify the need for and provide appropriate personal protective equipment free of charge and ensure that it is current, in good condition, and worn correctly when required.
-

Explanation

National legislation usually specifies the personal protective equipment (PPE) and clothing that should be worn when the presence of hazards cannot be eliminated. Such specifications may include, but are not limited to, the following:

- > suitable protective clothing or equipment and face shields or goggles when welding, cutting or working with molten metal or when other hazards to the eyes exist;
- > suitable protective clothing to cover the whole body when handling corrosive or toxic substances or other materials which might cause injury to the skin;
- > protective gloves when handling materials or performing work which might cause injury to the hands; however, gloves should not be worn in cases where they would create a greater hazard by becoming entangled in the moving parts of equipment;
- > a safety helmet where falling objects may create a hazard;
- > suitable protective footwear;
- > respirators or positive pressure air-supplied respiratory protective devices and self-contained self-rescue devices (a closed-circuit type, self-contained breathing apparatus that can last for one hour or longer);
- > safety belts and lines where there is a danger of falling;
- > life-jackets or belts where there is a danger of falling into water;
- > closely fitting clothing when working around moving machinery or equipment;
- > hearing protection equipment; and
- > when necessary, fluorescent strips for safety helmets and highly visible clothing.^{150 151}

Protective clothing and devices should conform with standards specified by the competent authority. Companies should provide PPE and clothing free of charge. Companies should also ensure proper maintenance of PPE, including cleaning when dirty, regular testing and replacement when damaged or worn out. Proper use of PPE should be part of regular training programmes for workers.

Performance Determination

Meets:

The company has developed and implemented procedures aligned with this provision. The company has identified and provided PPE free of charge to all workers, where needed, and ensures correct use.

Substantially Meets:

N/A

150. ILO, *Code of practice on safety and health in opencast mines*, 2018, Accessed online: 2 January 2020, <https://www.ilo.org/sector/Resources/publications/WCMS_617123/lang-en/index.htm>.

151. International Labour Organization, *Handbook: Safety and health in underground mines*, 2006, Accessed online: 2 January 2020, <https://www.ilo.org/safework/info/standards-and-instruments/codes/WCMS_110254/lang-en/index.htm>.



Partially Meets:

The company has identified and provided PPE free of charge to all workers, where needed, however, some workers were not correctly using the PPE.

Misses:

The company has not identified or provided any PPE, or the company does not provide PPE free of charge.

> **Provision 7.6** Companies will ensure workplaces and facilities are adequately constructed and maintained, and meet local building regulations.

Explanation

Companies should ensure that all *facilities* adhere to local regulations and building codes, and have the right permits in place. Building structures include foundations, main structures, outside walls, roofs, interiors and evacuation facilities. Buildings should be structurally safe, provide appropriate protection against the climate, have acceptable light and noise conditions, and an adequate number of fire exits. Workplace structures should be designed and constructed to withstand the expected elements for the region and have an area designated for safe refuge, if appropriate.

Companies should carry out regular structural integrity assessments of buildings to identify structural deterioration due to corrosion, fatigue, repeated stress, wear and tear, or structural damage caused by accidents. Assessments should be carried out when there is a change in operations (e.g. increased traffic load), expansion of heavy industrial activity, transformation of existing structures or construction of new structures. Assessments should analyse the structural reliability (e.g. for environmental hazards such as earthquakes or extreme weather events) to determine whether the existing structure is able to sustain current and future capacity or activities for a given time period.

Structural integrity assessments should determine:

- > Stability of the structure including risk of loss of equilibrium of the structure or parts of it;
- > Maximum resistance capacity;
- > Signs of fatigue or water damage (e.g. cracks)
- > Local damage which may reduce the working life of the structure;
- > Changes to the structure that may affect efficient or safe operations;
- > Excessive vibrations;
- > Nearby activity that could impact the structure (e.g. operations of other companies in the area);
- > Current and future repair and maintenance needs.

Companies should establish a regular maintenance programme to ensure building integrity and address any risks identified in the structural integrity assessments.

International standards for building integrity include the International Building Code® (2018).¹⁵²

152. International Code Council (ICC), *International Building Code®*, 2018, Accessed online: 20 December 2020, <<https://www.iccsafe.org/products-and-services/i-codes/2018-i-codes/ibc/>>.



Performance Determination

Meets:

The company has developed and implemented procedures aligned with this provision. Workplaces and facilities are adequately constructed and maintained, and meet local building regulations.

Substantially Meets:

N/A

Partially Meets:

Workplaces meet local building regulations and are adequately constructed but are not adequately maintained in all areas.

Misses:

Workplaces and facilities are not adequately constructed or maintained, and/or do not meet local building regulations.

> **Provision 7.7** Companies will provide appropriate safeguards to protect workers from all machinery including mobile equipment.

Explanation

The operation of machinery can place workers at risk. Self-propelled equipment such as shuttle cars, face roof-bolting machines, and continuous miners, can cause crushing injuries when workers are struck by or caught between the equipment and other obstacles. Equipment that does not have proper braking or control systems can cause accidents. Machinery that is not properly designed or used can also result in injury. This is an increased *hazard* in confined spaces of underground coalmines. A lack of guards or inadequate fencing on machines can lead to accidents caused by entanglement, sheering, crushing, trapping or cutting.¹⁵³

Companies have a responsibility to ensure that machinery is properly designed, regularly inspected and maintained, and fitted with appropriate safeguards. All flywheels, gears, belts, rotating shafts and other moving parts of machinery and plant at a mine, which may cause injury, should be kept securely guarded. Fixed guards should be used wherever necessary, and properly fastened in place with appropriate fasteners including, but not limited to, screws or nuts and bolts which need tools to remove them. If workers need regular access to parts of the machine and a fixed guard is not possible, an interlocked guard should be used to ensure that the machine cannot start before the guard is closed and will stop the machine if the guard is opened. If access is required to parts that are guarded, the machinery should be shut down. It should be the duty of supervisors and other authorised persons to keep all guarding properly maintained, in good condition and in the correct position. If persons passing or handling machinery at points distant from the driving engine or motor can be endangered, effective signals or other means should be installed to enable such persons to stop the engine or motor, and to ensure that it is not accidentally or inadvertently restarted. A maintenance programme should include regular examination and testing of all machinery before it is used after installation, reinstallation or repair.^{154 155}

153. ILO, *Handbook: Safety and health in underground mines*, 2006, Accessed online: 2 January 2020, <https://www.ilo.org/safework/info/standards-and-instruments/codes/WCMS_110254/lang-en/index.htm>.

154. ILO, *Code of practice on safety and health in opencast mines*, 2018, Accessed online: 2 January 2020, <https://www.ilo.org/sector/Resources/publications/WCMS_617123/lang-en/index.htm>.

155. International Labour Organization, *Handbook: Safety and health in underground mines*, 2006, Accessed online: 2 January 2020, <https://www.ilo.org/safework/info/standards-and-instruments/codes/WCMS_110254/lang-en/index.htm>.



Performance Determination

Meets:

The company has developed and implemented procedures aligned with this provision. The procedures ensure that appropriate safeguards to protect workers are installed on all machinery including mobile equipment.

Substantially Meets:

The company has developed procedures aligned with this provision, however, there are isolated incidents of gaps or lapse in implementation that are non-systemic.

Partially Meets:

The company has developed procedures aligned with this provision, but implementation is incomplete. For example, some machinery lacks appropriate safeguards.

Misses:

The company has not installed safeguards on all machinery.

-
- > **Provision 7.8** Companies will provide adequate lighting and ventilation, and ensure that workplace air quality and minimum and maximum temperatures meet industry-approved standards.
-

Explanation

All underground mine areas to which workers have access, and other areas as necessary, should be constantly ventilated in an appropriate manner to maintain an atmosphere:

- > in which the risk of ignitions and explosions from methane and other explosive gases is eliminated or minimised;
- > to provide adequate oxygen for persons to breathe and render harmless gases or agents that may exist in the mine atmosphere;
- > where airborne dusts are controlled and maintained at levels that will not be harmful to workers;
- > in which working conditions are adequate, having regard to the working method being used and physical demands placed on workers;
- > to keep the mine workings safe for persons to work in or pass through; and
- > that is in compliance with national standards on dust, gases, radiation and climatic conditions.¹⁵⁶

Companies should develop and implement an operating ventilation plan and procedures to ensure a safe ventilation system and the protection of workers. The ventilation plan should be kept up-to-date and regularly reviewed. The contents of the plan should be in line with the *ILO Code of Practice: Safety and Health in Underground Coal Mines Section 21.2 Mine Ventilation Plan*.¹⁵⁷

Companies should ensure that adequate artificial lighting is provided at all points where poor visibility or work during the hours of darkness may present a hazard. In underground mines, illumination should be provided in the following specific areas:

- > the entrance to each shaft or outlet and associated loading points;
- > every siding, pass-by and junction, every place where vehicles are regularly coupled or uncoupled or regularly attached or detached from a haulage system,

156. ILO, *Handbook: Safety and health in underground mines*, (p.211), 2006, Accessed online: 2 January 2020, <https://www.ilo.org/safework/info/standards-and-instruments/codes/WCMS_110254/lang-en/index.htm>.

157. ILO, *Handbook: Safety and health in underground mines*, 2006, Accessed online: 2 January 2020, <https://www.ilo.org/safework/info/standards-and-instruments/codes/WCMS_110254/lang-en/index.htm>.



- > every place where vehicles are filled mechanically;
- > all locations where workers normally board transportation equipment at the beginning and end of shifts;
- > every room or place which houses any machine or motor, electrical transformer or switchgear, and underground maintenance facilities;
- > self-propelled equipment, continuous mining machines and coal-loading equipment, roof-bolting machines, and short wall and longwall mining equipment;
- > in working places in which continuous miners and coal-loading equipment are operated, the areas which should be illuminated include the face, sides (ribs), roof, floor and exposed surface of mining equipment, which are between the face and the inbye end of the shuttle car or other conveying equipment while in position to receive material;
- > any other place specified by the competent authority.

Extreme temperatures in permanent work environments should be avoided through implementation of engineering controls and ventilation. Where this is not possible, such as during short-term outdoor work, temperature-related stress management procedures should be implemented which include:

- > providing appropriate PPE;
- > monitoring weather forecasts for outdoor work to provide advance warning of extreme weather and scheduling work accordingly;
- > adjustment of work and rest periods according to temperature stress management procedures, depending on the temperature and workloads;
- > providing temporary shelters to protect against the elements during working activities or for use as rest areas.

Temperature in work areas should normally be at least: 16°C or 13°C if much of the work involves rigorous physical effort. Potential for heat stress caused by heavy protective clothing should also be taken into account in areas of high temperature. Workers should be protected against the severest forms of cold stress, hypothermia and cold injury. The core body temperature should not be allowed to fall below 36°C.

Performance Determination

Meets:

The company has developed and implemented procedures aligned with this provision. The company provides adequate lighting and ventilation and workplace air quality and minimum and maximum temperatures meet industry-approved standards.

Substantially Meets:

The company has developed procedures aligned with this provision, however, there are isolated incidents of gaps or lapse in implementation that are non-systemic.

Partially Meets:

The company has developed procedures aligned with this provision, but implementation is incomplete.

Misses:

The company does not provide adequate lighting and ventilation and/or workplace air quality and minimum and maximum temperatures do not meet industry-approved standards.

-
- > **Provision 7.9** Companies will ensure safe noise levels through source reduction and minimisation and the provision of adequate personal protective equipment.
-



Explanation

Exposure to noise levels exceeding those determined to be safe can result in noise-induced hearing loss. Exposure to high noise levels may also interfere with communication and may result in nervous fatigue with an increased risk of occupational injury. Coal mines have confined spaces where workers are exposed to noise from all types of machinery and equipment used for drilling, cutting, loading and transporting coal and rock, for transporting supplies and material, and for moving volumes of mine air.¹⁵⁸

In many cases, national laws and regulations set standards for the maximum noise level considered acceptable in the working environment on a daily basis and for the maximum peak noise level.

In the absence of such standards, the following international standards should be applied:

- > no worker should be exposed to a noise level greater than 85 dB(A) for a duration of more than 8 hours per day without hearing protection;
- > no unprotected ear should be exposed to a peak sound pressure level (instantaneous) of more than 140 dB(C);
- > the use of hearing protection should be enforced actively when the equivalent sound level over 8 hours reaches 85 dB(A), the peak sound levels reach 140 dB(C), or the average maximum sound level reaches 110dB(A);
- > hearing protective devices provided should be capable of reducing sound levels at the ear to at least 85 dB(A);
- > for every 3 dB(A) increase in sound levels, the 'allowed' exposure period or duration should be reduced by 50%.¹⁵⁹

Prior to the issuance of hearing protective devices as the final control mechanism, use of acoustic insulating materials, isolation of the noise source, and other engineering controls should be investigated and implemented, where feasible. For example, large equipment, such as excavators, dumpers, dozers, wagon-drills, or other automated equipment that requires an operator, should be equipped with a soundproof cab.

Periodic medical hearing checks should be performed on workers exposed to high noise levels.

Performance Determination

Meets:

The company has developed and implemented processes aligned with this provision. The company has identified safe noise levels and regularly monitors noise in all work areas. The company has taken steps to protect workers through source reduction and minimisation and the provision of adequate PPE.

Substantially Meets:

N/A

Partially Meets:

The company has identified noise levels and steps to protect workers but has not fully implemented those steps, does not regularly monitor noise levels, or has not identified safe noise levels in all work areas.

Misses:

The company does not have any processes in place to identify safe noise levels or has not implemented any measures to protect workers from noise.

158. ILO, *Code of Practice: Safety and health in underground coal mines*, Accessed online: 2 January 2020, <https://www.ilo.org/global/topics/safety-and-health-at-work/normative-instruments/code-of-practice/WCMS_110254/lang-en/index.htm>.

159. IFC, World Bank, *General Environmental Health and Safety Guidelines*, Accessed online: 2 January 2020, <<https://www.ifc.org/wps/wcm/connect/29f5137d-6e17-4660-b1f9-02bf561935e5/Final%2B-%2BGeneral%2BEHS%2BGuide-lines.pdf?MOD=AJPERES&CVID=iOWim3p>>.



-
- > **Provision 7.10** Companies will provide appropriate and functioning monitoring systems for emissions and accumulations of methane and other dangerous gases inside mines.
-

Explanation

In areas where toxic gases or fumes are liable to be present or to escape from any furnace or other plant used in connection with any process or operation, approved devices should be installed to ensure that such fumes or toxic gases are neutralised, suppressed or otherwise rendered harmless.¹⁶⁰

National laws or regulations generally establish standards on requirements for mine-wide monitoring with the use of atmospheric monitoring systems in underground coal mines to monitor continuously the mine environment. Given the potential for mine fires, explosions, outbursts of gases or materials, or mine roof failures that can damage or destroy ventilation controls and other hazards, continuous monitoring of the mine environment is essential to protect workers. Atmospheric monitoring systems should include monitoring of carbon monoxide, heat and/or smoke, methane, carbon dioxide, oxygen, and ventilation pressures, velocities or direction. Sensors used to monitor for carbon monoxide, heat, smoke, methane, carbon dioxide, oxygen air velocities, pressures or directions should be of a type listed and installed in accordance with the recommendations of a nationally recognised testing laboratory and approved by, or conform to specifications set out by, the competent authority.¹⁶¹ Where monitors show elevated levels of dangerous gases, companies should have procedures in place to ensure immediate suspension of operations and evacuation of the area.

In many cases, national laws or regulations establish standards for the type, quality and quantity of methane monitors. Companies should ensure that methane monitors are installed on all face roof-bolting machines and cutting machines, continuous miners, longwall face equipment, loading machines and other mechanised equipment used to extract or load coal within the workplace.¹⁶² Methane monitors should be maintained in permissible and proper operating condition, examined for permissibility and calibrated with a known air-methane mixture at least once a month by a person trained for that purpose, with a record made of the tests and examinations. When the methane concentration at any methane monitor reaches 1%, the monitor should give a warning signal that is visible to a person who can de-energise electric equipment or shut down diesel-powered equipment on which the monitor is mounted. The methane monitor should automatically de-energise electric equipment or shut down diesel-powered equipment on which it is mounted when the methane concentration at any monitor reaches 2% or the monitor is not operating properly.

Companies should also ensure that the mine has a sufficient number of portable gas detectors capable of detecting the presence of methane, carbon monoxide and oxygen in the mine atmosphere; and that each portable gas detector used at the mine is certified as:

- > suitable for use in an underground mine;
- > having explosion protection requirements;
- > capable of detecting the type of gas for which it is intended to be used; and
- > being accurate and reliable.

160. ILO, *Code of practice on safety and health in opencast mines*, 2018, Accessed online: 2 January 2020, <https://www.ilo.org/sector/Resources/publications/WCMS_617123/lang-en/index.htm>.

161. ILO, *Handbook: Safety and health in underground mines*, 2006, Accessed online: 2 January 2020, <https://www.ilo.org/safework/info/standards-and-instruments/codes/WCMS_110254/lang-en/index.htm>.

162. *Ibid.*



Performance Determination

Meets:

The company has developed and implemented processes aligned with this provision. The company has installed appropriate and functioning monitoring systems for emissions and accumulations of methane and other dangerous gases, and takes appropriate safety measures when monitoring shows emissions exceed the limits.

Substantially Meets:

N/A

Partially Meets:

The company has installed appropriate and functioning monitoring systems for emissions and accumulations of methane but not for other dangerous gases and/or the company does not take appropriate safety measures when monitoring shows emissions exceed the limits.

Misses:

The company does not have any monitoring systems for emissions or accumulations of methane or other dangerous gases.

> **Provision 7.11** Companies will ensure adequate workplace hygiene at all times by providing safe and accessible potable drinking water, sanitary facilities for food consumption and storage, and clean and hygienic washing and toilet facilities commensurate with the number and gender of staff working on-site.

Explanation

Companies have a responsibility to provide workers with clean toilet, washing and locker facilities (commensurate with the number and gender of staff employed), unlimited potable drinking water, and where applicable, sanitary facilities for food storage, preparation and consumption.

Companies that operate a cafeteria or canteen that handles food for workers should ensure it complies with all relevant food safety and hygiene legislation; and all staff working in it are given hygiene training or have relevant food-handling certifications.

Water supplied to areas of food preparation or for the purpose of personal hygiene (washing or bathing) should meet drinking water quality standards. If contamination risks are high, companies should carry out regular tests to ensure the water remains safe to drink, and keep records of the result. If companies provide showers for workers, they should be gender-specific (unless they are in a private room intended for individual use with a lockable door).

Performance Determination

Meets:

The company has developed and implemented processes aligned with this provision. The company provides safe and accessible potable drinking water, sanitary facilities for food consumption and storage, and clean and hygienic washing and toilet facilities commensurate with the number and gender of staff working on site.



Substantially Meets:

The company provides safe and accessible potable drinking water, sanitary facilities for food consumption and storage, and clean and hygienic washing and toilet facilities, however, toilet facilities are not commensurate with the number and gender of staff working on site.

Partially Meets:

The company provides safe and accessible potable drinking water, however, some facilities for food consumption and storage, and/or washing and toilet facilities are not maintained to appropriate hygiene standards.

Misses:

The company does not provide safe or accessible potable drinking water and/or most or all facilities are not maintained to appropriate hygiene standards.

> **Provision 7.12** Companies will ensure adequate and appropriate labelling and storage of all chemicals and cleaning materials, training for all workers handling chemicals, and measures to protect workers from exposure to airborne particles and chemical fumes.

Explanation

A *chemical substance* is a compound or mixture which may be present in the workplace in the form of a liquid, solid (including particles) or gas (vapour). These substances may present a hazard as the result of contact with the body or absorption into the body. Absorption can occur through the skin, by ingestion or by inhalation. Chemicals can have acute (short-term) and/or chronic (long-term) health effects. Chemicals may present a safety hazard as a result of their chemical and physical properties.

Workers may be exposed to chemicals, by-products, materials or agents used in the workplace, particularly in the confined space of underground mines. Solvents and cleaners, polyurethane sprays, roof glues, emulsion fluids and many other products used in coal mines may be hazardous. Exposure may occur passively due to the presence of chemicals in the workplace environment.

Companies should eliminate, as much as possible, the use of chemicals in the workplace or replace hazardous chemicals with less hazardous alternatives. Where it is not possible to avoid the use of chemicals, companies should ensure that exposure limits and other standards are effectively applied.

Companies should ensure that workers responsible for storing and handling chemicals have access to material safety data sheets (MSDS) in a language they understand. MSDS include information on the health effects, physical hazards, environmental impact, relevant exposure limits, safe work practices for transport, storage and handling; waste disposal; protective clothing and PPE; first aid; and guidance on firefighting and responding to chemical spills. All workers concerned with the storage and handling of chemicals, and with general housekeeping, should be trained on chemical safety practices. *The Globally Harmonized System of Classification and Labelling of Chemicals* (GHS) (UN, 2003) provides guidance on the preparation of labels, MSDS and the provision of information to workers. *The ILO Code of Practice: Safety in the Use of Chemicals at Work* (Geneva, 1993) provides comprehensive guidance on the above issues for chemicals and their use.¹⁶³

163. *Ibid.*



Performance Determination

Meets:

The company has developed and implemented processes aligned with this provision. The company provides adequate and appropriate labelling and storage of all chemicals and cleaning materials. The company provides training for all workers handling chemicals and ensures their access to safety data sheets in the language they understand (SDS). The company identifies and implements measures to protect workers from exposure to airborne particles and chemical fumes.

Substantially Meets:

N/A

Partially Meets:

The company provides adequate and appropriate labelling and storage of all chemicals and cleaning materials and measures to protect workers from exposure to airborne particles and chemical fumes. However, not all relevant workers are fully trained on handling chemicals, some SDS are not provided or not provided in the language understood by workers, and/or not all chemicals and cleaning materials are appropriately labelled or stored.

Misses:

The company has not implemented measures for managing chemicals or protecting workers to exposure to airborne particles and chemical fumes.

III. VERIFICATION

Data Collection Method

Conformance with the provisions on workplace hazards is assessed through observation, document review, and interviews with the company's employees, contracted workers, and management team, and other stakeholders.

Conformance with the provisions, where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
7.2		✓	✓	✓	✓	
7.3	✓	✓	✓	✓	✓	
7.4		✓	✓	✓	✓	
7.5	✓	✓	✓	✓	✓	
7.6	✓	✓	✓	✓	✓	✓
7.7	✓	✓	✓	✓	✓	
7.8	✓	✓	✓	✓	✓	
7.9	✓	✓	✓	✓	✓	
7.10	✓	✓	✓	✓	✓	
7.11	✓	✓	✓	✓	✓	
7.12	✓	✓	✓	✓	✓	



Examples and Types of Evidence

- › Policy and procedures that state the company’s commitment to identify and control workplace risks and hazards;
- › a documented assessment of the presence of important biodiversity, ecosystems, and the nature of land use in the areas of the company’s operation and the actual and potential risk of its activities on these features;
- › a risk register that includes the significance or severity, probability, and consequences (level of risk of injury or illness) of the full range of potential hazards associated with the mining operation;
- › area- and task-specific hazard risk assessments;
- › a risk management plan to eliminate and control hazards associated with the company’s operations;
- › a procedure to conduct effective consultation and participation with workers relating to occupational health and safety matters, including risk identification and management;
- › records of consultation and participation with workers relating to occupational health and safety matters;
- › an inventory of PPE;
- › records of inspection and testing of PPE;
- › a procedure to ensure that appropriate safeguards to protect workers are installed on all machinery including mobile equipment;
- › records of temperature control monitoring;
- › a procedure for ensuring adequate workplace lighting;
- › records of workplace air quality monitoring;
- › a procedure for identifying and reducing noise levels;
- › records of noise monitoring;
- › an inventory of monitoring systems for emissions and accumulations of methane and other dangerous gases;
- › a procedure for monitoring and measuring mine gases, air flows, and quantity;
- › records of emissions monitoring of methane and other gases;
- › a procedure for measures to be take in case of elevated levels of methane;
- › roof control plans;
- › a procedure for ensuring sanitary facilities;
- › material safety data sheets (MSDS);
- › an inventory of chemicals used in the operation;
- › a procedure for chemical safety management.

Site Assessment

Interviews

During interviews with management, managers can demonstrate or describe:

- › a good understanding of the company’s policy to identify risks to health and safety of all workers associated with the company’s operations;
- › examples of the significance or severity, probability, and consequences (level of risk of injury or illness) of potential hazards associated with the mining operation, including area- and task-specific risks;
- › the plan to eliminate and control hazards associated with the company’s operations;
- › how the company has allocated resources for the implementation of measures to eliminate and control hazards;
- › the process for conducting effective consultation and participation with workers relating to occupational health and safety matters, including risk identification and management;
- › the procedure for identifying and providing personal protective equipment and ensuring correct use;
- › the procedure for ensuring facilities are adequately constructed and maintained, and meet local building regulations;



- › the procedure to ensure that appropriate safeguards are installed on all machinery including mobile equipment;
- › the process for providing adequate lighting and ventilation;
- › the process for monitoring workplace air quality and temperatures;
- › the process for monitoring and reducing noise;
- › measures to protect workers from excessive noise levels;
- › the types and locations of monitoring systems for emissions and accumulations of methane and other dangerous gases;
- › the safety measures to be taken when monitoring shows emissions exceed the limits;
- › the process for ensuring safe and accessible potable drinking water;
- › the process for providing sanitary facilities for food consumption and storage, and clean and hygienic washing and toilet facilities;
- › the procedure for chemical safety management and for providing access to material safety data sheets (MSDS);
- › measures to protect workers from exposure to airborne particles and chemical fumes; and/or
- › the plan to detect, prevent and combat the outbreak and spreading of fires, explosions, and flooding in operational and abandoned mines.

During interviews with employees, they can demonstrate or describe:

- › a basic understanding of the company's policy to identify risks to health and safety of all workers associated with the company's operations;
- › examples of health and safety risks associated with their position;
- › measures that the company has taken to eliminate or control safety hazards;
- › participation in consultations on health and safety risk identification and management;
- › the provision of personal protective equipment free of charge;
- › the condition of the facility's buildings and structures;
- › the installation of appropriate safeguards on machinery;
- › the condition of lighting and ventilation;
- › the monitoring systems for emissions and accumulations of methane and other dangerous gases;
- › the availability of potable drinking water;
- › the condition of facilities for food consumption and storage;
- › the condition and availability of washing and toilet facilities;
- › access to MSDS;
- › the provision of self-contained self-rescue devices;
- › the mine rescue team; and/or
- › the procedure to evacuate the mine in cases of fires, explosions, or flooding.

During interviews with affected communities and stakeholders, they can demonstrate or describe:

- › whether the company maintains facilities that meet local building regulations; and/or
- › whether the company has developed plans to detect, prevent, and combat the outbreak and spreading of fires, explosions, and flooding in operational and abandoned mines.

Site Walk-Through

During the Site Walk-Through, the assessor observes:

- › the measures taken for the elimination and control of safety risks;
- › machinery safeguards;
- › worker use of PPE;
- › chemical storage and handling areas
- › access to MSDS;
- › construction of workplaces and facilities;
- › lighting and ventilation;
- › workplace temperature;
- › noise levels;
- › the use of self-contained self-rescue devices;
- › monitoring systems for emissions and accumulations of methane and other dangerous gases;
- › facilities for food consumption and storage; and/or
- › washing and toilet facilities.



IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
1 Business Integrity	1.1: When ensuring compliance with minimum standards for provision of PPE; installation of appropriate safeguards; provision of lighting and ventilation; controlling workplace temperature; controlling noise levels; monitoring methane emissions and other dangerous gases; provision of sanitary facilities; and chemical safety management, companies should refer to <u>Provision 1.1 on Legal Compliance</u> .
2 Policy and Management	2.9 and 2.11: When identifying safety risks and hazards, companies should refer to <u>Provisions 2.9 and 2.11 on Business Partners</u> .
7 Occupational Health and Safety (OHS)	7.16 – 7.18: When developing OHS training and communication, PPE, appropriate safeguards, and chemical management should be included. 7.27: When identifying safety hazards, companies should include worker housing.

V. FURTHER INFORMATION

- > Department of Health and Human Services, *The Application of Major Hazard Risk Assessment (MHRA) to Eliminate Multiple Fatality Occurrences in the U.S. Minerals Industry*, October 2008 (available [here](#)). This assessment is used to help prevent major hazards from injuring miners. The structured process associated with MHRA helps to characterise the major hazards and evaluate engineering, management and work process factors that impact how a mine mitigates its highest risk.
- > ICMM, *Good Practice Guide: Health and safety critical control management*, 2015 (available [here](#)). This Guide provides practical guidance on preventing the most serious types of health and safety incidents, referred to here as material unwanted events (MUEs).
- > ICMM, *Good Practice Guidance on Occupational Health Risk Assessment – second edition* (available [here](#)). This Guide identifies the occupational health impacts of mining and metals processing, outlines good practices in the identification of hazards and exposed workers, assists practitioners in estimating exposure levels and assessing the effectiveness of controls and explains the importance of quality analysis and reporting.
- > ICMM, *Fatality Prevention: Eight Lessons Learned*, 2019 (available [here](#)). This document provides an articulation of the collective discussions that have been taking place at ICMM on the lessons learned on why the industry continues to have fatalities, as well as provide some additional context and provide some thoughts on key messages.
- > UK Health and Safety Executive, *Prevention of heat illness in mines* (available [here](#)). This Guidance provides useful and important information for mine management and mineworkers in deep hot mines that will help them avoid heat illness.
- > United States Department of Labor, *Heat Stress: Mine Safety and Health Administration (MSHA)* (available [here](#)). This Manual defines “hot” work sites, heat stress, heat strain, and the natural coping mechanisms of the human body.
- > Safe Work Australia, *Code of Practice: Managing risks of hazardous chemicals in the workplace* (available [here](#)). This Code is intended to be read by a person conducting a business or undertaking (PCBU). It provides practical guidance to PCBUs on how to manage health and safety risks associated with hazardous chemicals used in their workplace.



- > IFC, World Bank Group, *Environmental, Health, and Safety Guidelines for Mining*, December 2007 (available [here](#)). The Environmental, Health, and Safety (EHS) Guidelines are technical reference documents with general and industry-specific examples of Good International Industry Practice (GIIP).
- > IFC, World Bank Group, *Environmental, Health, and Safety Guidelines, General EHS Guidelines, 2.0 Occupational Health and Safety*, April 2007 (available [here](#)): The EHS Guidelines are technical reference documents with general and industry-specific examples of Good International Industry Practice (GIIP). Guidance 2.0 provides information on Occupational Health and Safety.
- > ILO, *Handbook: Safety and health in underground mines*, May 2006 (available [here](#)): This ILO Code of practice provides governments, employers and workers with globally applicable guidelines – based on international labour instruments and established industry best practice – for addressing specific occupational hazards in underground coal mines.
- > ILO, *Code of practice on safety and health in opencast mines*, December 2018 (available [here](#)). This Code of practice replaces an earlier code that was adopted in 1990, which concerned issues with the health and safety in opencast mines.
- > ILO, *Building a Preventative Safety and Health Culture in Mines: A guide to the Safety and Health in Mines Convention, 1995 (No. 176) and Recommendation (No. 183)*, 2017 (available [here](#)). This Guide provides an overview of the requirements in Convention No. 176 as well as the supplementing guidance in the Safety and Health in Mines Recommendation, (1995) No. 183.
- > ILO, *Guidelines on occupational safety and health management systems, Second edition*, 2009 (available [here](#)). The Guidelines present practical approaches and tools for assisting organizations, competent national institutions, employers, workers and other partners in establishing, implementing and improving occupational safety and health management systems, with the aim of reducing work-related injuries, ill health, diseases, incidents and deaths.
- > United States Department of Labor Occupational Safety and Health Administration, *Recommended Practices for Safety and Health Programs: Worker Participation* (available [here](#)). Recommended practices from the U.S. Department of Labour concerning participation in health and safety programs.
- > Virginia Division of Mines, *Generic Roof Control Plan* (available [here](#)). This provides a generic roof control plan including criteria and review procedures.



Emergency Preparedness (Provisions 7.13 – 7.15)



I. INTRODUCTION

Mines are large industrial facilities with operational risks such as the potential for explosions, fires, releases of gas, ventilation failures, rock falls, avalanches, water or slurry inundation, radiation exposures, seismic events and environmental incidents. Emergencies may also be the result of factors that are not directly associated with the mining operations but still have the potential to significantly impact the company, such as weather-related events, pandemics, civil action, conflict, or terrorist attacks. Companies have direct responsibility for minimising risks through prevention, mitigation, and preparedness; and for developing and implementing effective plans to respond to fires, explosions, flooding, emergencies or major accidents. In many countries, national laws and regulations establish specific requirements that companies must follow in developing emergency response plans.¹⁶⁴

Companies should also work with joint venture partners, contractors and suppliers providing chemicals or other dangerous materials to put adequate emergency response plans in place to address both on-site and off-site incidents. Companies should coordinate and communicate with local authorities, fire departments, hospitals and local communities that could be affected by these incidents, to protect health and safety in those communities, and to ensure that communities have sufficient emergency resources if needed.¹⁶⁵

II. PROVISIONS AND PERFORMANCE DETERMINATION

- > **Provision 7.13** Companies will:
- establish emergency procedures and evacuation plans for emergencies, including pandemics described in [Provision 7.26](#);
 - ensure that the procedures and plans are accessible and clearly displayed throughout their facilities;
 - maintain and regularly test emergency procedures by holding evacuation drills;
 - update emergency procedures periodically; and
 - develop and maintain emergency response plans in collaboration with all relevant stakeholders, including local communities.

Explanation

Companies have a responsibility to develop and implement a comprehensive programme to respond to any injury, illness or mine emergency that may occur at each mine, including foreseeable industrial and natural disasters. This programme should include:

- > the establishment of individual responsibilities for administering actions identified to implement an emergency response;
- > the establishment of emergency communication systems, procedures and individual responsibilities for carrying out emergency communications;
- > a system in place to provide immediate notification to all persons affected by the emergency, including alarms in place which should be capable of being seen and heard by everyone affected;

164. IRMA, *Standard for Responsible Mining*, 2018, Accessed online: 2 January 2020, <https://responsiblemining.net/wp-content/uploads/2018/07/IRMA_STANDARD_v.1.0_FINAL_2018-1.pdf>.

165. *Ibid.*

- > a procedure to provide immediate first-aid treatment and medical treatment, transportation and evacuation of injured persons;
- > a procedure to allow for the safe, orderly and immediate withdrawal of persons from the mine or area of danger, including training on emergency escape routes and procedures;
- > arrangements for the rescue of persons incapacitated or trapped in the mine;
- > procedures in place to be followed by workers who remain to perform critical operations before they evacuate, which include:
 - > providing persons with particular risks with the equipment necessary for escape, such as self-contained self-breathing devices;
 - > a response team that is trained and equipped and immediately available to respond to fires or other hazards that create mine emergencies;
 - > procedures to account for all workers after the emergency evacuation is complete; and
 - > providing relevant information and training to all personnel, at all levels, including regular exercises in emergency prevention, preparedness and response procedures, and periodic emergency drills.¹⁶⁶

Companies should consult with local stakeholders on the development of the plan to ensure a coordinated response and measures for evacuation of community members, where required. Local stakeholders could include:

- > fire department and police;
- > emergency health services such as ambulances, paramedic teams and poisons centres;
- > hospitals, both local and for evacuation for specialist care (such as burn units);
- > public health authorities;
- > community leaders and representatives;
- > civil society organisations;
- > environmental agencies, especially those responsible for air, water and waste issues;
- > other industrial facilities in the locality with emergency response facilities;
- > transport companies and suppliers;
- > civil defence teams;
- > welfare services;
- > Red Cross/Crescent or another humanitarian relief agency;
- > public works and highways departments, port and airport authorities; and
- > public information authorities and media organisations.¹⁶⁷

Performance Determination

Meets:

The company has developed and implemented procedures aligned with this provision. The company:

- > has established emergency procedures and evacuation plans for emergencies, including pandemics described in Provision 7.26 on Worker Health and Wellbeing;
- > ensures that the procedures and plans are accessible and clearly displayed throughout their facilities;
- > maintains and regularly tests emergency procedures by holding evacuation drills;
- > updates emergency procedures periodically; and
- > develops and maintains emergency response plans in collaboration with all relevant stakeholders, including local communities.

Substantially Meets:

The company has developed and largely implemented procedures aligned with this provision, however, some aspects are not fully implemented. For example, emergency plans do not cover

166. ILO, *Handbook: Safety and Health in Underground Mines*, 2006, Accessed online: 2 January 2020, <https://www.ilo.org/safework/info/standards-and-instruments/codes/WCMS_110254/lang-en/index.htm>.

167. ICMM, *Good Practice in Emergency Preparedness and Response*, 2005, Accessed online: 2 January 2020, <<https://www.icmm.com/website/publications/pdfs/health-and-safety/good-practice-emergency-preparedness-and-response>>.



pandemics, evacuation drills have been conducted but not with sufficient regularity, procedures are not periodically updated, or some stakeholders were not consulted on the development of emergency response plans.

Partially Meets:

The company has developed procedures aligned with this provision, but they have not been substantially implemented and/or the procedures are not sufficiently comprehensive.

Misses:

The company has not developed any emergency procedures.

> **Provision 7.14** Companies will develop and implement plans to detect, prevent and combat the outbreak and spreading of fires, explosions and flooding in operational and abandoned mines.

Explanation

Fires are a significant danger to the safety and health of mineworkers. Fires at underground mines place the lives and livelihood of miners at risk. Ventilation currents in underground mines can carry dense smoke and toxic combustion products from fires throughout the mine, making escape through miles of confined passageways difficult and deadly. Fires can quickly spread through a mine, destroying mine ventilation controls, trapping miners and triggering mine explosions with unlimited fuel supply and the presence of flammable methane.

In many cases, national laws or regulations establish detailed requirements for mine fire prevention measures. Companies should establish a fire prevention and emergency response plan that should be approved by the competent authority with the opportunity for review by workers' representatives. The plan should include:

a) fire prevention – this involves the methods, materials (such as fire-resistant material) and equipment in place to prevent fires from all energised equipment, vehicles and haulage equipment in the mine; welding or acetylene cutting operations; conveyor belting systems and structures where friction heat is possible; trolley wire entries; ventilation controls separating intake, haulage (including belt haulage) and return air courses; district/section coalface extraction activities; spontaneous combustion; and other circumstances and information the competent authority would deem necessary;

b) fire warning – this addresses the system in place to provide quick notification at the earliest stages of a potential fire and should include: strategic locations of mine communication devices; frequent physical examinations; and installation of monitoring devices at locations in the mine that are most susceptible to the occurrences of fires that would provide automatic warnings and alarms locally, and to a central facility on the mine surface;

c) firefighting equipment – in all mines, as far as practicable, firefighting equipment and materials located throughout the mine should include: the type, locations and capacity of all firefighting equipment and devices in the mine, such as water lines, water deluge and sprays, water valves, water cars, fire hoses, fire extinguishers, dry powder chemical systems, foam generating systems, automatic fire suppression systems, district and coalface firefighting equipment and supplies; method and frequency of testing of the firefighting equipment; and other firefighting protections the competent authority would deem necessary;

d) fire and emergency response – the specific response protections and procedures to be used at the mine, including self-rescuer devices, atmospheric monitoring sensor devices, specially-trained mine rescue teams, evacuation procedures, regular emergency response and evacuation drills, and other information and procedures the competent authority would deem necessary.¹⁶⁸

168. ILO, *Handbook: Safety and Health in Underground Mines*, 2006, Accessed online: 2 January 2020, <https://www.ilo.org/safework/info/standards-and-instruments/codes/WCMS_110254/lang-en/index.htm>.



Companies should ensure that underground mines have two separate main intake airways so that, if one becomes contaminated with the products of a fire, the other is clear for a safe means of escape from the mine for workers below ground. In all mines, as far as practicable, two exits should be provided from every underground workplace, each of which is connected to separate means of egress to the surface.

The production, transportation and processing of coal generates small particles of coal dust. If uncontrolled and allowed to accumulate, that highly explosive dust can ignite. If it becomes airborne the coal dust can cause violent explosions. Coal dust explosions can create deadly forces, fire and super-heated air which can quickly spread through a mine, killing or injuring workers. Explosion forces can destroy ventilation and roof controls, block escape routes and trap workers in conditions where oxygen in the mine air is replaced with asphyxiating gases. Coal dust explosions can be prevented by mine maintenance (clean-up of coal mine dust), adding sufficient stone dust to render the coal dust inert, and by eliminating ignition sources. Explosion effects can also be mitigated by using barriers to suppress propagating explosions.

Inrushes of water can present a serious hazard in coal mining. Mining operations can get too close to old workings or geological abnormalities that contain water that could inundate the mine. Old workings filled with water, particularly at elevations higher than the active mine, could quickly flood the mine and drown miners before they could escape, if inadvertently cut into.

Prior to the commencement of excavation, companies should take steps to ensure that a thorough hydrological and hydrogeological assessment is made of the surface and subsurface conditions of the area to be mined. When mining in water-bearing strata or near rivers, lakes and seas and potentially flooded underground or surface mining, provision should be made for safety pillars to be left to prevent any breakthrough. Companies should ensure that where mining is carried out in areas liable to flood from any source or because of any circumstance, special protective measures are designed and implemented, such as installing pumps, drainage tunnels, and sumps.

Performance Determination

Meets:

The company:

- › has developed and implemented plans aligned with this provision;
- › has developed and implemented plans to detect, prevent, and combat the outbreak and spreading of fires, explosions, and flooding in operational and abandoned mines.

Substantially Meets:

N/A

Partially Meets:

The company has developed plans to detect, prevent, and combat the outbreak and spreading of fires, explosions, and flooding in operational and abandoned mines but the plans have not been fully implemented.

Misses:

The company has not developed plans to detect, prevent, and combat the outbreak and spreading of fires, explosions, or flooding.



› **Provision 7.15** Companies will install appropriate alarms, warning devices and fire safety mechanisms in all facilities including fire-fighting equipment, clearly marked and unblocked emergency exits and escape routes, and emergency lighting.

Explanation

Companies have a responsibility to ensure adequate mechanisms are in place to detect and combat fires and to ensure the safe evacuation of workers.

Companies should ensure that equipment is properly installed and functioning, and workers are properly trained in its use. Companies should ensure periodic testing of all fire safety equipment through both internal and external inspections. Companies' fire safety systems should be independently verified at appropriate intervals.

All facilities should have fully operational fire safety equipment (including fire extinguishers) that:

- › complies with local law, including requirements for the number and type of equipment and where it is placed;
- › is appropriate to the type of potential fire risks on-site and close to potential sources of ignition; and
- › is well maintained and routinely checked to confirm it works and is accessible and easy to use.

All facilities must have an appropriate number of emergency exits, based on the facility's structure, the number of workers and local regulations. Where practicable, companies should provide two exits, from every underground workplace, each of which is connected to separate means of egress to the surface. Exits must not be locked or impeded exits should be easily identifiable, even if the facility loses power. Backup power should be installed to provide emergency lighting and signage in case of power outages. All exits should lead to open areas and pathways and an assembly point for workers to safely gather in case of an emergency should be identified.

Performance Determination

Meets:

The company:

- › has developed and implemented procedures aligned with this provision;
- › the company has installed appropriate alarms, warning devices, and fire safety mechanisms in all facilities including fire-fighting equipment, clearly marked and unblocked emergency exits and escape routes, and emergency lighting.

Substantially Meets:

The company has installed appropriate alarms, warning devices and fire safety mechanisms in all facilities, however, not all alarms have been regularly tested, not all fire-fighting equipment has been regularly inspected, and/or some exits are not clearly marked (at least 75% is installed/maintained/inspected).

Partially Meets:

The company has not installed appropriate alarms, warning devices, and fire safety mechanisms in all facilities, fire-fighting equipment is not provided in all areas that require it, some emergency exits or escape routes are blocked, and/or emergency lighting is not provided in all areas that require it.



Misses:

The company has not installed any alarms, warning devices or fire safety mechanisms, does not provide fire-fighting equipment and/or lacks sufficient emergency exits or escape routes.

III. VERIFICATION

Data Collection Method

Conformance with the provisions on emergency preparedness is assessed through observation, document review, and interviews with the company's employees, contracted workers, and management team.

Conformance with the provisions, where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
7.13	✓	✓	✓	✓	✓	✓
7.14	✓	✓	✓	✓	✓	✓
7.15	✓	✓	✓	✓	✓	

Examples and Types of Evidence

- > Policy and procedures for emergency response and evacuation;
- > emergency evacuation plans;
- > records of testing of emergency procedures and evacuation drills;
- > documentation of collaboration with relevant stakeholders on developing emergency response plans;
- > records of training for workers on emergency response and evacuation;
- > an inventory of fire safety devices, including alarms and fire-fighting equipment and their location;
- > records of regular testing and inspection of fire-fighting equipment;
- > documentation of where emergency lighting is installed;
- > plan to detect, prevent, and combat the outbreak and spreading of fires, explosions, and flooding that covers operational and abandoned mines;
- > inventory of self-contained self-rescuers and testing procedures;
- > procedure for mine rescue teams;
- > records of who is trained to respond to mine fires or mine emergencies on each shift in the mine;
- > description and frequency of firefighting training and fire and emergency evacuation drills;
- > procedures or plan to be followed in the case of a mine fire, explosion, or other such event; and
- > mine evacuation procedures.

Site Assessment

Interviews

During interviews with management, managers can demonstrate or describe:

- > a good understanding of the company's policy and procedures for emergency response and evacuation;



- › how frequently evacuation drills are conducted;
- › how stakeholders were consulted in the development of emergency response plans;
- › the process for training workers on emergency response and evacuation;
- › the process for testing and inspection of fire-fighting equipment; and/or
- › the location of fire alarms, emergency exits, escape routes, and emergency lighting.

During interviews with employees, they can demonstrate or describe:

- › a good understanding of the company’s policy and procedures for emergency response and evacuation;
- › how frequently evacuation drills are conducted;
- › participation in training on emergency response and evacuation;
- › the availability of fire-fighting equipment and knowledge of how to use it; and/or
- › the location of fire alarms, emergency exits, escape routes and emergency lighting.

During interviews with affected communities and stakeholders, they can demonstrate or describe:

- › participation in the development of emergency response plans; and/or
- › participation in testing of the plans.

Site Walk-Through

During the Site Walk-Through, the assessor observes:

- › clearly visible emergency evacuation plans;
- › the location of fire alarms;
- › the availability of appropriate fire-fighting equipment that has been recently inspected;
- › clearly marked and unblocked emergency exits and escape routes;
- › emergency lighting; and/or
- › checks taken by employees to manage the risk of introduction of spread of alien invasive species from, for example, transport, plants used for rehabilitation, or construction materials.

IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
1 Business Integrity	1.1: When developing emergency preparedness procedures, companies should refer to Provision 1.1 on Legal Compliance .
7 Occupational Health and Safety (OHS)	7.1, 7.2, 7.3, 7.4: When developing systems to identify and manage health and safety risks, emergencies should be included.
	7.14: When developing emergency preparedness procedures, companies should refer to Provision 7.13 on Emergency Preparedness regarding plans to detect and combat the outbreak and spreading of fires, explosions and flooding.
	7.16 – 7.18: When developing OHS training and communication, companies should include training on emergency preparedness.
8 Communities and Stakeholders	8.9 and 8.10: When developing emergency preparedness procedures, companies should consider community health and safety.



V. FURTHER INFORMATION

- > ICMM, *Good Practice in Emergency Preparedness and Response*, September 2005 (available [here](#)). This publication acts as a companion to UNEP's APELL for Mining (2001). That document was prepared to assist mining companies to apply UNEP's APELL process, which had previously largely been used in the chemicals industry
- > UNEP, *Awareness and preparedness for emergencies at local level (APELL), Handbook, second edition*, 2015 (available [here](#)). Handbook for APELL, a tool for bringing people, principally company staff, community representatives and local authorities, together to allow effective communication about risks and planning for emergency response.
- > ILO, *Handbook: Safety and health in underground mines*, May 2006 (available [here](#)). This new ILO code of practice provides governments, employers and workers with globally applicable guidelines – based on international labour instruments and established industry best practice – for addressing specific occupational hazards in underground coal mines.

Occupational Health and Safety Training and Communication (Provisions 7.16 – 7.18)

I. INTRODUCTION

Health and safety training and communication is an essential part of an occupational health and management system. It is broadly recognised that leadership affects all aspects of organisational performance and has the ability to influence behaviour and culture. Senior executives set the tone at the top that enables the organisation to develop a safety culture where safety is prioritised above all else and avoidance of risk is positively recognised and reinforced. The need to develop and maintain behavioural reliability (what things people need to do consistently), control integrity (how things are done consistently) and leadership capability (how it is consistently determined whether the other two aspects are in place) are crucial to the culture change needed for integrated health and safety management.¹⁶⁹

Companies have a responsibility to provide information to workers about their role-related health and safety risks and hazards, proper use of PPE, and accident and emergency procedures; to provide workers with a mechanism to raise and discuss health and safety issues with management; and to respect workers' right to refuse work in situations that have *uncontrolled hazards*.

Training should be provided upon hire and regularly thereafter. Workers conducting specialised tasks such as working in confined spaces, at height or with hazardous substances, may require additional specialised training and certification in order to conduct those tasks. Workers should also be trained in first aid to ensure that there are a sufficient number of trained first aid personnel on each shift. Workers should be compensated for participation in safety meetings, trainings, committees and other safety-related activities as part of normal working hours.

Effective training and education can be provided outside a formal classroom setting. Peer-to-peer training, on-the-job training, and worksite demonstrations can be effective in conveying safety concepts, ensuring understanding of hazards and their controls, and promoting good work practices.

169. ICMM, *Fatality Prevention: Eight Lessons Learned*, 2019, Accessed online: 2 January 2020, <https://www.icmm.com/website/publications/pdfs/health-and-safety/190913_publication_fatality-prevention.pdf>.



II. PROVISIONS AND PERFORMANCE DETERMINATION

- > **Provision 7.16** Companies will provide regular education and training so that workers are aware of:
- a) specific role-related health and safety risks and hazards;
 - b) methods for appropriate protection from such hazards including proper use of personal protective equipment; and
 - c) appropriate action to take in the event of an accident or emergency.

Companies will make information about health and safety available to workers in an understandable form and in an appropriate language.

Explanation

Companies should ensure that no persons are employed in work of any description unless those persons have received the necessary instruction and training so as to be able to do the work competently and safely.

Training programmes should be developed in accordance with national laws or regulations and in consultation with workers and their representatives. Training programmes should include:

- > pertinent aspects of relevant legislation, codes of practice, safety instructions on the prevention of accidents and disease, and collective agreements, as well as the rights, responsibilities and duties of competent authorities, employers, contractors and workers;
- > the nature and degree of hazards or risks to health and safety which may occur, including any factors which may influence those risks, such as appropriate hygiene practices;
- > appropriate control and protection measures, hygiene practices and precautions necessary to avoid or reduce exposure; and avoid accidents, injuries and occupational diseases;
- > assessments, reviews, exposure measurements, and the rights and duties of workers in this regard;
- > the role of health surveillance, the rights and duties of workers in this regard, and access to information;
- > the hazards associated with methane and other mine gases and the importance of mine ventilation and gas detection;
- > the hazards associated with coalmine dust and the measures needed to prevent coalmine explosions;
- > the hazards associated with mine fires and measures needed to prevent them and extinguish them should they occur;
- > the hazards of unsafe mine roof and sides, and the measures needed to prevent unintended falls, outbursts and cave-ins;
- > the health risks of respirable coalmine dusts and measures needed to prevent disease;
- > the dangers of crushing accidents and electrocution while working in confined spaces with large mobile equipment and energised electrical equipment;
- > procedures to be followed in an emergency, emergency measures, firefighting and fire prevention, and first aid;
- > instructions on PPE, where applicable, its significance, correct use and limitations;
- > ergonomically correct methods for the handling of materials and tools;
- > methods of identifying harmful chemicals and agents, including use of safety data sheets (SDS); and
- > cleaning, maintenance, storage and waste disposal.¹⁷⁰

Training should be provided to all participants at no cost and should take place during working hours.

170. ILO, *Handbook: Safety and health in underground mines*, 2006, Accessed online: 2 January 2020, <https://www.ilo.org/safework/info/standards-and-instruments/codes/WCMS_110254/lang-en/index.htm>.



Training programmes should be conducted by competent persons; include participant evaluation; be reviewed periodically by the health and safety committee or in consultation with workers and their representatives; and be documented. Individual records of all such training, and where necessary retraining, should be maintained at the mine.



Performance Determination

Meets:

The company:

- > has developed and implemented procedures aligned with this provision;
- > provides regular education and training to workers that includes:
 - > specific role-related health and safety risks and hazards;
 - > methods for appropriate protection from such hazards including proper use of personal protective equipment; and
 - > appropriate action to take in the event of an accident or emergency.
- > makes information about health and safety available to workers in an understandable form and in an appropriate language;
- > ensures training programmes are delivered by competent staff and training records are kept.

Substantially Meets:

The company provides regular education and training to workers in an appropriate language, but training was not provided to some workers (at least 75% covered), training did not cover all the aspects of this provision, or there were minor gaps in documentation of participation in training programmes.

Partially Meets:

The company has developed training programmes, but training was not provided to the majority of workers (less than 75% covered) and/or information was not provided in the appropriate language.

Misses:

The company has not provided health and safety training.

> **Provision 7.17** Companies will provide workers with a mechanism such as a joint health and safety committee through which they are able to raise and discuss health and safety issues with management.

Explanation

Companies should establish procedures for workers to choose representatives for the joint health and safety committee (or equivalent mechanism), for example through their trade union or through nominations or elections. In some cases, a health and safety committee may be a regulatory requirement.

The committee should include:

- > a senior manager, wherever possible;
- > any on-site health staff; and
- > representation to reflect the size and structure of the company – for example, the committee should include representation from all shifts;
- > representation to reflect the demographics of the workforce – for example, including women who may face differential or unique health and safety risks;

> if on-site contractors are not eligible to participate, make sure the committee can still function as a mechanism for them to raise health and safety issues.¹⁷¹

The committee should meet regularly and serve as a forum to discuss health and safety matters requiring collaboration between management and workers, for example:

- > identifying potential health and safety risks;
- > reviewing health and safety risks of new processes, equipment or changes to facilities;
- > contributing to ongoing incident investigations;
- > discussing and monitoring the outcomes and root causes of incident investigations and identifying and monitoring implementation of corrective and preventive actions;
- > identifying the need for and reviewing the effectiveness of training; and/or
- > reviewing short- and long-term incident data and health trends.¹⁷²

The committee should keep a record of all meetings, including matters discussed and actions taken.

Workers should be compensated for their participation in health and safety committee meetings as part of regular working hours.

Performance Determination

Meets:

The company:

- > has developed and implemented procedures aligned with this provision;
- > provides a mechanism for workers to raise and discuss health and safety issues with management.

Substantially Meets:

The company provides a mechanism for workers to raise and discuss health and safety issues with management, however implementation is incomplete (but at least 75% of workers are informed) and/or there were minor gaps in documentation of the mechanism.

Partially Meets:

The company

- > has developed the mechanism, however, implementation has not yet started or is incomplete (less than 75% of workers are informed); or
- > is in the process of developing the mechanism, but it is not yet complete.

Misses:

The company has not provided a mechanism for workers to raise and discuss health and safety issues with management.

-
- > **Provision 7.18** Companies will ensure that workers understand that they have the right and responsibility to stop work or refuse to work in situations that have uncontrolled hazards, and that they must immediately bring these situations to the attention of those at imminent risk and to management. Companies will ensure that workers do not face reprisals including disciplinary measures, discharge or other negative consequences as a result of attempting to exercise these rights in good faith.
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171. RJC, *Code of Practices Guidance*, 2019, Accessed online 2 January 2020, <<https://www.responsiblejewellery.com/wp-content/uploads/RJC-COP-2019-V1-1-Guidance-1-1.pdf>>.

172. *Ibid.*



Explanation

The right to refuse unsafe work is established by the ILO in *Convention 155, the Occupational Safety and Health Convention, 1981*. *Convention 155* states that “a worker who has removed himself from a work situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health shall be protected from undue consequences in accordance with national conditions and practice” (Article 13) and that “an employer cannot require workers to a work situation where there is continuing imminent and serious danger to life or health” (Article 19).

Workers can, with reasonable justification, remove themselves from unsafe work and not return until the employer has remedied the situation, and if they have exercised this right in good faith, they cannot suffer undue consequences. Other ILO Conventions also make reference to this right. For example, *Convention 176, the Safety and Health in Mines Convention, 1995*; *Recommendation 183 on Safety and Health in Mines, 1995*; *Recommendation 172 on Asbestos, 1986*; and *Recommendation 177 on Chemicals, 1990*.¹⁷³

Companies have a responsibility to ensure that workers understand their right to refuse work in situations that have uncontrolled hazards and that workers are not retaliated against for exercising this right.

Performance Determination

Meets:

The company:

- > has developed and implemented procedures aligned with this provision;
- > ensures that workers understand they have the right and responsibility to stop work or refuse to work in situations that have uncontrolled hazards, and that they must immediately bring these situations to the attention of those at imminent risk and to management; and
- > ensures workers have not faced reprisals, disciplinary measures, discharge, or other negative consequences as a result of exercising these rights in good faith.

Substantially Meets:

N/A

Partially Meets:

Not all workers are aware of the right to stop work or refuse to work in situations that have uncontrolled hazards.

Misses:

Most workers are not aware of the right to stop work or refuse to work in situations that have uncontrolled hazards and/or workers have faced reprisals in exercising these rights in good faith (more than 75% of the workforce).

III. VERIFICATION

Data Collection Method

Conformance with the provisions on OHS training and communication is assessed through observation, document review, and interviews with the company’s employees, contracted workers, and management team.

173. IndustriaALL, *Right to Refuse or Shut Down Unsafe Work*, 2020, Accessed online: 2 January 2020, <http://www.industriaall-union.org/sites/default/files/uploads/documents/Covid-19/right_to_refuse_eng.pdf>.



Conformance with the provisions, where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
7.16		✓	✓	✓	✓	
7.17		✓	✓	✓	✓	
7.18		✓	✓	✓	✓	✓

Examples and Types of Evidence

- › Policy and procedures to provide regular education and training to workers on:
 - › specific role-related health and safety risks and hazards;
 - › methods for appropriate protection from such hazards including proper use of personal protective equipment; and
 - › appropriate action to take in the event of an accident or emergency.
- › competency requirements for training staff;
- › evaluation of training staff;
- › health and safety training and communication materials;
- › records of worker participation in health and safety training;
- › a mechanism for workers to raise and discuss health and safety issues with management;
- › examples of issues that have been raised by workers and how the company has responded; and
- › a policy that states workers have the right and responsibility to stop work or refuse to work in situations that have uncontrolled hazards, that they must immediately bring these situations to the attention of those at imminent risk and to management, and that they will not face reprisals or other negative consequences for exercising these rights in good faith.

Site Assessment

Interviews

During interviews with management, managers can demonstrate or describe:

- › a good understanding of the company’s policy to provide regular education and training to workers;
- › a description of the mechanism for workers to raise and discuss health and safety issues with management;
- › examples of issues that have been raised by workers and how the company has responded;
- › an understanding that workers have the right and responsibility to stop work or refuse to work in situations that have uncontrolled hazards; that they must immediately bring these situations to the attention of those at imminent risk and to management, and that they will not face reprisals or other negative consequences for exercising these rights in good faith.

During interviews with employees, they can demonstrate or describe:

- › a good understanding of the company’s policy to provide regular education and training to workers;
- › frequency and content of training provided;
- › a description of the mechanism for workers to raise and discuss health and safety issues with management;
- › examples of issues that have been raised by workers and how the company has responded;
- › an understanding that workers have the right and responsibility to stop work or refuse to work in situations that have uncontrolled hazards and that they must immediately bring these situations to the attention of those at imminent risk and to management;



> whether workers have faced reprisals or other negative consequences for exercising these rights in good faith.

During interviews with affected communities and stakeholders, they can demonstrate or describe:
 > whether workers have faced reprisals or other negative consequences for exercising their right to refuse work in good faith.

Site Walk-Through

During the Site Walk-Through, the assessor observes:

> health and safety training sessions, if possible.

IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
1 Business Integrity	1.1: When ensuring compliance with minimum standards for OHS training, companies should refer to <u>Provision 1.1 on Legal Compliance</u> .
2 Policy and Management	2.11 and 2.12: When developing OHS training and communication, companies should refer to <u>2.11 and 2.12 on Business Partners</u> .
7 Occupational Health and Safety (OHS)	7.1, 7.2, 7.3, 7.4: When developing OHS training and communication, health and safety risks and mitigation measures should be included.
	7.5, 7.7 and 7.12: When developing OHS training and communication, PPE, appropriate safeguards, and chemical management should be included.
	7.13 – 7.15: When developing OHS training and communication, companies should include emergency preparedness procedures.
	7.27: When developing OHS training and communication, companies should include worker housing.

V. FURTHER INFORMATION

- > IndustriaALL, *Right to Refuse or Shut Down Unsafe Work*, April 2020 (available [here](#)). An explanation on the “Right” to refuse or shut down unsafe work.
- > ILO, *Handbook: Safety and health in underground mines*, May 2006 (available [here](#)). This new code, which reflects the many changes in the industry, its workforce, the roles of the competent authorities, employers, workers and their organizations, and on the development of new ILO instruments on occupational safety and health, focuses on the production of coal from underground mines.
- > ILO, *Code of practice on safety and health in opencast mines*, December 2018 (available [here](#)). This revised code reflects the many changes in the industry, its workforce, the roles of the competent authorities, employers, workers and their organizations, and the development of new ILO instruments on occupational safety and health (OSH), including the Safety and Health in Mines Convention, 1995 (No. 176).



Accident and Incident Reporting (Provisions 7.19 – 7.20)



I. INTRODUCTION

Companies have a responsibility to investigate and report health and safety *incidents* and to ensure workers' health and safety representatives are able to participate in and receive outcomes of inspections and investigations. In many countries, companies are required by law to report incidents to the mining health and safety agency using specific formats.

All accidents and incidents should be investigated regardless of severity. Near-miss incidents in which no damage or harm resulted should also be included. Where the accident involves a contractor, the contractor company may conduct an investigation, but the company should be part of that process and/or should consider conducting its own investigation.

Investigations should be headed by a competent person, independent from the department where the incident occurred, and include a worker safety representative. In cases where the fatality involves a contractor, a representative of the contractor company may also be involved. The investigation should clearly establish the facts of the incident; identify the chain of events, causal factors and root causes; and recommend corrective and preventive actions. These actions are established to prevent a reoccurrence of a particular accident and should address the root causes of the incident. Implementation of the corrective and preventive actions should be tracked and monitored.

Companies should monitor performance and trends across the organisation, set targets for zero fatalities and identify patterns of causal factors to address root causes. Documentation should be maintained for incident investigations and follow-up.

BOX 7: FOCUS ON NEAR MISS INCIDENTS

Including near misses in incident reporting and investigation systems is part of a proactive approach to OHS management. A 'near miss' is an unplanned event that did not result in injury, illness, or damage – but had the potential to do so. Only a fortunate break in the chain of events prevented an injury, fatality or damage. A faulty process or management system invariably is the root cause for the increased risk that leads to the near miss and should be the focus of improvement. Other terms for these events are a "close call," a "narrow escape," or in the case of moving objects, "near collision" or a "near hit." Most loss producing events (incidents), both serious and catastrophic, are preceded by warnings or near miss incidents. Recognising and reporting near miss incidents can significantly improve worker safety and enhance a company's safety culture.*

* National Safety Council (NSC), *Near Miss Reporting Systems*, 2013, Accessed online: 6 January 2020, <<https://www.atlantictraining.com/blog/wp-content/uploads/2018/05/294734832-Near-Miss-Reporting-Systems.pdf>>.

II. PROVISIONS AND PERFORMANCE DETERMINATION

- > **Provision 7.19** Companies will ensure that all health and safety incidents as well as their response to and outcome from such incidents are formally documented and investigated, and that the results of any investigations are fed into regular health and safety reviews and improvement plans, and, except for data subject to medical confidentiality, are available to workers.

Explanation

Companies should investigate and document the origin and underlying causes of all work-related injuries, ill health, diseases and incidents to identify any failures in the OHS management system. Such investigations should be carried out by identified competent persons (internal or external) along with the appropriate participation of workers and their representatives. All investigations should conclude with a report on the immediate, corrective actions and the preventive actions taken to prevent a recurrence. In many cases, national laws and regulations establish procedures and formats to investigate and report accidents and injuries, including requirements to notify the relevant authorities.

The primary purpose of an accident investigation is to determine the causes of an accident to prevent similar occurrences. Rather than identifying and correcting only direct and indirect causes, the investigation should also identify the root causes of accidents. When underlying root causes are recognised and eliminated, future unsafe work procedures and conditions may also be eliminated.

The root cause identifies the reason that the company's rules, policies, procedures or programmes failed to ensure that employees took appropriate actions to prevent the indirect causes that led to the hazard or unplanned event. Examples of operator's rules, policies, procedures, or programmes include roof control systems and plans, safety programmes, mine ventilation plans, training plans, and other written company safety documents. To more specifically identify the root cause, companies should evaluate policies, procedures, and programmes applicable to each action and inaction for:

- > misunderstanding or lack of communication;
- > lack of knowledge or training;
- > in appropriate tools or equipment or related procedures;
- > performance incentives leading to unintended consequences;
- > incapacity due to physical ability or loss of concentration.¹⁷⁴

Performance Determination

Meets:

The company:

- > has developed and implemented procedures aligned with this provision;
- > formally documents all health and safety incidents as well as their response to and outcomes of investigations; and
- > feeds results of investigations into regular health and safety reviews and improvement plans, and, except for data subject to medical confidentiality, makes the results available to workers.

174. US Department of Labor, *Mine Safety and Health Administration Handbook: Accident/Illness Investigation Procedures*, 2011, Accessed online: 7 August 2020, <<https://arlweb.msha.gov/READROOM/HANDBOOK/PH20-I-4.pdf>>.



Substantially Meets:

The company formally documents all health and safety incidents as well as their response to and outcomes of investigations, however, there are minor gaps in documentation.

Partially Meets:

The company does not feed results of investigations into regular health or safety reviews and improvement plans, and/or does not make the results available to workers.

Misses:

The company does not formally document health and safety incidents and/or does not fully investigate those incidents.

-
- > **Provision 7.20** Companies will develop, document and implement systems aligned with the requirements of Provisions 2.1 and 2.2 of this Code to ensure that workers' health and safety representatives are able to participate in and receive outcomes of inspections and investigations conducted at the workplace by the company and/or by the competent authority, and will receive timely notice of accidents and dangerous occurrences.
-

Explanation

Companies should include workers' health and safety representatives in the internal safety audits and inspections and in incident investigations. The results of all inspections and investigations (internal and external) should be communicated to senior management, the worker(s) involved, worker representatives, and the health and safety committee, where it exists.

Performance Determination

Meets:

The company:

- > has developed and implemented procedures aligned with this provision; and/or
- > by the competent authority, allows workers' health and safety representatives to participate in and receive outcomes of inspections and investigations conducted at the workplace and receive timely notice of accidents and dangerous occurrences.

Substantially Meets:

N/A

Partially Meets:

Workers' health and safety representatives are not able to participate in and receive outcomes of all inspections and investigations conducted at the workplace by the company and/or by the competent authority, and/or they do not always receive timely notice of accidents and dangerous occurrences.

Misses:

The company:

- > does not provide systems for workers' health and safety representatives;
- > health and safety representatives are not able to participate in and receive outcomes of inspections and investigations; and/or
- > does not provide health and safety representatives with notice of accidents or dangerous occurrences.



- > how to report a health and safety incident;
- > examples of incident investigations and what corrective and preventive actions were implemented as a result;
- > whether workers' health and safety representatives participate in inspections and investigations;
- > whether the results of investigations and inspections are shared with workers and workers' health and safety representatives; and
- > whether workers and workers' health and safety representatives are notified about accidents and dangerous occurrences.

During interviews with affected communities and stakeholders, they can demonstrate or describe:

- > whether the company investigates all health and safety incidents;
- > whether the company involves workers' health and safety representatives in investigations;
- > whether the company has undergone health and safety inspections by the competent authority; and
- > whether the company shares the results of investigations and inspections with workers' health and safety representatives.

IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
1 Business Integrity	1.1: When ensuring compliance with minimum standards for accident and incident reporting, companies should refer to <u>Provision 1.1 on Legal Compliance</u> .
7 Occupational Health and Safety (OHS)	7.1: When developing an OHS management system, companies should consider how accident and incident data can inform systems improvements. 7.16 – 7.18: When developing OHS training and communication, companies should include training on accident and injury reporting.

V. FURTHER INFORMATION

- > Mine Safety and Health Administration, *Handbook: Accident/Illness Investigation Procedures*, 2011 (available [here](#)). This Handbook sets forth procedures for conduct of investigations of accidents and incidents at the Nation's mines.
- > ILO, *Handbook: Safety and health in underground mines*, May 2006 (available [here](#)). This new code, which reflects the many changes in the industry, its workforce, the roles of the competent authorities, employers, workers and their organizations, and on the development of new ILO instruments on occupational safety and health, focuses on the production of coal from underground mines.
- > ILO, *Code of practice on safety and health in opencast mines*, December 2018 (available [here](#)). This revised code reflects the many changes in the industry, its workforce, the roles of the competent authorities, employers, workers and their organizations, and the development of new ILO instruments on occupational safety and health (OSH), including the Safety and Health in Mines Convention, 1995 (No. 176).



Worker Health and Wellbeing (Provisions 7.21 – 7.26)



I. INTRODUCTION

Companies have a responsibility to provide access to adequate on-site first-aid provisions and trained first-aid personnel, have appropriate procedures for transportation to local medical facilities in the case of a medical emergency and support workers with work-related injuries to physically access medical treatment in accordance with local laws and regulations.

Worker health and wellbeing goes beyond a focus on safety and eliminating accidents and injuries. A holistic approach to worker health and wellbeing also takes into account the potential for long-term exposure to hazards in the physical environment and the effects of hazardous substances, as well as broader issues of worker health, including substance abuse; infectious diseases, such as HIV/AIDS, Tuberculosis and malaria; mental health; and sexual and reproductive health.

> **Provision 7.21** Companies will provide access to adequate on-site health and medical facilities and clearly marked first-aid provisions, and will develop procedures for transportation of workers with more serious health concerns to local hospitals or medical facilities.

Explanation

The first-aid programme in each workplace should be designed in coordination with worker health and safety representatives and qualified medical personnel.

Companies should ensure that first aid facilities, including the provision of trained personnel, are available at every site. First-aid boxes and eye-wash stations should be clearly marked, be easily accessible and located near areas where accidents could occur. They should be able to be reached within one or two minutes. They should be made of suitable materials, and should protect the contents from heat, humidity, and dust.

In many cases, national laws and regulations establish requirements for on-site medical facilities based on the size of the operation and type of industrial activity. Companies should establish plans in cooperation with external emergency services, medical facilities, and hospitals to respond to emergencies, safely transport injured workers, and provide continuing care for those workers.

A sufficient number of workers should hold up-to-date, approved first-aid certificates or possess equivalent qualifications.

Companies should provide stretchers and other rescue equipment appropriate to the type and hazards of the operation. Companies should establish and train mine rescue teams and make arrangements to ensure the safe, swift and comfortable transport of injured and sick persons to the surface or the main entrance of the mine, or the nearest medical facility. In some cases, companies also provide on-site ambulance brigades.

Companies should provide an adequate number of first-aid centres that are separate areas not used for other purposes. At least one first-aid centre should be located near the main mine entrance, with easy approach, and access to persons carrying a stretcher. First-aid centres should:

- > have a sufficient number of beds;
- > be adequately heated, lit and kept clean;
- > include areas for treatment, rest, storage and waiting rooms;
- > be used only for first aid, medical examinations or ambulance work; and
- > have an easy-clean, non-slip floor, easily washed walls, easy-clean working tops, and sinks with running water.

First-aid equipment, treatment areas and on-site ambulance vehicles should be regularly inspected by competent personnel and inspection and maintenance records should be maintained.

Performance Determination

Meets:

The company:

- > has developed and implemented procedures aligned with this provision;
- > provides access to adequate on-site health and medical facilities and clearly marked first-aid provisions;
- > maintains an up-to-date inventory of first-aid provisions and regularly inspects medical facilities;
- > has a sufficient number of first-aid trained personnel on each shift. The company has developed procedures for transportation of workers with more serious health concerns to local hospitals or medical facilities.

Substantially Meets:

N/A

Partially Meets:

Not all first-aid provisions and/or medical equipment and facilities are fully stocked, clearly marked, fully functioning or regularly inspected and/or there are an insufficient number of first-aid trained personnel.

Misses:

The company does not have adequate medical facilities and/or has not developed procedures for transportation of workers with more serious health concerns to local hospitals or medical facilities.

> **Provision 7.22** Companies will ensure that workers have periodic medical examinations and medical coverage. Companies will identify and monitor long-term health risks to workers.

Explanation

Assessment of workers’ health is one of the main components of any programme of prevention in the workplace. Medical examinations are the most commonly used means of health assessment of individual workers. Medical examinations should be provided free of charge.¹⁷⁵

175. ILO, *Code of practice on safety and health in opencast mines*, 2018, Accessed online: 2 January 2020, <https://www.ilo.org/sector/Resources/publications/WCMS_617123/lang-en/index.htm>.



Chronic health effects are ones that can develop over a longer period of exposure. On occasion, these will be conditions where the severity of the symptoms or disease or the risk of harm is related to the accumulative exposure to the hazard over a period of months or years. Chronic health effects usually occur after repeated exposure over days, weeks and months, and examples of such conditions include noise-induced hearing loss and hand-arm vibration syndrome.¹⁷⁶

The signs and symptoms of many occupationally acquired diseases occur many years after the exposure is identified as the cause. Examples include the development of mesothelioma decades after initial asbestos exposure, and other lung cancers and pneumoconiosis such as silicosis and asbestosis, which can occur decades after exposure has ceased.

In many cases, national laws and regulations establish requirements for the type and frequency of medical examinations. Companies should ensure every worker is medically examined and certified as medically fit before commencing work at a mine. Pre-employment medical examinations should be adapted to the type of work, vocational fitness criteria and workplace hazards. There should be no discrimination against disabled applicants who meet the requirements of a given job.

Medical examinations may take place at periodic intervals during employment and should be appropriate to the occupational risks and exposures of the worker. These examinations may also occur on resumption of work after a prolonged absence for health reasons, for the purpose of determining any possible occupational causes, recommending appropriate action to protect workers, and determining suitability for the job or the need for reassignment and rehabilitation. Examinations may also take place at the request of the worker, for example, when a worker changes work and, in particular, when a worker changes work for medical reasons.¹⁷⁷

Medical examinations should serve for prevention and protection purposes which include not only the protection and promotion of workers' health, but also the protection of access to work, entitlement to compensation, health insurance benefits and social protection. Under no circumstances should medical examinations for employment be used as a substitute for measures to prevent and control hazardous exposures. Medical examinations should be used to improve working conditions in such a way that they will facilitate the adaptation of work to workers.¹⁷⁸ Health surveillance and monitoring should, if deemed necessary, be continued after termination of employment.¹⁷⁹

Records of all medical examinations should be kept confidential and maintained at the medical facilities as determined by national laws or regulations.

Performance Determination

Meets:

The company:

- › has developed and implemented procedures aligned with this provision;
- › ensures workers have periodic medical examinations and medical coverage;
- › identifies and monitors long-term health risks to workers.

176. National Association of Safety Professionals (NASP), *Hand-Arm Vibration Syndrome - Causes and Prevention*, 2018, Accessed online: 2 January 2020, <<https://naspweb.com/hand-arm-vibration-syndrome-causes-and-prevention/>>.

177. ILO, *Technical and Ethical Guidelines for Workers' Health Surveillance*, 1998, Accessed online: 2 January 2020, <https://www.ilo.org/wcmsp5/groups/public/...ed_protect/...protrav/...safework/documents/normativeinstrument/wcms_177384.pdf>.

178 *Ibid*.

179 ILO, *Environmental, Health, and Safety Guidelines, Genera EHS Guidelines, 2.0 Occupational Health and Safety*, 2007, Accessed online: 2 January 2020, <<https://www.ilo.org/wps/wcm/connect/1d19c1ab-3ef8-42d4-bd6b-cb79648af-3fe/2%2BOccupational%2BHealth%2Band%2BSafety.pdf?MOD=AJPERES&CVID=Is62x8l>>.



Substantially Meets:

N/A

Partially Meets:

The company ensures workers have periodic medical examinations and medical coverage, but the company identifies and monitors some, but not all long-term health risks to workers.

Misses:

Some or all workers do not have periodic medical examinations and medical coverage and/or the company does not identify or monitor long-term health risks to workers.

-
- › **Provision 7.23** Companies will prevent the exposure of pregnant and breastfeeding women to hazards and provide safe and appropriate working conditions for them.
-

Explanation

As the number of female employees increase in the industry, concerns related to the health and safety of pregnant and breastfeeding workers are becoming more prevalent. Companies have a responsibility to ensure the health and safety of their workers by understanding the potential impact of workplace hazards on the pregnant or breastfeeding worker and her developing foetus and eliminating or reducing the exposure risk.

A ‘reproductive’ hazard is an agent that can adversely affect the reproductive health of women and men and/or that can adversely impact the growth and development of a foetus. Examples of reproductive problems linked to hazardous agents include infertility, miscarriages, premature labour (less than 37 weeks gestation), low birth weight and congenital abnormalities of the baby.

Given the sensitive timeframe of the developing foetus and the uncertainty of harm, most regulatory agencies recommend exposure levels be kept to an absolute minimum. Every effort should be made by both the employer and the employee to minimise risk of exposure. A pregnant woman’s body undergoes physical changes that can make her more susceptible to workplace hazards. Those changes occur in almost every system in the body, including the circulatory, respiratory, endocrine, and musculoskeletal systems. Breastfeeding workers should be provided with a private lactation room in a quiet environment within easy access of her place of work. In some cases, it may be necessary to identify alternative positions for women returning to work until they stop breastfeeding. In cases of known or suspected exposure to a contaminant, blood plasma levels of the hazardous agent should be measured in the worker, preferably prior to breastfeeding. Monitoring plasma levels of a hazardous agent can provide a window for predicting the levels of the hazardous agent in breast milk. These estimates can be used to determine how long to limit breastfeeding. Women who are breastfeeding need to stay well hydrated, especially in warm environments, in order to ensure adequate milk supply.

Performance Determination

Meets:

The company:

- › has developed and implemented procedures aligned with this provision;
- › prevents the exposure of pregnant and breastfeeding women to hazards and provides safe and appropriate working conditions for them while ensuring non-discrimination.



Substantially Meets:

N/A

Partially Meets:

The company has identified hazards for pregnant and breastfeeding women, however, has not yet fully implemented appropriate working conditions.

Misses:

The company has not identified hazards for pregnant and breastfeeding women and does not provide appropriate working conditions for them.

> **Provision 7.24** Companies will take measures to ensure the physical, mental and social wellbeing of workers.

Explanation

Under national and international health and safety regulations and guidelines, most companies are required to protect workers from exposure to chemicals that may be harmful to health. Where health-based risk assessment indicates workplace exposure to airborne particles such as diesel emissions or chemical fumes, appropriate control measures may include consideration of worker protection, which is usually provided by the utilisation of Occupational Exposure Limits. This, in turn, promotes both best practice in exposure control (e.g. by the implementation of a hierarchy of control measures, from elimination of airborne exposure at source to safe working practices and the use of PPE) and the use of management systems to ensure compliance. The primary objective in setting Occupational Exposure Limits is the protection of workers from occupational illness or disease, both locally, in the respiratory tract, and systemically, by setting an occupational exposure level at which no adverse health effects (including on reproductive health) can be anticipated, either in the short-term or during a standardised working lifetime.¹⁸⁰

Although mental health issues are not unique to the mining industry, long hours and extended periods of time living away from home can create an environment in which mental health problems can emerge. This can have significant implications, not only for the wellbeing of workers and their families, but also for workplace safety. Issues such as depression, fatigue and stress increase the risk of safety incidents at work, with potentially fatal consequences. Mental health issues are also associated with low staff morale, increased absenteeism and reduced productivity.¹⁸¹

Companies should promote a health and safety culture that includes mental health, for example, by focusing on:

- > building a strong mental health and wellbeing culture in all regions and levels of the company – one that also reduces the stigma associated with mental illness;
- > enhancing the ability of management and other employees to identify and respond to mental health problems;
- > preventing mental ill-health by addressing risk factors such as drug and alcohol abuse and giving people the skills to build resilience and positive mental health;
- > providing access to counselling and other mental health services; and
- > ensuring employees have access to resources and support when they return to work following illness.

180. ICMM, *The Setting and use of Occupational Exposure Limits: Current Practice*, 2007, Accessed online: 2 January 2020, <<https://www.icmm.com/en-gb/publications/health-and-safety/the-setting-and-use-of-occupational-exposure-limits---current-practice>>.

181. ICMM, *Improving employee mental health and wellbeing in the mining industry*, 2016, Accessed online: 2 January 2020, <<https://www.icmm.com/en-gb/case-studies/improving-employee-mental-health-and-wellbeing>>.



Alcohol and drug policies and programmes should promote the prevention, reduction and management of alcohol and drug-related problems in the workplace. Companies and workers and their representatives should cooperate in developing such programmes for the facility.

Companies operating in areas with high rates of communicable diseases such as HIV/AIDS, tuberculosis (TB) and malaria should provide preventative and treatment measures to workers. Benefits of providing these measures include increased productivity, decreased overall costs of health care, lower rates of employee turnover, reduced employer liability, improved employee morale and increased access to funding for development.¹⁸²

- > HIV/AIDS programmes consist of reaching out to employees and communities, counselling and testing, prevention and treatment, creation of an enabling environment free of stigma, and adherence to the key ILO principles.
- > TB programmes encompass different types of intervention to control transmission and improve health, such as active and passive screening and testing, ‘directly observed therapy, short course’, and links with HIV programmes.
- > Integrated control of malaria consists of providing vector and environmental management (primary control), reducing individual risk (secondary control), and limiting the adverse effect of infections (tertiary control).

Performance Determination

Meets:

The company:

- > has developed and implemented procedures aligned with this provision;
- > takes measures to ensure the physical, mental, and social wellbeing of workers.

Substantially Meets:

N/A

Partially Meets:

The company takes some measures to ensure the physical, mental and social wellbeing of workers, however, the measures taken do not comprehensively cover worker wellbeing and/or are not fully implemented.

Misses:

The company does not take any measures to ensure the physical, mental, and social wellbeing of workers.

-
- > **Provision 7.25** Companies will provide employees with timely compensation for the loss of earnings due to a work-related injury or occupational illness, unless that injury or illness is already covered by public or private disability insurance, until the employee can:
 - a) return to work and be employed in an identical or similar position; or
 - b) qualify for a disability pension if they are not able to return to work due to the severity of the work-related injury or occupational illness.Compensation will be in line with local regulations, where applicable.
-

182. ICMM, *Good Practice Guidance on HIV/AIDS, Tuberculosis and Malaria*, 2008, Accessed online: 2 January 2020, <<https://www.icmm.com/website/publications/pdfs/health-and-safety/314.pdf>>.



Explanation

Companies have a responsibility to provide employees with compensation for loss of earnings due to work-related injuries or illnesses in a timely manner and until employees can return to work. Companies should support workers in gaining access to disability pensions or other government schemes, where applicable.

In countries where workers' compensation is not provided through government schemes or a collective bargaining agreement, companies should compensate employees for work-related injuries or illnesses at a rate that, at minimum, covers medical expenses and wages during the recovery and rehabilitation period.

Where worker rehabilitation is not provided as part of workers' compensation schemes, companies should ensure that workers have free or affordable access to rehabilitation programmes to facilitate an expeditious return to work.¹⁸³

Companies should ensure employees can return to work in their previous or similar position. Where the employee is not physically able to perform their previous tasks, adaptations should be made to their position or alternative positions should be identified that fit their capabilities. If employees are offered an alternative position, their earnings should be at least equal to their earnings in their prior position.

If employees are not able to return to work due to the severity of the *work-related injury* or illness, companies should provide employees with compensation until they qualify for a disability pension or equivalent public social protection scheme. Compensation should constitute two thirds or more of the salary they would otherwise normally receive if healthy and working.¹⁸⁴

Where a worker dies as a result of a work-related injury or disease, companies should, at minimum, provide to spouses and dependent children benefits to cover funeral expenses and transportation of the worker's body, if appropriate, as well as compensation that is equal to or greater than three months' salary of the deceased worker.¹⁸⁵

If an occupational illness manifests after a worker has retired, companies should, at minimum, compensate the worker for medical expenses, unless the company can establish that the occupational illness was not connected to the worker's employment at the mine.

Performance Determination

Meets:

The company:

- › has developed and implemented procedures aligned with this provision;
- › provides employees with timely compensation for loss of earnings due to work-related injuries and illnesses where they are not already covered by public or private disability insurance until they can return to work or qualify for a disability pension; and
- › where employees are able to return to work, the company provides them with the same or similar position at the same salary level.

Substantially Meets:

The company provides employees with compensation for work-related injuries and illnesses where they are not already covered by public or private disability insurance, however, this is not done in a timely manner.

183. Initiative for Responsible Mining Assurance, *Standard for Responsible Mining*, 2018, Accessed online: 2 January 2020, <https://responsiblemining.net/wp-content/uploads/2018/07/IRMA_STANDARD_v.1.0_FINAL_2018-1.pdf>.

184. *Ibid.*

185. *Ibid.*



Partially Meets:

The company does not provide all employees with compensation for loss of earnings due to work-related injuries and illnesses where they are not already covered by public or private disability insurance and/or the company does not provide the employee with the same or similar position upon return to work.

Misses:

The company does not provide any employees with compensation for loss of earnings work-related injuries and illnesses.

-
- > **Provision 7.26** Companies will protect workers and visitors in case of pandemics and global health emergencies by working in partnership with public health agencies, workers' organisations and other relevant stakeholders.
-

Explanation

The coronavirus (COVID-19) pandemic of 2020 affects all global industries, including mining. Companies have a responsibility to put measures in place to safeguard and support workers. While the wording of laws and regulations vary around the world, in general, companies are required to protect the health and safety of their workers. This includes providing information, education, training, and the correct equipment to do the job safely, and ensuring safe and healthy workplaces.¹⁸⁶

Measures to protect workers during a pandemic will vary depending on how the disease is spread. In the case of COVID-19, companies should consider implementing the following measures for all workers, including any essential suppliers, contractors or visitors that may need to enter the site for critical repairs, deliveries or other reasons:

- > develop responses in partnership with public health agencies, workers' organisations and other relevant stakeholders;
- > monitor public health communications, guidelines and directives;
- > identify and minimise exposure risk of workers and visitors as much as possible;
- > ensure sufficient personal protective equipment procurement and distribution;
- > update or develop new policies and guidelines on hygiene practices and other mitigation measures such as no-contact protocols for deliveries and other transactions;
- > provide training, education and informational material to workers;
- > provide workers with sick leave and supporting their access to medical care in the event of illness;
- > protect workers' wages and other income security to the extent possible;
- > review and adapt worker accommodation to minimise risks;
- > provide workers with accommodation where they are restricted from travelling home;
- > do not prevent workers from leaving the premises;
- > provide for workers to attend to sick family members;
- > communicate to stakeholders regarding measures taken.

Additional measures taken by members of the ICMM in response to COVID-19 include: mandating working from home where physically possible or instigating different rotas, restrictions on work-related travel, quarantine protocols for returning travellers, restrictions on non-essential visits to operating sites, social distancing measures, and identification and protection of high-risk individuals. Other measures include temperature screening at site, implementing increased hygiene measures and providing a 24/7 hotline for workers to seek medical advice – including access to mental health services given the heightened levels of anxiety caused by the crisis and increased isolation of many workers.

186. IndustriALL, *COVID-19 Advice for Workers and Employers*, 2020, Accessed online: 2 January 2020, <<http://admin.industriall-union.org/sites/default/files/uploads/documents/Covid-19/covidadvice2eng.pdf>>.



Performance Determination

Meets:

The company:

- > has developed and implemented plans and procedures aligned with this provision;
- > the plans include provisions for ensuring safety of workers and other visitors to the site during a pandemic or other global health emergency;
- > has taken appropriate measures to protect workers and other visitors to the site in response to COVID-19.

Substantially Meets:

The company has developed plans for ensuring safety of workers and other visitors to the site during a pandemic or other global health emergency and has taken appropriate measures to protect workers and other visitors to the site in response to COVID-19, however, the plans have not yet been fully implemented and/or are not sufficiently comprehensive.

Partially Meets:

The company has developed plans for ensuring safety of workers and other visitors to the site during a pandemic or other global health emergency and has taken some measures to protect workers and other visitors to the site in response to COVID-19, however, the plans have not yet been implemented and/or the COVID-19 response measures are insufficient.

Misses:

The company has not developed plans for ensuring safety of workers and other visitors to the site during a pandemic or other global health emergency and/or has not taken appropriate measures to protect workers and other visitors to the site in response to COVID-19.

III. VERIFICATION

Data Collection Method

Conformance with the provisions on worker health and wellbeing is assessed through observation, document review, and interviews with the company's employees, contracted workers, and management team, and other stakeholders.

Conformance with the provisions, where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
7.21	✓	✓	✓	✓	✓	✓
7.22		✓	✓	✓	✓	✓
7.23	✓	✓	✓	✓	✓	
7.24		✓	✓	✓	✓	✓
7.25	✓	✓	✓	✓	✓	✓
7.26	✓	✓	✓	✓	✓	✓



Examples and Types of Evidence

- › Policy and procedures regarding on-site medical facilities and first-aid provisions;
- › inventory of first-aid provisions;
- › records of inspections of medical facilities and first-aid provisions;
- › procedure for ensuring a sufficient number of first-aid trained personnel on each shift;
- › records of training on first-aid;
- › procedure for the transportation of workers with more serious health concerns to local hospitals or medical facilities;
- › policy and procedures to monitor long-term health risks to workers;
- › identification of long-term health risks to workers;
- › documentation of periodic medical examinations and medical coverage;
- › procedure to prevent the exposure of pregnant and breastfeeding women to hazards and provide safe and appropriate working conditions for them;
- › procedures to ensure the physical, mental, and social wellbeing of workers;
- › procedure to provide employees with timely compensation for work-related injuries and illnesses where they are not already covered by public or private disability insurance;
- › procedure to provide employees with compensation for loss of earnings due to work-related injuries and illnesses where they are not already covered by public or private disability insurance until they can return to work or qualify for a disability pension;
- › procedure that states the company's commitment to providing employees with the same or similar position following their return to work after a work-related injury or illness;
- › plan to ensure safety of workers and other visitors to the site during a pandemic or other global health emergency; and
- › COVID-19 response procedures.

Site Assessment

Interviews

During interviews with management, managers can demonstrate or describe:

- › a good understanding of the on-site medical facilities and first-aid provisions;
- › a good understanding of the procedure for the transportation of workers with more serious health concerns to local hospitals or medical facilities;
- › examples of long-term health risks to workers;
- › frequency and scope of medical examinations;
- › examples of how the company prevents the exposure of pregnant and breastfeeding women to hazards;
- › examples of measures to promote the physical, mental, and social wellbeing of workers;
- › how the company compensates employees for work-related injuries and illnesses;
- › how the company accommodates employees returning to work following a work-related injuries and illnesses;
- › how the company has responded to COVID-19;
- › how the company plans to respond to future pandemics or global health emergencies.

During interviews with employees, they can demonstrate or describe:

- › a basic understanding of the on-site medical facilities and first-aid provisions;
- › where the nearest first-aid provisions are located;
- › whether there are first-aid trained personnel on every shift;
- › frequency and scope of medical examinations;
- › examples of how the company prevents the exposure of pregnant and breastfeeding women to hazards;
- › examples of measures to promote the physical, mental, and social wellbeing of workers;
- › how the company compensates employees for work-related injuries and illnesses;
- › how the company accommodates employees returning to work following a work-related injuries and illnesses;



- > how the company has responded to COVID-19; and
- > whether the company has a plan to respond to future pandemics or global health emergencies.

During interviews with affected communities and stakeholders, they can demonstrate or describe:

- > the nature of the company’s medical facilities;
- > whether the company has coordinated with nearby healthcare facilities regarding the transportation of workers with serious health concerns;
- > whether the company has identified long-term health risks to workers;
- > whether the company compensates employees for work-related injuries and illnesses;
- > how the company accommodates employees returning to work following a work-related injuries and illnesses;
- > how the company has responded to COVID-19; and
- > whether the company has a plan to respond to future pandemics or global health emergencies.

Site Walk-Through

During the Site Walk-Through, the assessor observes:

- > the on-site medical facilities and accessibility of first-aid provisions;
- > mechanisms to transport injured or ill workers;
- > working conditions for work-related injuries and illnesses;
- > how the company accommodates employees returning to work following a work-related injuries and illnesses; and
- > COVID-19 response measures.

IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
1 Business Integrity	1.1: When ensuring compliance with minimum standards for medical facilities and medical examinations, companies should refer to <u>Provision 1.1 on Legal Compliance</u> .
7 Occupational Health and Safety (OHS)	<p>7.1, 7.2, 7.3, 7.4, and 7.24: When developing systems to identify and manage health and safety risks, medical facilities, worker wellbeing and pandemics.</p> <p>7.13: When developing emergency preparedness procedures, companies should include pandemics.</p> <p>7.16 and 7.17: When developing OHS training and communication, companies should include training on worker housing safety.</p>
8 Communities and Stakeholders	8.9 and 8.10: When developing pandemic response procedures, companies should consider community health and safety.



V. FURTHER INFORMATION

- > ILO, *Technical and Ethical Guidelines for Workers' Health Surveillance*, 1998 (available [here](#)). These Guidelines are to assist all those who have responsibilities to design, establish, implement and manage workers' health surveillance schemes that will facilitate preventive action towards ensuring a healthy and safe working environment for all.
- > Safe Work Australia, *Hazardous Chemicals Requiring Health Monitoring* (available [here](#)). This document provides information about the known hazards of each chemical, symptoms of exposure, medical tests that should be used during health monitoring, and information on when to recommend certain actions like removal from work.
- > ILO, *Guidelines for the use of the ILO International Classification of Radiographs of Pneumoconioses, Revised edition*, November 2011 (available [here](#)). This revised edition of the ILO's International Classification of Radiographs of Pneumoconioses is a further effort towards standardising classification methods and facilitate international comparisons of data on pneumoconioses, epidemiological investigations and research reports.
- > South African Mining Industry, *Best Practice on the Prevention of Silicosis*, March 2006 (available [here](#)). This guide aims to support miners' well-being by illustrating best practice on prevention on Silicosis.
- > World Health Organization, *Screening and surveillance of workers exposed to mineral dusts*, January 1996 (available [here](#)). This book presents a step-by-step approach to the development of screening and surveillance programmes for workers exposed to mineral dusts.
- > National Institute for Occupational Safety and Health, *Handbook for Dust Control in Mining*, 2003 (available [here](#)). This handbook describes effective methods for the control of mineral dusts in mines and tunnels.
- > ICMM, *Good Practice Guidance on HIV/AIDS, TB and Malaria*, 2008 (available [here](#)).
- > ILO, *HIV and AIDS: Guidelines for the mining sector*, November 2013 (available [here](#)). This guidance provides a systematic management process that determines the level of intervention required for HIV/AIDS, TB and malaria, culminating, where appropriate, in the implementation of a health program with associated monitoring and evaluation.
- > ICMM, *The Setting and Use of Occupational Exposure Limits - Current practice*, 2007 (available [here](#)). This publication presents current perspectives on the OEL setting process from the scientific review of health data, to risk acceptance criteria and the consideration of socioeconomic factors.
- > IFC, *World Bank Group, Environmental, Health, and Safety Guidelines for Mining*, December 2007 (available [here](#)). The Environmental, Health, and Safety (EHS) Guidelines * are technical reference documents with general and industry specific examples of Good International Industry Practice (GIIP).
- > IFC, *World Bank Group, Environmental, Health, and Safety Guidelines, General EHS Guidelines, 2.0 Occupational Health and Safety*, April 2007 (available [here](#)). The EHS Guidelines contain the performance levels and measures that are normally acceptable to the World Bank Group, and that are generally considered to be achievable in new facilities at reasonable costs by existing technology.
- > Department of Consumer and Employment Protection, Western Australia, *Risk-based health surveillance and biological monitoring guideline: Resources Safety*, 2008 (available [here](#)). A guideline is an explanatory document that provides more information on the requirements of legislation, details good practice, and may explain means of compliance with standards prescribed in the legislation.
- > ILO, *Employment Injury Benefits Convention No. 121*, 1964 (available [here](#)). Explanation of ILO Convention on Employment Injury Benefits.
- > ILO, *Social Security (Minimum Standards) Convention No. 102*, 1952 (available [here](#)). Explanation of the ILO Convention on Social Security.
- > A Laurentian University & Workplace Safety North Initiative, *Guide to Healthy Pregnancies in the Mining Workplace*, February 2012 (available [here](#)). This guide was developed to provide information about the health effects of workplace hazards in the mining industry on pregnant and breastfeeding employees and on the developing fetus, and to provide information about



safety measures or controls that can be put in place to prevent or minimise exposure to these hazards.

- > South African Labour Guide, *Code of good practice on pregnancy and afterbirth* (available [here](#)). The objective of this code is to provide guidelines for employers and employees concerning the protection of the health of women against potential hazards in their work environment during pregnancy, after the birth of a child and while breast-feeding.
- > ICMM, *Improving employee mental health and wellbeing in the mining industry* (available [here](#)). Case study on the mental health and wellbeing of employees in the mining industry.
- > IFC, *Interim Advice for IFC Clients on Preventing and Managing Health Risks of COVID-19 in the Workplace*, April 2020 (available [here](#)). The main objective of this document is to collate and provide publicly available advice from internationally recognised sources to help IFC clients rapidly identify measures for preventing and managing outbreaks of COVID-19 in the workplace and for responding to community COVID-19 infection.
- > IndustriALL, *COVID-19 Advice for Workers and Employers*, March 2020 (available [here](#)). Advice for upholding the occupational health and safety as a matter of workers' rights and employers' responsibilities in the times of COVID-19.
- > ILO, *Handbook: Safety and health in underground mines*, May 2006 (available [here](#)). This new code, which reflects the many changes in the industry, its workforce, the roles of the competent authorities, employers, workers and their organizations, and on the development of new ILO instruments on occupational safety and health, focuses on the production of coal from underground mines.
- > ILO, *Code of practice on safety and health in opencast mines*, December 2018 (available [here](#)). This revised code reflects the many changes in the industry, its workforce, the roles of the competent authorities, employers, workers and their organizations, and the development of new ILO instruments on occupational safety and health (OSH), including the Safety and Health in Mines Convention, 1995 (No. 176).



Worker Housing (Provision 7.27)



I. INTRODUCTION

Provision 7.27 on Worker Housing may relate to a temporary phase of a mining operation (for example a construction camp) or may be more permanent. Depending on the type of accommodation, there are a range of considerations relating to both the living conditions of the workers themselves, and to the impact that workers' housing facilities may have on surrounding communities.¹⁸⁷

Housing standards should include special attention to the following:

- > a separate bed for each worker;
- > adequate headroom, providing full and free movement, of not less than 203 centimetres;
- > the minimum inside dimensions of a sleeping space should be at least 198 centimetres by 80 centimetres;
- > beds should not be arranged in tiers of more than two;
- > bedding materials should be reasonably comfortable;
- > bedding and bedframe materials should be designed to deter vermin;
- > separate accommodation of the sexes;
- > adequate natural light during the daytime and adequate artificial light;
- > a reading lamp for each bed;
- > adequate ventilation to ensure sufficient movement of air in all conditions of weather and climate;
- > heating where appropriate;
- > adequate supply of safe potable water;
- > adequate sanitary facilities (see below);
- > adequate drainage;
- > adequate furniture for each worker to secure his or her belongings, such as a ventilated clothes locker which can be locked by the occupant to ensure privacy;
- > common dining rooms, canteens or mess rooms, located away from the sleeping areas;
- > appropriately situated and furnished laundry facilities;
- > reasonable access to telephone or other modes of communications, with any charges for the use of these services being reasonable in amount; and
- > rest and recreation rooms and health facilities, where not otherwise available in the community.¹⁸⁸

II. PROVISIONS AND PERFORMANCE DETERMINATION

- > **Provision 7.27** Companies will ensure that housing provided to employees and contractors is maintained to a reasonable standard of safety, repair and hygiene.
-

187. IFC, European Bank for Reconstruction and Development (EBRD), *Workers' Accommodation: Processes and Standards*, 2009, Accessed online: 2 January 2020, <https://www.ebrd.com/downloads/about/sustainability/Workers_accomodation.pdf>.

188. ILO, *Helpdesk Factsheet No.6: Workers' Housing*, 2009, Accessed online: 2 January 2020, <https://www.ilo.org/empent/Publications/WCMS_116344/lang--en/index.htm>.

Explanation

Where companies provide worker accommodation, they should ensure the following aspects of safety, repair and hygiene:

- › running water, soap and towels or other drying devices;
- › a clean and safe place to cook, store and eat food;
- › unlimited potable water - if contamination risks are high, companies should carry out regular tests to ensure the water remains safe to drink, and keep records of the result;
- › fully operational fire safety equipment (including fire extinguishers) that comply with local law, including requirements for the number and type of equipment and where it is placed; are appropriate to the type of potential fire risks on-site and close to potential sources of ignition; and are well maintained and routinely checked to confirm functionality and accessibility;
- › an appropriate number of easily identifiable, unlocked emergency exits, based on the building's structure, the number of workers and local regulations;
- › if security guards are stationed at exits, they should have special training to ensure workers can leave without restrictions during an emergency;
- › first aid supplies;
- › emergency lighting in case of loss of power;
- › electrical safety;
- › building integrity (including regular inspections, repair and maintenance);
- › sanitary toilet and bathing facilities commensurate with the number and gender of workers; and
- › laundry facilities.¹⁸⁹

Performance Determination

Meets:

The company:

- › has developed and implemented procedures aligned with this provision;
- › provides worker housing that is maintained to a reasonable standard of safety, repair and hygiene.

Substantially Meets:

The company provides worker housing that is maintained to a reasonable standard of safety, repair, and hygiene, but worker housing is not regularly inspected for building integrity or safety aspects, minor repairs are pending.

Partially Meets:

The company:

- › provides worker housing that is maintained to a reasonable standard of safety, repair, and hygiene, however, some areas of the worker housing are not maintained to appropriate hygiene standards, toilet and bathing facilities are not commensurate with the number and gender of workers, and/or safety facilities or emergency measures are inadequate (for example, lack of adequate first aid supplies, insufficient emergency exits, presence of electrical hazards, lack of emergency lighting, etc.); and/or
- › worker housing is not included in emergency drills.

Misses:

Worker housing is not maintained to a reasonable standard of safety, repair, or hygiene.

¹⁸⁹ RJC, *Code of Practices Guidance*, 2019, Accessed online: 2 January 2020, <<https://www.responsiblejewellery.com/wp-content/uploads/RJC-COP-2019-V1.1-Guidance-1.1.pdf>>.



IV REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
1 Business Integrity	1.1: When ensuring compliance with minimum standards for worker housing, companies should refer to <u>Provision 1.1 on Legal Compliance</u> .
7 Occupational Health and Safety (OHS)	7.1, 7.2, 7.3 and 7.4: When developing systems to identify and manage health and safety risks, worker housing should be included.
	7.13 and 7.15: When developing emergency preparedness procedures, companies should include worker housing.
	7.16 and 7.17: When developing OHS training and communication, companies should include training on worker housing safety.

V. FURTHER INFORMATION

- > IFC, EBRD, *Workers' accommodation: processes and standards*, August 2009 (available [here](#)). The Guidance Note provides examples of good practice approaches that businesses have successfully applied in their operations.
- > ILO, *Helpdesk Factsheet No.6: Workers' housing*, October 2009 (available [here](#)). The ILO Helpdesk provides a one-stop-shop for company managers and workers who have questions about the ILO approach to socially responsible labour practices.
- > ILO, *Workers' Housing Recommendation (No. 115)*, 1961 (available [here](#)). This Recommendation applies to the housing of manual and non-manual workers, including those who are self-employed and aged, retired or physically handicapped persons.
- > Responsible Jewellery Council, *Code of Practices Guidance*, June 2019 (available [here](#)). This guidance offers general information and suggestions on how to implement the Code of Practices (COP).
- > IRMA, *IRMA Standard for Responsible Mining, IRMA-STD-001*, June 2018 (available [here](#)). Specifies a set of objectives and leading performance requirements for environmentally and socially responsible practice.



08

COMMUNITIES AND STAKEHOLDERS

Companies will identify and engage potentially affected stakeholders and contribute to the long-term social, cultural, environmental, economic and institutional development of the communities in which they operate.



Introduction

Companies are increasingly aware of their responsibilities to society and the communities in which they operate. More than ever before, they face pressure to pursue the so-called triple bottom line, meaning, an economic as well as social and environmental bottom line, and to evaluate their performance in a broader perspective, not just financial.

Lessons learned from the past have demonstrated that mining operations, even more than other industries, can generate both adverse and positive impacts on the wellbeing of the surrounding communities. Key areas and examples of adverse impacts affecting local communities, especially when leading to resettlement, include:¹⁹⁰

ecosystems, land and natural resources: loss of access to land for farming, fishing and hunting leading to lower nutrition and income; increase in adverse environmental impacts such as water quantity, quality, pollution etc.;

> *housing and associated structures*: loss of housing resulting in homelessness and decreased standards of housing; loss of business structures resulting in loss of income;

> *services and infrastructure*: disruption to access routes, and pressure on services due to influx of economic migrants;

> *productive capacity and abilities*: reduction in food and/or income due to loss of access to land or business leading to impoverishment; children forced out of education and into work; women's income decreases and status lowered;

> *community and politics*: breakdown of traditional governance and culture; fragmenting of communities and social support; increased crime and antisocial behaviour;

> *livelihood assets and activities*: loss of income from loss of land/access to business; inability to save money and increased debt; disruption of local markets; increase in prices and increased pressure on local communities due to inflation;

> *culture*: loss of access to religious, cultural and/or spiritual resources diminishes traditional customs and practices leading to loss of cultural identity;

> *cultural heritage*: loss of, or physical damage to, sites of significant cultural heritage;

> *health*: Impacts on community health arising from introduction of communicable diseases due to an influx of workers and migrants.

190. ICMM, *Land Acquisition and Resettlement: Lessons Learned*, Page 14- 15, Accessed online: 2 January 2020, <<http://www.icmm.com/website/publications/pdfs/social-and-economic-development/9714.pdf>>.



However, when effectively managed and designed in respect of people and the environment and through meaningful stakeholder engagement, mining operations can greatly contribute to the sustainable development of their surrounding communities. Examples of positive impacts include, and are not limited to:

- › Opportunities for employment and investment in the local economy creating direct and indirect employment;
- › increased investment for protection of natural resources;
- › opportunities for improving livelihoods, including through the provision of higher standards of housing and economic benefits which improve standards of living and benefit nutrition and health;
- › increased investment in services in the operations area;
- › investment in education and skills training;
- › awareness and modernisation of attitudes towards gender issues, and increased income and status for women;
- › higher prices for goods produced locally; and
- › investment to protect and/or maintain cultural heritage.

Creating strong, positive relationships with local stakeholders serves both an ethical and a strategic purpose. From an ethical perspective, engaging stakeholders, including affected communities, to ensure that a mining operation does not adversely impact them, is the right thing to do.

Strategically, companies are increasingly aware of the risks associated with poor stakeholder relations, which may lead to legal, reputational, and operational risks; as well as the opportunities provided by going beyond meeting regulatory requirements to build longer-term, more constructive partnerships that foster mutual trust and shared value.

Bettercoal expectations on Communities and Stakeholders include Provisions on:

- › [Stakeholder Engagement \(Provisions 8.1 – 8.5\)](#)
- › [Resettlement \(Provisions 8.6 – 8.8\)](#)
- › [Community Health and Safety \(Provisions 8.9 – 8.10\)](#)
- › [Sustainable Development \(Provisions 8.11 – 8.15\)](#)
- › [Operational-Level Grievance Mechanism \(Provisions 8.16 – 8.18\)](#)
- › [Cultural Heritage \(Provision 8.19\)](#)



Stakeholder Engagement (Provisions 8.1 – 8.5)



I. INTRODUCTION

Stakeholders are “persons or groups who are directly or indirectly affected by a project, as well as those who may have interests in a project and/or the ability to influence its outcome, either positively or negatively.”¹⁹¹ Stakeholders may include, in addition to employees and other workers, locally affected communities or individuals and their representatives, government authorities, investors, civil society organisations and groups with special interests.

Each of these individuals or groups will have a different “stake” in the mining operations, depending, for example, on whether they are directly or indirectly affected by a company’s impacts, both positive and adverse, and depending on the degree of influence that they might have over the operations.

Effective *stakeholder engagement* is essential for the long-term viability of the operations. Meaningful stakeholder engagement refers to ongoing engagement with stakeholders that is “two-way, conducted in good faith and responsive”.¹⁹² When conducted in a way that is proactive, inclusive, accountable, and transparent, meaningful stakeholder engagement increases the potential for optimal outcomes for both communities and mining companies, by helping companies secure a social license to operate; that is, an ongoing acceptance of a company’s standard business practices and operating procedures, through greater awareness and trust, and by ensuring sustainable, positive development in areas impacted by the mining operations through aligning the business objectives and the development priorities of local communities and stakeholders.

Stakeholder engagement is used as an umbrella term encompassing a range of activities and interactions over the lifecycle of the mine. Key building blocks of stakeholder engagement include identifying and analysing stakeholders, understanding and responding to stakeholder issues and concerns, consulting, negotiating and partnering with stakeholders during decisions, involving stakeholders during operations monitoring, and reporting to stakeholders.

II. PROVISIONS AND PERFORMANCE DETERMINATION

- **Provision 8.1** Companies will identify groups and individuals including community members, Indigenous and Tribal Peoples, rights’ holders and other stakeholders who may be affected by or interested in their activities.

Explanation

The first step of stakeholder engagement is the identification of who the stakeholders of the mining operations are, or stakeholder mapping, including, how and to what extent they are, will or could be affected by the operations, and what influence they may have over them.

191. IFC, *Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets*, 2007, Page 17, Accessed online: 2 January 2020, <https://www.ifc.org/wps/wcm/connect/affbc005-2569-4e58-9962-280c483baa12/IFC_StakeholderEngagement.pdf?MOD=AJPERES&CVID=jkD13-p>.

192. OECD, *Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector*, 2017, Page 18, Accessed online: 2 January 2020, <<http://www.oecd.org/publications/oecd-due-diligence-guidance-for-meaningful-stakeholder-engagement-in-the-extractive-sector-9789264252462-en.htm>>.

Companies should map those stakeholders that are directly and indirectly affected by the mining operations through a systematic approach. To this end, companies may start with delineating the operations area of influence (see [Provision 2.3 on Risk and Impact Assessments](#)), to reveal those most directly affected by the environmental and socio-economic impacts of the operations, for example, because of land use emissions, and job creation throughout the supply chain.

It should be noted that, for some mining operations, the most vocal opposition may come from stakeholders outside the affected area – for example from civil society organisations located elsewhere. Companies should include in their stakeholder analysis those groups or organisations that are not adversely affected, but whose interests determine them as stakeholders, and who may influence the success of the operations, for example, by attracting the attention of the media and/or politicians. An effective identification of all relevant stakeholders will help the company proactively manage such risks.

It is important when identifying stakeholders to keep in mind that individuals who are part of the same group will not necessarily share the same concerns or have unified opinions or priorities, and that stakeholders and their interests might change over time. For this reason, the stakeholder identification and analysis exercise should be regularly updated, in line with the company procedures and in alignment with changing circumstances.

It is also important that companies determine those stakeholders that should be prioritised during the stakeholder engagement process by assessing the significance of the operations to each stakeholder group from their perspective, and vice versa. Priority stakeholder groups should include:

- > rights-holders, meaning, individuals or groups that have particular entitlements in relation to specific duty-bearers. These are normally individuals or groups whose human rights are not fully realised, respected, or protected, such as Indigenous peoples, ethnic minorities, migrants, women and girls;¹⁹³
- > stakeholders who will be directly, adversely affected by potential environmental and social impacts in the operations' area of influence;
- > the most vulnerable among the potentially impacted;
- > those whose opposition could be detrimental to the success of the operations.

To this end, companies should undertake research on the socio-economic context, including information on the demographic characteristics of the local population; the status of women; the local economic livelihoods available (permanent, seasonal, migrant labour, unemployment); land tenure; and natural resource control; social organisation and power dynamics; levels of literacy; access to health care; the ability of the local population to evaluate technical information; cultural values and perceptions. Such information is usually formally obtained by conducting a social impact assessment (SIA).

Performance Determination

Meets:

The company has conducted and documented a stakeholder identification exercise and it is regularly updated.

Substantially Meets:

The company has conducted a documented stakeholder identification exercise, but it is not regularly updated.

193. Right to Education Initiative, *Glossary: Right-Holder*, Accessed online: 2 January 2020, <<https://www.right-to-education.org/monitoring/content/glossary-rights-holders>>.



Partially Meets:

- > The company has conducted a documented stakeholder identification exercise, however, the exercise has not been conducted through a systematic approach, and there are gaps in the stakeholder categories identified; or
- > the company is in the process of conducting a stakeholder identification exercise.

Misses:

The company has not conducted a stakeholder identification exercise.

-
- > **Provision 8.2** Companies will develop and implement a stakeholder engagement plan that is scaled to the operation's risks, impacts and development stage, and tailored to the characteristics and interests of its various stakeholders including host governments, civil society, the private sector and the affected communities.
-

Explanation

Companies should design stakeholder engagement strategies that are commensurate with the risks and impacts that their mining operations are likely to create. The type of relationship that companies develop with their stakeholders, and the resources and level of effort that they need to invest, will differ according to the nature, location, and scale of the operations; the phase of its development; and the interests and priorities of the stakeholders.

Companies should formalise their stakeholder engagement strategy in a stakeholder engagement plan and procedures that describe a company's strategy and program for engaging with stakeholders. A stakeholder engagement plan should include:¹⁹⁴

- > a description of the company's operations (including a map of the operation site and surrounding areas);
- > a description of the potential social and environmental issues caused by, contributed to, or associated with, the operations;
- > the regulatory, company, and/or other requirements for consultation and disclosure pertaining to stakeholder engagement applicable to the company operations;
- > the stakeholder groups identified and prioritised as a result of the stakeholder identification exercise;
- > a strategy and timetable for sharing information and consulting with each stakeholder group, including: the purpose and goals of the stakeholder engagement program; the type of information that will be disclosed and through which channels (e.g. radio, television, leaflets etc.); how stakeholders will be consulted (e.g. interviews, surveys, public meetings, etc.);
- > the budget allocated and responsibilities assigned for implementing stakeholder engagement activities;
- > a description of how stakeholder engagement activities will be incorporated into a company's management system;
- > if any stakeholder engagement activities have already been undertaken, a summary of previous activities, including: the type of information disclosed; how, where and when the individuals, groups, and/or organisations that have been consulted, key issues discussed and key concerns raised and the company's response to such issues.

The stakeholder engagement plan should be tailored to the characteristics and interests of its various stakeholders including host governments, civil society, the private sector and

194. IFC, *Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets*, 2017, Page 164-167, Accessed online: 2 January 2020, <https://www.ifc.org/wps/wcm/connect/affbc005-2569-4e58-9962-280c483baa12/IFC_StakeholderEngagement.pdf?MOD=AJPERES&CVID=jkD13-p>.



the affected communities, as identified and prioritised during the stakeholder identification exercise of [Provision 8.1 on Stakeholder Engagement](#). The stakeholder engagement plan should be developed in collaboration with the stakeholders identified (see [Provision 8.3 on Stakeholder Engagement](#)).

Like any other business function, stakeholder engagement should be effectively managed. For this reason, it should be driven by a well-defined strategy and have a clear set of objectives, timetable, budget, and allocation of responsibilities. All staff should be made aware of the program and understand why it's being undertaken and what implications it might have for the success of the mining operations. Allocating responsibilities for stakeholder engagement to business units and mainstreaming it into the company operations increases the chances that it will serve the purposes of the operations, rather than becoming a costly peripheral exercise that is out of touch with operational realities and raises expectations that cannot be met. As with other key business functions, direct reporting lines and the engagement of senior management is critical.

Performance Determination

Meets:

The company has developed and implemented a stakeholder engagement plan that meets all requirements of this provision.

Substantially Meets:

The company has developed a stakeholder engagement plan that meets all requirements of this provision, but the plan is not fully implemented.

Partially Meets:

The company:

- › has developed a stakeholder engagement plan but it meets only some requirements of this provision; or
- › is in the process of developing a stakeholder engagement plan.

Misses:

The company has not developed a stakeholder engagement plan.

-
- › **Provision 8.3** Companies will develop engagement processes in consultation with affected stakeholders that are accessible, inclusive, equitable, culturally appropriate, gender-sensitive and rights-compatible, and will demonstrate that efforts have been or are being taken to identify and remove barriers to engagement for affected stakeholders, especially the most vulnerable persons, groups and organisations.
-

Explanation

Companies should be aware of the often complex political, social, and economic relations between groups in the areas where they operate, as well as of the established histories and cultures. Stakeholder relations, if not effectively managed, may become politicised and exacerbate tensions or conflicts. To ensure that stakeholder engagement is conducted in a way that contributes to positive relations between the company and the community, and that fosters dialog among different stakeholder groups, stakeholder engagement should be:

- › *accessible*: it should be known to all stakeholder groups for whose use it is intended, and provide adequate assistance for those who may face particular barriers to access; to ensure the accessibility of information, companies should consider how the intended recipient will



most readily receive and comprehend the information, for example, the regulatory requirement of disclosing information in locations open to the general public (offices of government environmental regulators, local planning authorities, etc.) may be necessary, but not sufficient, to disseminate information of importance to stakeholders; companies should consider more constructive ways to disclose information, including, for example, via public meetings, smaller gatherings of specific stakeholder groups, engaging intermediaries (such as the head of a local village council, or church or traditional leaders), and disseminating information in the local language; companies should also consider holding stakeholder meetings in venue where stakeholders feel more comfortable, such as a venue within their community;

> *inclusive*: stakeholder engagement should involve stakeholders with diverse perspectives, and represent the views of women, youth, and vulnerable and/or minority groups, without any form of discrimination; companies should consider strategies that might be needed to ensure vulnerable groups have an opportunity and the ability to participate in stakeholder engagement activities; for instance, companies may wish to provide transport for the poor or disabled to attend key meetings and consultations;

> *equitable*: the stakeholder engagement process should seek to ensure reasonable access to sources of information, advice, and expertise necessary to engage on the basis of fair, informed, and respectful terms;

> *culturally appropriate*: stakeholder engagement should respect the socio-economic dynamics of the local communities; companies should consider hiring field-based community liaison officers, and consider bringing in social advisors or other expert staff to help design and facilitate the process and assist with participatory methodologies and other specialised techniques; companies should respect local traditions, languages, timeframes, and decision-making processes and consider adopting, where appropriate, traditional mechanisms for consultation and decision-making;

> *gender-sensitive*: stakeholder engagement process should take into consideration the fact that men and women may have differing views and needs; companies should be aware that the development of mining operations and companies' impacts may affect men and women differently, because of the different roles that men and women play in society, for example, men and women may have different access to job opportunities and resources; companies should ensure that they fully integrate women's perspectives into their stakeholder engagement process; for example, this could be achieved by:

- > ensuring that interviews are not conducted solely with male 'head of households';
- > paying attention to team composition (women may be more comfortable talking to other women);
- > getting more women in the room by making meetings accessible and convenient based on location, timing, and access to childcare;
- > holding separate meetings where, because of the local culture, women's voices may not be effectively present or heard in traditional mechanisms;
- > raising issues that matter most to women; and/or
- > ensuring representation of different perspectives across socio-economic, caste, ethnic, and religious lines, marital status and age, understanding that women may not represent a homogenous group; and

> *rights-compatible*: stakeholder engagement should be carried out in accordance with internationally recognised human rights standards.

Before engaging through stakeholder representatives, companies should ensure that these individuals are indeed true advocates of the views of their constituents and legitimate representatives.

Performance Determination

Meets:

The company has developed engagement processes that meets all requirements of this provision and can demonstrate that efforts have been taken to identify and remove barriers



to engagement for affected stakeholders, especially the most vulnerable persons, groups and organisations.

Substantially Meets:

The company has developed engagement processes that meet all the requirements of this provision and can demonstrate that efforts have been taken to identify and remove barriers to engagement for affected stakeholders, especially the most vulnerable persons, groups and organisations, however not all activities have been fully implemented.

Partially Meets:

The company:
> has developed engagement processes but those meet only some requirements of this provision; or
> is still in the process of preparing for the engagement.

Misses:

The company does not have an engagement process in place.

> **Provision 8.4** Companies will begin engaging with stakeholders prior to or during the mine planning stage and will continue stakeholder engagement throughout the lifecycle of the mine.

Explanation

Companies should be aware that relationship-building takes time. For this reason, companies should begin to engage with stakeholders early, prior to or during the mine planning stage. Early engagement provides a valuable opportunity to influence public perception, set a positive tone, build trust, enable relevant communities to share views on mine design with planners and prevent potential issues and risks through the generation of ideas and alternative solutions in early design considerations.

Establishing and maintaining good relationships also requires a long-term approach. Companies should, for example, invest in hiring and training community liaison staff; translate information about their operations into local languages and formats that are easily understood; and make efforts build personal relationships.

Stakeholder engagement is an ongoing process, and it should be cultivated consistently throughout the entire lifecycle of the mining operations.

Performance Determination

Meets:

The company can demonstrate that its stakeholder engagement process has been designed and implemented over the entire lifecycle of the mine.

Substantially Meets:

The company can demonstrate that its stakeholder engagement process has been designed and implemented to substantially cover the entire lifecycle of the mine, however, the company did not engage with stakeholders prior to or during the mine planning stage.



Partially Meets:

The company engages stakeholders on an ad hoc, rather than on a continuous basis.

Misses:

The company does not carry out stakeholder engagement.

> **Provision 8.5** Companies will seek broad community support for their operations from affected local communities and will demonstrate that this support is being maintained throughout the lifecycle of the mine.

Explanation

Companies should obtain and maintain broad community support from the locally affected communities (see [Provision 2.5 on Risk and Impact Assessments](#)) before new mining operations and during the entire lifecycle of the mine. Existing mining operations should obtain and maintain broad community support before significant changes, as well as throughout the lifecycle of the mine. Where existing mines may not have had broad community support at the time they were constructed, they should be able to demonstrate that they have built strong relationships with affected communities and stakeholders and have gained their support over time.

In some jurisdictions, an explicit consent is required under national or sub-national laws. In most jurisdictions however, neither Indigenous Peoples nor any other population group have the right to veto the development of mining operations that affect them. *Broad community support* refers to a collective expression by the community in support of the mining project. Support may be demonstrated through credible (i.e., transparent, inclusive, informed, democratic) local government processes or other processes or methods agreed to by the community and company. There may be broad community support even if some individuals or groups object to the business activity.¹⁹⁵ This is important not only to ensure that potential risks and impacts are prevented or mitigated, but also to ensure that the company can operate without potential disruptions.

This requirement applies to non-indigenous communities. When engaging with Indigenous Peoples, companies should obtain FPIC (see [Provision 5.5 on Indigenous and Tribal Peoples](#)).

Performance Determination

Meets:

The company can demonstrate that it has obtained broad community support for its operations from locally affected communities and has maintained it throughout the lifecycle of the mine.

Substantially Meets:

The company cannot demonstrate that it had obtained broad community support for its operations from locally affected communities before the mining operation, but it can demonstrate that it has obtained it throughout the subsequent lifecycle of the mine.

Partially Meets:

That company can demonstrate that it has obtained community support for its operations, but such support is not shared by a substantial share of locally affected communities.

195. IRMA, *IRMA Standard Guidance: Version 1.0*, 2019, Page158, Accessed online: 2 January 2020, <https://responsiblemining.net/wp-content/uploads/2019/12/IRMA_Standard-Guidance_Oct2019.pdf>.



Misses:

The company cannot demonstrate broad community support for its operations from locally affected communities.

III. VERIFICATION

Data Collection Method

Conformance with the provisions on stakeholder engagement is assessed through document review and through interviews with the company's employees, management team, and other stakeholders, including affected communities.

Conformance with the provisions, where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
8.1		✓	✓			
8.2		✓	✓	✓		✓
8.3		✓	✓			✓
8.4		✓	✓			✓
8.5		✓	✓			✓

Examples and Types of Evidence

- > A corporate or site level stakeholder engagement policy;
- > results of a stakeholder identification or mapping exercise;
- > a stakeholder engagement plan, including implementation schedule and register of completed stakeholder engagement activities;
- > records of engagement and consultation activities spanning the period from implementation of stakeholder engagement plan to current date;
- > job description of community liaison staff;
- > evidence of training of relevant staff;
- > audit reports (external or internal) or certifications;
- > grievance mechanism documentation, including written records of complaints and site/facility responses; and
- > results of community perception surveys (e.g. those conducted as part of an SIA);
- > stakeholder committee reports and minutes.

Site Assessment

Interviews

During interviews with management, managers can demonstrate understanding or describe:

- > the company's policy and procedures on stakeholder engagement;
- > The stakeholder engagement plan and how it is implemented;
- > How the company identifies and engages with stakeholders including affected stakeholders, rights-holders, and vulnerable groups;



- › How designated employees are trained on the stakeholder engagement process;
- › How they communicate the stakeholder engagement process to relevant stakeholders.

During interviews with employees, they can demonstrate or describe:

- › a basic understanding of the company's procedures and know where to find a written or formal electronic copy of the stakeholder engagement plan; and
- › training received on the procedures.

During interviews with affected communities and stakeholders, they can demonstrate or describe:

- › the company's stakeholder engagement plan and its implementation process; and
- › their participation in engagement processes which meet the requirements of the Bettercoal Code.

IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
1 Business Integrity	1.1: Companies should be aware of their legal requirements in relation to stakeholder engagement and obtaining community support.
2 Risk and Impact Assessments	2.3 – 2.7: When identifying stakeholders, companies should take into consideration the potential risks and impacts identified through the risk and impact assessments.
5 Human Rights	5.5: Companies should adopt the principle of Free, Prior and Informed Consent to the greatest degree possible in development planning and implementation.
8 Communities and Stakeholders	8.16 – 8.18: As part of stakeholder engagement, companies should provide stakeholders with an operational-level grievance mechanisms to collect and respond to community concerns.

V. FURTHER INFORMATION

- › IFC, *Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets* (available [here](#)). This Handbook a comprehensive overview of good practice in stakeholder engagement, with a dedicated focus on stakeholder groups that are “external” to the core operation of the business, such as affected communities, local government authorities, non-governmental and other civil society organisations, local institutions and other interested or affected parties.
- › OECD, *OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector* (available [here](#)). This Guidance provides practical guidance to mining, oil and gas companies in addressing the challenges related to stakeholder engagement, in line with the recommendations found in the OECD Guidelines for Multinational Enterprises.



Resettlement (Provision 8.6 – 8.8)



I. INTRODUCTION

The location of a mineable ore body is often found in close proximity to communities who live and depend on its land. In such cases, mining operation-related land acquisition and restrictions can adversely affect the communities, who might become the subject of resettlement, including:¹⁹⁶

- > *physical displacement*, meaning, *relocation or loss of shelter*, and/or
- > *economic displacement*, meaning, “*loss of assets or access to assets that leads to loss of income sources or other means of livelihood, which is the full range of means that individuals, families, and communities utilise to make a living, such as wage-based income, agriculture, fishing, foraging, other natural resource-based livelihoods, petty trade, and bartering.*”

Resettlement is considered involuntary when the affected communities and individuals do not have a legal right to refuse land acquisition or restrictions on land use, which results in physical or economic displacement.¹⁹⁷ Involuntary resettlement could, if not managed effectively, cause extensive adverse socio-economic impacts to the individuals affected by the company’s operations. Involuntary resettlement may also create tensions, which will negatively affect the success of the mining operation.

Companies should avoid involuntary resettlement to the greatest extent possible. Where involuntary resettlement is unavoidable, they are required to minimise resettlement and mitigate its adverse impacts by compensating for losses and restoring livelihoods through a carefully designed and implemented resettlement plan.

II. PROVISIONS AND PERFORMANCE DETERMINATION

- > **Provision 8.6** Companies will avoid resettlement to the greatest extent possible. Where resettlement is being considered, companies will invest in a thorough search for alternative designs and locations for the mining operation. Companies will consult with stakeholders before irrevocable planning decisions are made and when the impact on affected communities may be mitigated.
-

Explanation

Companies should be aware of the risks of adverse impacts that a new mining operation or an expansion of an existing mining operation may have on the local communities, and should avoid resettlement to the greatest extent possible. To this end, companies should consider risks of physical and economic displacement when conducting their environmental, social, and human rights risk and impact assessments, and consider alternative designs and locations for the mining operation with the purpose of avoiding or minimising physical and economic displacement on all categories of potentially *displaced persons*, which include:

196. IFC, *IFC Performance Standard 5 - Land Acquisition and Involuntary Resettlement*, 2012, Accessed 2 January 2020, <https://www.ifc.org/wps/wcm/connect/75de96d4-ed36-4bdb-8050-400be02bf2d9/PS5_English_2012.pdf?MOD=AJPERES&CVID=jqex59b>.

197. *Ibid.*

- > persons who have formal legal rights to the land or assets they occupy or use;
- > persons who do not have formal legal rights to land or assets, but have a claim to land that is recognised or recognisable under national law; or
- > persons who have no recognisable legal right or claim to the land or assets they occupy or use.¹⁹⁸

Companies should engage stakeholders in the early stages of the planning of the mining operation, before irrevocable decisions are made, and negotiate settlements even where they may have the legal means to acquire land without the seller's consent, by offering affected people fair and appropriate compensation and other incentives or benefits.

Stakeholder engagement in general, and negotiations with displaced people in particular, should be at the heart of the land acquisition process. Such negotiations should include measures to allow the effective participation of vulnerable groups, including all those using the land whether they have a legal right to do so or otherwise, for example, *artisanal and small-scale miners* (see [Provisions 8.1 - 8.5 on Stakeholder Engagement](#)).

Negotiated settlements to acquire land rights or access can help avoid expropriation at mining operations, eliminate the need for government authorities to remove people forcibly, and contribute to building positive relationships with the communities, which will ultimately benefit the long-term success of the operation.

Performance Determination

Meets:

The company:

- > can demonstrate that it considered alternative options to resettlement in its design of the mining operation;
- > can also demonstrate that it consulted with stakeholders in the early stages of resettlement, where resettlement is determined to be necessary.

Substantially Meets:

N/A

Partially Meets:

Where resettlement is determined to be necessary, the company consulted with stakeholders in the early stages of resettlement, however, not all relevant stakeholders were engaged during consultation or efforts made to find alternative options were not sufficient.

Misses:

The company did not consider or is not considering alternative options to resettlement in its design of the mining operation.

-
- > **Provision 8.7** Companies will, in the event of unavoidable resettlement, minimise the need for resettlement, implement appropriate measures to mitigate impacts on displaced persons and affected communities, provide compensation upon consultation with affected communities, and provide the option of return, where possible. Where there is to be any resettlement, companies will consult with those who may be affected at the individual household level.
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¹⁹⁸. *Ibid.*



Explanation

Where *displacement* cannot be avoided, companies should minimise the need for resettlement, for example through the design of the mining operation, and the development of guidelines to minimise the areas rendered inaccessible from agricultural use by communities.

Companies should collect appropriate socio-economic baseline data to identify the individuals and households who will be displaced by the operation and determine who will be eligible for compensation through set criteria. To negotiate resettlement and compensation, companies should establish a resettlement committee and use a resettlement oversight or steering committee to help address potential disputes. Where possible, companies should give displaced communities the option of return following mine closure.

In the event of unavoidable resettlement, companies should implement appropriate measures to mitigate impacts on displaced persons and affected communities. Such measures include: compensating displaced communities and individuals for loss of assets and helping them restore or, preferably, improving, their standards of living or livelihoods. Where livelihoods of displaced persons are land-based (for example, their livelihood is based on cropping and grazing of livestock as well as the harvesting of natural resources), or where land is collectively owned, companies should offer land-based compensation instead of cash.

Compensation should be provided in a transparent, consistent and equitable manner to all communities and individuals affected by the displacement. Compensation and other forms of assistance as described in 8.8 should be equally available to men and women. Where national law and tenure systems do not recognise the rights of women to hold or contract in property, measures should be considered to provide women as much protection as possible with the objective to achieve equity with men.

Affected communities should be consulted when determining the appropriate compensation at the community level as well as at the households' level for households that will be impacted by displacement. When negotiating with community representatives, companies should ensure that these individuals are true advocates of the views of their constituents and legitimate representatives, and they should conduct stakeholder engagement in alignment with the best practices (see [Provisions 8.1 - 8.5 on Stakeholder Engagement](#)).

Performance Determination

Meets:

The company:

- > has developed and implements appropriate measures to mitigate adverse impacts on displaced persons and affected communities;
- > has engaged affected communities, including households through consultation.

Substantially Meets:

The company has engaged affected communities, including households through consultation and developed appropriate measures to mitigate adverse impacts on displaced persons and affected communities, however, such measures are not fully implemented.

Partially Meets:

The company has developed only some measures to mitigate adverse impacts on displaced persons and affected communities.

Misses:

The company has not developed appropriate measures to mitigate adverse impacts on displaced persons and affected communities.



-
- > **Provision 8.8** Companies will develop and implement a resettlement action plan for physical displacement and a livelihood restoration plan for economic displacement. At a minimum, the plans will:
- a) describe how affected communities will be involved in an ongoing process of consultation, including at the household level, throughout the resettlement/livelihood restoration planning, implementation and monitoring phases;
 - b) describe the strategies to be undertaken to mitigate the impacts of displacement, to improve or restore livelihoods and standards of living of displaced people, paying particular attention to the needs of women, the poor, and vulnerable groups, and to improve living conditions among physically displaced persons through the provision of adequate housing with security of tenure at resettlement sites;
 - c) describe development-related opportunities and benefits for affected people and communities;
 - d) describe the methods used for the independent and professional valuation of land and other assets;
 - e) establish the compensation framework in a transparent, consistent, and equitable manner; and
 - f) be publicly available.
-

Explanation

Where displacement cannot be avoided, companies should:

- > for physical displacement, develop a resettlement action plan designed to mitigate the adverse impacts of physical displacement and identify development opportunities, which includes:
 - > compensation at full replacement cost for land and other assets lost;
 - > choices among feasible resettlement options, including adequate replacement housing of equal or higher value which offer improved living conditions or cash compensation where appropriate, taking into consideration displaced persons' preferences with respect to relocating in pre-existing communities and groups; and
 - > relocation assistance, such as skills training, access to credit, and job opportunities suited to the needs of each group of displaced persons and sufficient for them to restore their standard of living or livelihoods;
- > for economic displacement, a livelihood restoration plan should include:
 - > compensation for affected persons and/or communities for loss of assets and access to assets including lost net income during the period of transition;
 - > provision of assistance for displaced persons to re-establish their livelihoods, including the reestablishment of commercial activities elsewhere;
 - > opportunities to improve, or at least restore, means of income-earning capacity, production levels and standards of living.

Payment of cash compensation for lost assets may be appropriate where:

- > livelihoods are not land-based;
- > livelihoods are land-based but the land taken for the operation is a small fraction of the affected asset and the residual land is economically viable; or
- > active markets for land, housing, and labour exist, displaced persons use such markets, and there is sufficient supply of land and housing.

The resettlement action plan should respect the social and cultural institutions of displaced persons. In fact, physical resettlement planning should not just be concerned with engineering and design, but should be concerned with preserving the existing social fabric and community and household cohesion in a new location. Relevant authorities should be involved from



the outset, in order to ensure timely approvals and adoption of infrastructure. However, resettlement sites and designs should be developed and agreed with all stakeholders, not just community leaders or government authorities.

The plan should also integrate agricultural and food security planning, in consultation with affected communities, including farmers.

Companies should consult affected communities, including at the household level, throughout the entire process, including negotiations, monitoring and evaluation of the resettlement action plan and livelihood restoration plan. The resettlement action plan and livelihood restoration plan should describe how affected communities will be involved in ongoing processes of consultation and describe how the plans were developed by taking into consideration the needs of the most vulnerable groups, including women.

The implementation of these plans should be considered successful when:

- › the adverse impacts of resettlement are addressed consistently with the objectives of the plan;
- › mitigation measures have been substantially completed; and
- › displaced persons are deemed to have been provided adequate opportunity and assistance to sustainably restore their livelihoods.

Both plans should be publicly available, and available to affected stakeholders in a manner that is easily understood by the community (see [Provisions 8.1 - 8.5 on Stakeholder Engagement](#)).

In developing the resettlement action plan and livelihood restoration plan, companies should consider the impacts of resettlement not only on those who are displaced, but also on the communities receiving the displaced people, in order to prevent potential tensions and conflicts.

Performance Determination

Meets:

The company has developed and implements a resettlement action plan for physical displacement and a livelihood restoration plan for economic displacement (where applicable), which meet all requirements listed in this provision.

Substantially Meets:

The company has developed a resettlement action plan for physical displacement and/or a livelihood restoration plan for economic displacement (where applicable), which meet all requirements listed in this provision, however, while there is evidence that implementation of the plan is advanced, implementation has not started for all parts of the plan where the plan indicates they should have started.

Partially Meets:

The company:

- › has developed a resettlement action plan for physical displacement and/or a livelihood restoration plan for economic displacement (where applicable), which meet all requirements listed in this provision, but implementation has not started or the plan(s) has not been substantially implemented; or
- › is in the process of developing such plan(s), but it is not yet complete or it meets only some requirements listed in this provision.

Misses:

The company has not developed a resettlement action plan for physical displacement and/or a livelihood restoration plan for economic displacement (where applicable).



III. VERIFICATION

Data Collection Method

Conformance with the provisions on resettlement is assessed through observation, document review, and through interviews with the company’s employees and management team.

Conformance with the provisions, where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
8.6		✓	✓			✓
8.7	✓	✓	✓			✓
8.8		✓	✓			✓

Examples and Types of Evidence

- > Policy that commits to avoiding and/or minimizing involuntary resettlement;
- > risk and impact assessments related to resettlement;
- > disclosure of trade-off studies completed to optimise the design of the mining operation, for example, a feasibility study;
- > evolution of land acquisition and resettlement estimates from operation scoping study, through pre-feasibility study (PFS) to definitive feasibility study (DFS);
- > resettlement action plan and/or livelihood restoration plan with detailed budget and compensation measures;
- > monitoring and evaluation reports; and
- > documentation demonstrating effective engagement, consultation, and negotiations with affected stakeholders.

Site Assessment

Interviews

During interviews with management, managers can demonstrate a good understanding of or describe:

- > the actions taken by the company to avoid involuntary resettlement;
- > the process followed by the company where resettlement is unavoidable;
- > the actions taken by the company to minimise resettlement impacts and how mitigation measures are planned and implemented;
- > how affected stakeholders are involved in the design, monitoring, and evaluation of resettlement programs;
- > how they implement the resettlement action plan and how they address the residual impacts;
- > clear lines of accountability and responsibility within the company for the oversight and implementation of the resettlement action plan and/or livelihoods restoration plan.

During interviews with community members and stakeholders, they can describe or demonstrate:

- > a basic understanding of the company’s resettlement action plan and/or livelihoods restoration plan and confirm that the company engages with them on issues relating to resettlement; and/or



> that they are aware of how to report and to seek remedy in cases where they have concerns about resettlement.

Site Walk-Through

During the Site Walk-Through and visits to local communities, the assessor observes:

> resettled areas that are in line with the company’s resettlement action plan.



IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
2 Policy and Management	2.3 – 2.7: The resettlement negotiations should be based on a comprehensive assessment of the risk and impact associated to physical and economic displacements, and incorporated with the environmental, social and human rights risk and impact assessments of <u>Provisions 2.3 - 2.7</u> .
8 Communities and Stakeholders	8.1 – 8.5: Companies should actively engage affected stakeholders throughout the resettlement process, in line with the requirements of <u>Provisions 8.1 - 8.5 on Stakeholder Engagement</u> .
	8.16 – 8.18: Companies should put in place an effective, formal and structured grievance mechanism to collect and provide remedy to resettlement-related grievances from the start of resettlement planning.
	8.19: Companies should identify and consider archaeological, cultural and religious resources and develop appropriate cultural heritage management plans to mitigate impacts of resettlement. Companies should also consult with communities to determine appropriate rites and ceremonies for affected sites, where necessary.

V. FURTHER INFORMATION

- > IFC, *Guidance Note on Performance Standard 5: Land Acquisition and Involuntary Resettlement* (available [here](#)). This Guidance Note offers companies guidance on implementing the standard, including guidance on what to do if resettlement is a government-led activity.
- > IFC, *Handbook for Preparing a Resettlement Action Plan* (available [here](#)) provides practical guidance for the development of resettlement action plans.
- > ICMM report *Land Acquisition and Resettlement: Lessons Learned* (available [here](#)) provides guidance based on a benchmark study and past experiences of over 40 mining operations;
- > UN, *Basic Principles and Guidelines on Development-Based Evictions and Displacement* (available [here](#)) address the human rights implications of development-linked evictions and related displacement and help countries develop policies and legislations to prevent forced evictions.

Community Health and Safety (8.9 – 8.10)



I. INTRODUCTION

Companies' activities and operations may, if not effectively managed, expose local communities to a variety of health and safety risks and impacts. For example, operational activities and infrastructure may cause environmental impacts with repercussions on health, such as *pollution*, exposure to dangerous substances and contamination of the water supply or food chain. The influx of employees and workers from outside of the community may also cause, contribute to, or be associated with, the spread of new diseases (for example, HIV and STDs) and pandemics (for example, COVID-19) to local communities and Indigenous Peoples.

Additional risks also include accidents and injuries, negative effects on the psychological well-being of the community members, and increased demands on existing health and sanitation infrastructure due to an influx of jobseekers or family members to a region. Furthermore, communities that are already subjected to impacts from climate change may also experience an acceleration or intensification of such impacts due to companies' activities.

While acknowledging the government authorities' role in promoting the health and safety of the public, companies have a responsibility to avoid or minimise the risks and impacts to community health and safety that may arise from mining operations. Companies are encouraged to work with governments and other relevant stakeholders to put in place independent health monitoring mechanisms, to track the health of affected communities.

II. PROVISIONS AND PERFORMANCE DETERMINATION

- › **Provision 8.9** Companies will identify the risks and impacts of their activities and operations on community health and safety, aligned with the requirements of [Provisions 2.3 - 2.8](#) and [Provision 7.26](#) of this Code, and will establish and monitor indicators of community health and safety in consultation with affected communities.
-

Explanation

Companies should anticipate and avoid adverse impacts on community health and safety. To this end, companies should identify the risks and impacts of their activities and operations on community health and safety, either through environmental, social, and human rights risk and impact assessments (see [Provisions 2.3 - 2.7 on Risk and Impact Assessments](#)) or through dedicated assessments.

Companies should be aware that communities are not homogeneous, and there can be differentiated and disproportionate impacts within groups, including vulnerable groups, of women, men, the young, the elderly, and persons with disabilities, which should be taken into account.

In accordance with [Provision 2.4 on Risk and Impact Assessments](#), the breadth and depth of the assessment should be appropriate to the nature and scale of the mining operation

and commensurate with the level of health safety risks and impacts. When complex health or safety issues are involved, it may be appropriate for companies to engage external experts. In any case, it is important that the risk and impact assessments help the company understand and predict the current and future consequences of operation-related activities, and obtain information needed for evidence-based decision-making. Companies should collect baseline data, through a combination of relevant methods such as: literature review, the evaluation of existing country survey and research data, data validation, statistical analysis, evaluation of data from relevant stakeholders, traditional and local knowledge, and evaluation of health data from existing operation workers.

Community health and safety management requires a sound understanding of the social and cultural processes through which communities experience, perceive and respond to risks and impacts, which are likely to be conditioned by the ways in which community members experience change in their environments. For this reason, it is important that companies engage relevant stakeholders, including affected communities, throughout the risk and impact assessment process, to ensure that health and safety concerns of affected communities are appropriately addressed. The outcomes of the assessments should be reported to stakeholders (see [Provisions 8.1 - 8.5 on Stakeholder Engagement](#)).

Performance Determination

Meets:

- The company
- > conducts community health and safety risk and impact assessments that are:
 - > comprehensive;
 - > appropriate to the nature and scale of the mining operation; and
 - > commensurate with the level of their environmental, social and human rights risks and impacts.
 - > has a system in place to engage affected communities and other stakeholders, including disadvantaged and vulnerable groups, in the community health and safety risk and impact assessments.

Substantially Meets:

- The company:
- > conducts community health and safety risk and impact assessments;
 - > has developed a system to engage affected communities and other stakeholders, including disadvantaged and vulnerable groups, in the environmental, social, and human rights impact assessments, but implementation during the risk and impact assessment process is incomplete.

Partially Meets:

- The company:
- > conducts community health and safety risk and impact assessments.
 - > has developed a system to engage affected communities and other stakeholders, including disadvantaged and vulnerable groups, in the environmental, social and human rights impact assessments, but implementation has not yet started or the system has not been substantially implemented;
 - > is in the process of developing a system to engage affected communities and other stakeholders, including disadvantaged and vulnerable groups, in the environmental, social and human rights impact assessments, but such system is not yet complete.

Misses:

The company does not conduct community health and safety risk and impact assessments.



> **Provision 8.10** Companies will develop, document and implement measures to prevent and mitigate adverse impacts of their activities and operations on community health and safety in consultation with affected communities.

Explanation

Companies should establish measures to prevent and mitigate community health and safety risks and adverse impacts identified through the risk and impact assessment of Provisions 8.9 - 8.10 on Community Health and Safety.

Companies should design and implement mitigation strategies based on the mitigation hierarchy to avoid, minimise, and/or compensate the health and safety risks and impacts (see Provision 2.8 on Business Partners). Through the adoption of the mitigation hierarchy, companies should favour the avoidance of impacts over minimisation, and, where residual impacts remain, compensate and/or offset the impact.

Mitigation measures should be commensurate with their nature and magnitude of the risks and impacts identified, companies should prioritise those risks and impacts of injuries, illnesses, and deaths from mining operations that are most severe, or where a delayed response would render them irreparable.

Mitigation measures should be implemented as part of existing social and environmental management systems or as part of dedicated management systems or action plans, which include clear objectives and qualitative and/or quantitative indicators for measuring progress. The management system or action plans may be designed as part of a comprehensive framework and/or via a number of thematic plans based on specific areas of impact, such as water management etc.

Depending on the nature of the risk and impact assessed, examples of mitigation measures may include, but are not limited to:

- > mitigating the risks associated with structural elements or components of the operation, including dams, tailings dams or ash ponds;
- > preventing road accidents to safeguard the lives of community residents along transport routes as well as the lives of companies' own employees;
- > managing hazardous materials and substances;
- > mitigating the operation's impacts on ecosystem services, which may result in adverse health and safety risks and impacts to affected communities, for example through the degradation of natural buffer areas such as wetlands, mangroves, and upland forests that mitigate the effects of natural hazards such as flooding, landslides and fire;
- > managing natural resources, and mitigating adverse impacts on the quality, quantity, and availability of freshwater;
- > where specific diseases are endemic in communities in the operation area of influence, improving environmental conditions that could help minimise their incidence;
- > where communicable diseases may be associated with the influx of temporary or permanent labour, implementing measures to avoid or minimise transmission, including through education and training programs for employees and contractors to raise awareness, for example, on sexually transmitted diseases;
- > the development and implementation of emergency plans based on the risks to the health and safety of the affected community and other stakeholders.

The company should establish clear procedures to monitor and measure the effectiveness of the management program, including through collaboration with the affected communities. Companies should monitor results regularly and, where necessary, implement corrective actions. Periodic performance review should be reported to senior management.



Where mitigation measures require action by third parties, such as national or local governments, companies should, if permitted by the relevant governmental agency, be prepared to work with them in order to find a solution that helps effectively manage community health and safety.

Performance Determination

Meets:

The company has established and documented a management system to prevent and mitigate adverse impacts of its activities and operations on community health and safety in consultation with affected communities.

Substantially Meets:

The company has established and documented measures to prevent and mitigate adverse impacts of its activities and operations on community health and safety in consultation with affected communities, but implementation of such measures is incomplete.

Partially Meets:

The company:

- > has established and documented measures to prevent and mitigate adverse impacts of its activities and operations on community health and safety in consultation with affected communities, but implementation has not started or the measures have not been substantially implemented; or
- > is in the process of developing such measures, but the measures are not yet fully designed.

Misses:

The company has not established measures to prevent and mitigate adverse impacts of its activities and operations on community health and safety.



III. VERIFICATION

Data Collection Method

Conformance with the provisions on community health and safety is assessed through observation, document review, and through interviews with the company’s employees and management team.

Conformance with the provisions, where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
8.9		✓	✓			✓
8.10	✓	✓	✓			✓

Examples and Types of Evidence

- › Corporate or site level policy formalising the company's commitment to community health and safety;
- › legal register of applicable local regulations, for example, Control of Industrial Major Accident Hazard (CIMAH) regulations, and procedure for monitoring changes in the laws;
- › environmental, social, and human rights impacts assessments or standalone community health and safety risk and impact assessments;
- › stakeholder engagement reports;
- › identification of community health and safety indicators;
- › community health and safety monitoring reports;
- › community health and safety management plan or system;
- › records of lodged grievances relating to community health and safety and records of grievance resolutions;
- › assurance claim on publicly available website, annual report, or corporate sustainability report relating to community health and safety measures and data;
- › third-party assurance or certification of the community health and safety management systems; and
- › site-level audit or assessment of the community health and safety management system.

Site Assessment

Interviews

During interviews with management, managers can demonstrate a good understanding or describe:

- › how the company carries out health and safety risk and impacts assessments to identify risks and impacts to community health and safety;
- › how such impacts assessments are linked to the company's other systems such as environmental management systems for pollution and waste;
- › how the company implements mitigation measures if potential impacts are identified;
- › how the company engages relevant stakeholders, including affected communities, on identify community health and safety risks and impacts and for monitoring and reporting on mitigation measures; and/or
- › clear lines of accountability and responsibility within the organisation for the oversight and implementation of the mitigation measure.

During interviews with community members and other stakeholders, they can describe or demonstrate:

- › a basic understanding of the company's health and safety measures;
- › whether they were engaged for the purpose of the risk and impact assessment;
- › whether they were engaged for the establishment and monitoring of mitigation measures;
- › whether they receive reports relating to community health and safety; and/or
- › how to lodge grievances if they have concerns on community health and safety.

Site Walk-Through

During the Site Walk-Through and visits to local communities, the assessor:

- › does not observe adverse impacts on community health and safety caused by the mining operations.



IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
2 Policy and Management	2.1 – 2.2: Mitigation measures should be through companies' existing environmental and social management systems and/or dedicated management systems which meet the requirements of <u>Provisions 2.1 and 2.2 on Management Systems</u> .
	2.3 – 2.7: Companies should take into consideration health and safety risks and impacts to the communities associated to their activities and operations during their environmental, social and human rights risk and impact assessments of <u>Provisions 2.3 - 2.7 on Risk and Impact Assessments</u> .
Human Rights	5.7 – 5.10: Companies' safeguarding of personnel and property should be provided in a manner that does not jeopardise the community's safety and security.
7 Occupational Health and Safety	7.26: Companies should consider impacts of global health pandemics on local communities.
	7.27: Companies should develop and maintain emergency response plans in collaboration with all relevant stakeholders, including local communities.
8 Communities and Stakeholders	8.1 – 8.5: Companies should actively engage affected stakeholders for the establishment of measures to prevent and mitigate health and safety risks and impacts, in line with <u>Provisions 8.1 - 8.5 on Stakeholder Engagement</u> .
	8.16 – 8.18: Companies should put in place an effective, formal and structured grievance mechanism to collect and provide remedy to health and safety-related grievances.
9 Water Stewardship	9.1 – 9.6: Companies should consider the impacts of their operations on water access, quantity and quality, to prevent and mitigate risks and impacts on affected communities.
10 Management of Emissions and Waste	10.2 – 10.10: Companies should avoid or minimise community exposure to hazardous materials and substances that may be produced by the operation by making reasonable efforts to avoid their use and, where no feasible alternatives are available, by managing such materials and substances in line with the requirements of <u>Provisions 10.2 and 10.10 on Emissions and Waste Management</u> .
	10.11 – 10.13: Companies should design, construct, operate, and decommission structural elements or components of the operation, including dams, tailings dams, or ash ponds, taking into consideration safety risks to third parties or affected communities.



12 Biodiversity and Land Use

12.1 – 12.3: Companies should consider the impacts of their operations on biodiversity and ecosystem services, to prevent and mitigate risks and impacts on affected communities.

V. FURTHER INFORMATION

- IFC, *Guidance Note 4 on Performance Standard 4 and implementation resources* (available [here](#)). This Guidance Note helps companies adopt responsible practices to reduce such risks including through emergency preparedness and response, security force management and design safety measures.
- IFC, *Introduction to Health Impact Assessment* (available [here](#)) provides detailed guidance on the assessment of health impacts for operations with higher risks of health impacts of varying degrees of complexity.
- The World Bank Group, *General Environmental, Health and Safety Guidelines* (available [here](#)) and *Industry Sector Guidelines* (available [here](#)) contain information for companies to manage environmental, health, and safety issues, including community health and safety.
- ICMM, *Health Impact Assessment: A Summary of the Good Practice Guidance* (available [here](#)). Summary to ICMM’s Good Practice Guidance on Health Impact Assessment, which covers the need for better assessment of health issues ‘outside the fence’.

Sustainable Development (Provisions 8.11 – 8.15)

I. INTRODUCTION

Sustainable Development can be defined as development that meets the needs of the present without compromising the ability of future generations to meet their own needs. In particular, without compromising the natural resources and ecosystem services on which the economy and society depend. Today, more than ever, companies are aware of the interconnections between planet, people and profit, and of the need to build strategies that not only mitigate risks, but also proactively contribute to sustainable development.

Companies contribute to local and national economies at a minimum through the payments of taxes, fees, and royalties which governments use to re-allocate wealth among citizens, through the provision of services such as education and health. Companies can also contribute to the development of local communities and the national economy by procuring goods and services from local suppliers, as a way to generate jobs and market growth locally. Finally, companies can proactively contribute to sustainable development by investing in local communities through *strategic community investment*, defined as, “voluntary contributions or actions by companies to help communities in their areas of operation address their development priorities, and take advantage of opportunities created by private investment—in ways that are sustainable and support business objectives”.¹⁹⁹

199. IFC, *Strategic Community Investment - A Good Practice Handbook for Companies Doing Business in Emerging Markets*, 2010, Accessed online: 2 January 2020, <<https://openknowledge.worldbank.org/handle/10986/27842>>.



When addressing *community development* needs and develops in consultation with local communities, strategic community investment can help a company establish and maintain good relationships with stakeholders and improve the positive impact of a mining operation. Strategic community investment can also reinforce partnerships between the company, the communities and local governments. By involving and building the capacity of local authorities, community development programs may help support governments in better responding to their citizens’ needs. Government involvement can also support the long-term sustainability of a company’s community investment by preparing local authorities to eventually take over programs initiated by the company.

Examples of community development initiatives include:

- > creating local employment opportunities through training, employment and staff retention;
- > supporting local procurement by purchasing from local suppliers and investing in local financial institutions and enterprise development programs;
- > promoting educational opportunities by liaising with local and regional educational centres; and
- > training local community members in environmental monitoring and natural resource management.

In all cases, meaningful community development takes an inclusive, culture and gender-sensitive approach, considering the priorities of all sections of a community and paying particular attention to the needs and participation of disadvantaged and vulnerable groups.

II. PROVISIONS AND PERFORMANCE DETERMINATION

- > **Provision 8.11** Companies will integrate the UN Sustainable Development Goals into their risk and impact assessments, community development plans and continuous improvement work.

Explanation

The UN Sustainable Development Goals (SDGs) are a set of 17 goals, underpinned by 174 targets that cover poverty eradication, environmental protection, responsible production, to name a few, which all UN Member States adopted along with the 2030 Agenda for Sustainable Development at a historic Summit in 2015. The 2030 Agenda represents a shared blueprint for peace and prosperity, for people and the planet, and an urgent call for action by all countries, as well as businesses, civil society and citizens, to work collaboratively towards the shared objectives.

BOX 8: THE SDGS

The SDGs are:

<ol style="list-style-type: none"> 1. No Poverty; 2. Zero Hunger; 3. Good Health and Well-being; 4. Quality Education; 5. Gender Equality; 6. Clean Water and Sanitation; 7. Affordable and Clean Energy; 	<ol style="list-style-type: none"> 8. Decent Work and Economic Growth; 9. Industry, Innovation and Infrastructure; 10. Reduced Inequality; 11. Sustainable Cities and Communities; 12. Responsible Consumption and Production; 13. Climate Action; 14. Life Below Water; 15. Life on Land; 16. Peace and Justice Strong Institutions; 17. Partnerships to achieve the Goal.
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Businesses in particular play a vital role in contributing to the achievement of the SDGs; first, by doing business responsibly, for example, in compliance with the law and international standards; and second, by pursuing opportunities to solve societal challenges through business innovation and collaboration. Global challenges – ranging from climate, water and food crises, to poverty, conflict and inequality – are in need of solutions that the private sector can deliver. If not addressed, these challenges may result not only in a missed opportunity to achieve a more sustainable and equitable world, but also in potential risks to companies' long-term sustainability objectives.

Companies should consider the UN SDGs when conducting their risk and impact assessments. This may be achieved by integrating the SDGs in the environmental, social, and human rights assessments (see [Provisions 2.3 - 2.7 on Risk and Impact Assessments](#)) or through a standalone assessment. Companies should also evaluate their opportunities for contributing to the targets of the SDGs through their community development plans (see [Provision 8.12 on Sustainable Development](#)), and as they set targets for *continuous improvement*, as part of their management systems under [Provisions 2.1 and 2.2 on Management Systems](#).

There are a number of initiatives that companies could implement to contribute to the 17 SDGs. For example, to contribute to SDG *Goal 2: Zero Hunger*, companies should advance agriculture and food security as possible objectives in local procurement plans, in capacity-building efforts to support local businesses and communities to produce food for local consumption - including for the mine workers, and in community development plans and initiatives, developed in consultation with farmers and other stakeholders.

Companies should seek collaboration, including with industry peers, other companies located in the surrounding areas, and other relevant stakeholders, to contribute to shared objectives and address cumulative impacts, for example on water resources, air quality, etc.

Performance Determination

Meets:

The company has integrated the UN SDGs into their impact assessments, community development plans and continuous improvement work.

Substantially Meets:

The company has integrated the UN SDGs into their impact assessments, community development plans and/or continuous improvement work, but the UN SDGs are not integrated fully across all of the company's assessments and systems.

Partially Meets:

The company is in the process of integrating the UN SDGs into their impact assessments, community development plans and/or continuous improvement work.

Misses:

The company has not integrated the UN SDGs into their impact assessments, community development plans and continuous improvement work.

› **Provision 8.12** Companies will support the social, economic and institutional development of the communities in which they operate, including through participation and support in multi-stakeholder and community initiatives.



Explanation

Companies should support the social, economic and institutional development of the communities in which they operate through the implementation of community development plans. Community development plans (or community investment plans, or action plans, or equivalent) should be based on the following principles:²⁰⁰

> *Strategic:*

- > activities flow from a well-defined strategy (objectives, criteria, guiding principles) linked to a clear business case and assessment of risks and opportunities;
- > addresses both short and long-term objectives through a strategic mix of investments;
- > focuses selectively on a few key areas for greatest impact where the company can most effectively leverage its unique role and competencies to address community priorities;
- > looks beyond financial resources and considers how to make best use of company assets, resources, expertise, advocacy, and relationships to benefit local communities;
- > evolves with the business phase and uses different approaches along the lifecycle of the mining operation.

> *Aligned:*

- > aligns the strategic issues of the business with the development priorities of local communities, civil society, and government to create “shared value”;
- > coordinates community investment with other company policies and practices that affect communities, such as impact management, stakeholder engagement, and local hiring and procurement;
- > promotes cross-functional coordination and responsibility for supporting community investment objectives among all business units that interact with local stakeholders.

> *Multi-stakeholder driven:*

- > positions the company as a partner in multi-stakeholder processes rather than as the principal actor in promoting local development;
- > recognises that a multi-stakeholder approach reduces company control but adds value by building local ownership and complementarity around shared interests;
- > supports communities and local governments in defining and meeting their own development goals and aspirations through participatory planning and decision-making;

> *Sustainable:*

- > seeks to avoid dependency, encourage self-reliance, and create long-term benefits that can outlast company support;
- > does not commence activities without a viable exit or handover strategy;
- > invests heavily in capacity-building, participatory processes and organisational governance;
- > promotes development that enables local communities, institutions and partners to take progressively greater roles and responsibilities;
- > reinforces, rather than replaces, local institutions and processes where feasible;

> *Measurable:*

- > measures return on community investment to both the company and the community;
- > uses outcome and impact indicators to measure the quantity and quality of change;
- > tracks changes in community perceptions to gain real-time feedback on performance;
- > uses participatory methods of monitoring and evaluation to build trust and local ownership of outcomes;
- > proactively communicates the value generated by community investment to internal and external audiences.

200. *Ibid.*



Companies should support the development of local communities in a systematic manner. To design an effective community development plan, companies may follow these steps:²⁰¹

1. Assess the business context for community investment, to ensure alignment between business operations and community investment programs and to achieve better outcomes for both the company and local communities. This step normally includes the definition of the company's vision and role, and of the competencies and resources that it can offer to support the community.
2. Assess the local context, to understand the local "ecosystem" and the implications for community investment. Multiple variables specific to the local context may need to be understood before the company engages with local stakeholders on community investment, including an understanding of the socio-economic context, potential conflicts, gender issues and local governance issues. Through this analysis, companies should consider how community investment efforts can be helped or hindered by these broader-level challenges.
3. Engage communities on community investment: companies' community development plans should be developed in consultation with relevant stakeholders, including affected communities, as part of the companies' stakeholder engagement process (see [Provisions 8.1 to 8.5 on Stakeholder Engagement](#)).
4. Invest in capacity-building, including both human and social capital, to strengthen local partner organisations, promote self-reliance and increase the likelihood of success of the operation.
5. Set the parameters for the community investment strategy on the basis of the information collected through the steps above setting the conditions (in consultation with stakeholders) on the type of activities the company will support, and the way operations are designed and implemented.
6. Select the right implementation models and partners to deliver the program. Where relevant, companies should seek participation in and support multi-stakeholder initiatives, as a way to leverage shared resources and knowledge and maximise positive change.
7. Measure and communicate the implementation and outcomes of the community investment plans, as further described in [Provision 8.14 on Sustainable Development](#).

Companies should also work with community members to build management capacity, to enable local stakeholders to manage, monitor and evaluate their own plans, in particular, in relation to important planning processes such as the resettlement and livelihood restoration plans. Where there may be a shortage of local expertise and experience on stakeholder engagement or specific topics that are the subject of the engagement, such as resettlement and livelihood restorations, companies should provide training programs in management methods for building community capacity and for reinforcing stakeholder engagement programs.

To ensure that community development programs benefit different stakeholders equally, companies should identify and support existing government, aid agency, and community-based initiatives that promote gender equality.

Performance Determination

Meets:

The company has designed and implements community development plans to support the social, economic, and institutional development of the communities in which it operates, including through participation and support in multi-stakeholder and community initiatives.

Substantially Meets:

The company has designed and implements community development plans to support the social, economic, and institutional development of the communities in which it operates, but, while there is evidence that implementation of the plan is advanced, implementation has not started for all parts of the plan where the plan indicates they should have started.

201. *Ibid.*



Partially Meets:

The company is in the process of designing community development plans to support the social, economic, and institutional development of the communities in which it operates, but the plan is incomplete and/or implementation has not started.

Misses:

The company does not support the social, economic, and institutional development of the communities in which it operates.

> **Provision 8.13** Companies will commit to promoting access to employment for local communities at all employment levels, and will provide training and professional education to enable access to these employment opportunities.

Explanation

Companies should manage community expectations regarding the creation of opportunities for local employment, by adopting and implementing policies and practices that promote local hiring. In fact, companies should be aware that the income-generating potential of local hiring and procurement efforts (see [Provision 8.15 on Sustainable Development](#)) far outweigh those that can be generated through other community investment efforts. To this end, companies should:

- > adopt a local employment policy, where 'local' is defined in consultation with affected communities;
- > conduct a skills assessment, to understand what skills are held by community members, and whether there are opportunities to use such skill sets or to build upon them through vocational education programs in readiness for future employment;
- > adopt requirements on local hiring for contractors, by introducing clauses in the tender process that favour companies who employ locally, or that require contractors to train local employees as they undertake the work;
- > support community development programs that would increase the likelihood of community members finding sustainable opportunities, either with the company's operations or with other diversified activities.

Companies are encouraged to cooperate with government and employment and training agencies, to develop effective training and education programs that allow local community members to acquire skills that enable them to obtain lifelong employment from a variety of sources.

Where applicable, companies should be aware of national requirements to prioritise local employment.

Performance Determination

Meets:

The company has adopted and implements a commitment to promoting access to employment for local communities at all employment levels and provides training and professional education to enable access to employment opportunities.

Substantially Meets:

The company has a commitment to promoting access to employment for local communities at all employment levels, but implementation of the commitment is not yet complete.



Partially Meets:

The company has committed to promoting access to employment for local communities at all employment levels, but implementation of the commitment has not yet started.

Misses:

The company does not commit to promoting access to employment for local communities at all employment levels and does not provide training and professional education to enable access to employment opportunities.

-
- > **Provision 8.14** Companies will monitor and report on the effectiveness of their contributions, activities and initiatives, and evaluate if changes need to be made to them to ensure a positive impact on the social and economic wellbeing of local communities.
-

Explanation

Companies should monitor and report on the effectiveness of their community development plans (or in broader terms, of their contributions, activities and initiatives for community development) and seek continuous improvement to ensure positive impact on the social and economic wellbeing of local communities. Companies should²⁰²:

- > set SMART (specific, measurable, attributable, realistic, and time-bound) objectives that can be attributed to the community development plans, by focussing on outcomes over which the community development program has control;
- > define indicators of success, in consultation with relevant stakeholders which may have different perspectives on what success looks like, and define jointly a set of quantitative and qualitative indicators that are meaningful to all parties involved;
- > establish a baseline for all of the indicators selected, before the company begins the implementation of the community development plans, with a focus on selected areas of intervention of the community development plan and building upon existing data collection or assessments that may have been already undertaken: companies should collect data on a gender-disaggregated level to enable an assessment of how the community development program impacts both men and women in the community;
- > focus on outcomes and impacts, in addition to outputs; although these may be more difficult to quantify; outcomes indicators should measure if, and how, the community development plan has made a difference in people's lives.
- > include both qualitative and quantitative measures of performance: qualitative indicators are especially relevant in the context of community development, where hard-to-quantify intangibles such as social progress, trust, capacity, sense of ownership, and perceptions are important factors of success;
- > track changes in community perceptions to incorporate the qualitative dimension into the monitoring and evaluation process;
- > make measurement participatory, enhancing credibility and ownership among stakeholders. Example of tools and mechanisms that may be used by companies include, but are not limited to, community scorecards, community or multi-stakeholder forums, and citizen report cards;
- > track results by gender, by formally incorporating gender as part of a company's community development plan goals and/or integrating gender aspects into monitoring and evaluation by: setting gender-specific targets; introducing requirements for gender-disaggregated data; developing gender-sensitive indicators; and using participatory approaches to monitoring and evaluation that involve both men and women;
- > integrate community investment into the company's broader monitoring and evaluation systems including, for example, those used to monitor the stakeholder engagement

202. *Ibid.*



process, the environmental, social and human rights risks and impacts, and the company's management systems covering the relevant Principles of the Bettercoal Code;

- › use monitoring and evaluation results to drive resource allocation for community development for future operations.

The monitoring process should allow for the continual adaption of underlying plans and actions to promote continuous improvement and increased positive impact. Adjustments should be made to the community development plans following reviews of the monitoring process. At a minimum, companies should review the community development plan once a year.

Companies should report on the results of the community development plans to all relevant stakeholders.

Performance Determination

Meets:

The company:

- › monitors and reports on the effectiveness of its community development plans (including their contributions, activities, and initiatives); and
- › uses the information collected through the monitoring process to evaluate potential changes needed to contribute to positive impacts in the community.

Substantially Meets:

The company:

- › monitors the effectiveness of its community development plans (including their contributions, activities and initiatives); and
- › uses the information collected through the monitoring process to evaluate potential changes needed to contribute to positive impacts in the community, however, the results of the monitoring process are not shared with all relevant stakeholders.

Partially Meets:

The company is in the process of monitoring the effectiveness of its community development plans (including their contributions, activities, and initiatives).

Misses:

The company:

- › does not monitor nor report on the effectiveness of their community development plans; or
- › does not make contributions or carry out activities or implement initiatives for community development.

-
- › **Provision 8.15** Companies will develop and implement a local procurement plan that:
 - a) supports local businesses and communities to build capacity;
 - b) prioritises sourcing goods and services from local suppliers on a competitive basis; and
 - c) reports on sourcing from local suppliers on an annual basis.
-

Explanation

Local procurement refers to the purchase of goods and services from local businesses. Local procurement is a strategic business tool used by international companies in the extractive industries to mitigate risk to company operations; respond to laws and regulations



or investment agreements stipulating local content levels; and contribute positively to the local community by creating sustainable business opportunities and job creation. Additional business drivers for local procurement may also include savings in energy and transportation costs, with consequent reduced environmental impact; business continuity; long-term economic diversification; and the acquisition of the social license to operate.

Companies should develop and implement a local procurement plan that supports local businesses and communities to build capacity. The development and implementation of a local procurement plan often requires a real commitment from the company to work with and build capacity of local suppliers, typically, small and medium enterprises (SMEs), to enable them to become more competitive and profitable. Local suppliers may require training, mentoring, and other support needed to achieve the required operational, safety, environmental and technical standards needed to compete for bidding and contracting opportunities. Companies should seek to expand support for the development of SMEs and their integration into the supply chain for the mine and broader markets.

As for [Provision 8.13 on Sustainable Development](#), companies should define ‘local’ in consultation with relevant stakeholders, to effectively manage the expectations of government, community and other stakeholders. The definition of ‘local’ may be based on regulatory requirements (those prescribed by legislation or production-sharing agreements); the geographic region, in particular, the communities within the company’s area of influence; the nature of the ownership of the local business (to differentiate between local businesses owned by foreign capital or by locals or anything in between); and the size of the enterprise (for example, to favour those enterprises that are SMEs).

Additionally, companies may target their local procurement plans to favour under-represented groups, such as women-owned or minority-owned businesses.

Companies should report on sourcing from local suppliers on an annual basis, in line with internationally recognised reporting practices. This may include reporting on the amount of local procurement as a percentage of total procurement spend. Information on local procurement can be disclosed as part of the company’s sustainability reporting.

Performance Determination

Meets:

The company:

- › has developed and implements a local procurement plan that supports local businesses and communities to build capacity;
- › prioritises sourcing goods and services from local suppliers on a competitive basis; and reports on sourcing from local suppliers on an annual basis.

Substantially Meets:

The company:

- › has developed a local procurement plan that supports local businesses and communities to build capacity;
- › prioritises sourcing goods and services from local suppliers on a competitive basis; and reports on sourcing from local suppliers on an annual basis, however, implementation of the plan is not yet complete.

Partially Meets:

The company:

- › has developed a local procurement plan, but implementation has not started or the system has not been substantially implemented; or
- › is in the process of developing such plan, but it is not yet complete.



Misses:

The company does not have a local procurement plan in place.

III. VERIFICATION

Data Collection Method

Conformance with the provisions on sustainable development is assessed through observation, document review, and through interviews with the company's employees and management team, and relevant stakeholders.

Conformance with the provisions, where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
8.11		✓	✓			
8.12	✓	✓	✓			✓
8.13		✓	✓			✓
8.14		✓	✓			✓
8.15		✓	✓			✓

Examples and Types of Evidence

- > SDGs impact assessment;
- > corporate or site level community development policy;
- > community development plan;
- > records of community initiatives undertaken/in progress;
- > stakeholder engagement plan;
- > documentation of stakeholder consultation;
- > completed community needs assessment;
- > planned annual budget or register of planned in-kind (non-financial) contributions;
- > records of stakeholder inputs to the development plan;
- > local procurement policy and evidence of its implementation (i.e. through reporting against performance indicators);
- > list of suppliers and service providers indicating whether they are local businesses;
- > percentage of procurement spending on local businesses;
- > audited accounts or company warrant confirming community investment spending;
- > community development plan monitoring reports.

Site Assessment

Interviews

During interviews with management, managers can demonstrate or describe:

- > what the UN SDGs are and how they are taken into account when assessing the company's risks and opportunities;



- > the community development plans designed and implemented by the company, and how it is monitored and evaluated;
- > how affected communities were identified and consulted in the development of the community development plans;
- > how a community needs assessment was conducted to identify key stakeholder priorities; and
- > the company's local procurement plan and how it is monitored and evaluated.

During interviews with community representatives, local community organisation, local businesses and other relevant stakeholders, they can demonstrate or describe:

- > a basic understanding of the company's community development initiatives and confirm that they are consulted on community development issues and receive reports relating to community development initiatives; and
- > whether the company provides local procurement opportunities.

Site Walk-Through

During visits to local communities, the assessor observes:

- > programmes to support social, economic, and institutional development, where applicable.

IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
2 Policy and Management	2.3 – 2.7: Companies should consider the UN SDGs when conducting their environmental, social and human rights risk and impact assessments.
3 Transparency	3.1: Companies should take into consideration Bettercoal expectations in Provision 3.1 on Sustainable Reporting <u>Provision 3.1 on Sustainability Reporting</u> when reporting on their local procurement indicators.
8 Stakeholders and Communities	8.1 – 8.5: Companies' community development plans should be based on the local context analyses, including the stakeholder identification exercise. In addition, stakeholder consultation for the development, monitoring and evaluation of the community development plan should be conducted in alignment with the requirements of <u>Provisions 8.1 - 8.5 on Stakeholder Engagement</u> .

V. FURTHER INFORMATION

- > The UN Global Compact provides resources and tools (available [here](#)) to help companies understand the SDGs and how they can contribute to each Goal.
- > IFC, *Strategic Community Investment – A Good Practice Handbook for Companies Doing Business in Emerging Markets* (available [here](#)). The aim of this handbook is to help companies operating in emerging markets to think strategically about how they can support community investment programs that are successful, sustainable, and consistent with their own business objectives.
- > ICMM, *Community Development Toolkit* (available [here](#)). Set of 20 tools intended for use throughout the mining operation cycle to foster constructive relationships, build capacity and improve opportunities for the sustainable development of communities around mining operations.



> IFC's, *Guide to Getting Started in Local Procurement* (available [here](#)) provides additional information for companies on how to leverage on their procurement practices to generate community development.

> Mining Shared Value, GIZ, *The Local Procurement Reporting Mechanism (LPRM)* (available [here](#)). Framework for reporting local procurement spend, provides a ready-made tool for companies to use so that they can measure, manage and maximise their local procurement spend.



Operational-Level Grievance Mechanism (8.16 – 8.18)

I. INTRODUCTION

An operational-level or project-level *grievance mechanism* is a process for receiving, evaluating and addressing operation-related grievances, concerns or complaints raised by an individual or a group, resulting from either real or perceived impacts of a company's operations.

Essentially, grievance mechanisms are systems consisting of procedures, roles and rules for receiving complaints, and for providing remedy. By allowing stakeholders to raise concerns without fear of retaliation, operational-level grievance mechanisms offer companies an opportunity to be alerted to potential concerns and to address or remedy such concerns before they may escalate to formal dispute resolution methods, such as courts, which may represent lengthy, costly and unsatisfactory results to both parties. A grievance mechanism is an important pillar of stakeholder engagement because it creates opportunities for companies and communities to identify problems and find solutions together. Combined with effective community engagement, an effective grievance mechanism can increase trust and improve communication between the company and the local communities, benefiting the long-term viability of the operation.

To work effectively, operational-level grievance mechanisms should meet the criteria described in Principle 6 (see [Provisions 6.26 - 6.27 on Worker Grievance Mechanism](#)) In addition, the operational-level grievance mechanism should be based on engagement and dialogue, through consulting the stakeholder groups, for whose use they are intended, on their design and performance, and be focused on dialogue as the means to address and resolve grievances.²⁰³

II. PROVISIONS AND PERFORMANCE DETERMINATION

> **Provision 8.16** Companies will develop and implement an operational-level grievance mechanism for affected communities and other stakeholders that is culture- and gender-sensitive and that allows them to raise concerns, including anonymously, via an understandable, accessible and transparent process that is readily available to the most vulnerable persons, groups and organisations.

203. OHCHR, *UN Guiding Principles on Business and Human Rights*, 2011, Accessed online: 2 January 2020, <https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf>.

Explanation

Companies should develop and implement an operational-level grievance mechanism to enable affected communities and other relevant stakeholders to raise concerns related to the company operations.

The grievance mechanism should be culturally-sensitive. This means that the grievance mechanism should be designed to take into account the specific cultural attributes of the local community and traditional mechanisms for raising and resolving concerns.

Companies should:

- › consult affected communities, including significantly different cultural or ethnic groups within those communities, to seek input on culturally acceptable ways to address grievances;
- › understand cultural attributes, customs and traditions that may influence or impede the ability of such groups to raise their grievances; and
- › agree on the best way to access grievance mechanisms, taking into consideration the ways communities raise and resolve grievances.

Companies should take advantage of existing community engagement processes.

The grievance mechanism should also be *gender-sensitive*. Companies should be aware that men and women may have differing concerns which should be equally raised via the mechanisms. Companies should also be aware that women may, due to the socio-economic and/or cultural circumstances, have limited possibilities to raise their concerns to community and/or to company representatives. Women may also be inhibited or hindered from raising complaints about specific incidents, for example, related to harassment. In some communities, women may have lower literacy rates than men and be less familiar with formal processes. Companies should ensure that women have equal access to the grievance mechanisms and feel comfortable in raising concerns.

This may include ensuring that the staff working on the grievance mechanism includes female staff who are aware and sensitive to the issues faced by women in the community. Where necessary, companies should also seek the advice of experts to identify potential gender issues and ensure that the grievance mechanism is designed to be responsive to gender.

All stakeholders should be provided with the ability to lodge their grievances without fear of victimisation or retaliation. To this end, companies should consider providing stakeholders with the possibility to lodge a grievance anonymously. This could, however, impact the company's ability to provide a remedy to the affected individual or group directly.

Once a grievance is lodged, companies should address concerns promptly, using a formal and transparent process to investigate the concern as laid out in the operational-level grievance procedure. Where grievances are found to be based on *legitimate* complaints, companies should take appropriate action to resolve or find a solution to the complaints. This normally includes appointing a committee to deal with the grievance, including management, supervisors and stakeholders' representatives.

The operational-level grievance mechanism need not require that a complaint or grievance amount to an alleged human rights abuse before it can be raised, but specifically aim to identify any legitimate concerns of those who may be adversely impacted. If those concerns are not identified and addressed, they may, over time, escalate into more major disputes and human rights abuses.

Any remediation action taken should be monitored and reviewed, as appropriate, to ensure the cause of complaint is effectively addressed. Companies should maintain a record of all



grievances lodged, of the outcome of each grievance investigation and, where applicable, remediation. Companies should ensure that relevant findings are brought to management's attention and addressed expeditiously.

Stakeholders should be aware of the grievance mechanism and know how to use it. Barriers to access may include a lack of awareness of the mechanism, language, literacy, costs, physical location and fears of reprisal. Companies should overcome these barriers by communicating information related to the grievance mechanism effectively, for example, in the local language, in line with [Provisions 8.1 - 8.5 on Stakeholder Engagement](#).

Performance Determination

Meets:

The company has developed and implements an operational-level grievance mechanism for affected communities and other stakeholders that meets all requirements of this provision.

Substantially Meets:

The company has developed an operational-level grievance mechanism for affected communities and other stakeholders, but implementation is incomplete (at least 75% of relevant stakeholders are informed).

Partially Meets:

The company:

- › has developed an operational-level grievance mechanism for affected communities and other stakeholders, but implementation has not yet started or is incomplete (less than 75% of stakeholders are informed); or
- › is in the process of developing such mechanism, but it is not yet complete.

Misses:

The company does not have an operational-level grievance mechanism.

-
- › **Provision 8.17** Companies will develop a grievance mechanism described in [Provision 8.16](#) of this Code in consultation with the stakeholder groups for whose use the mechanism is intended, and will focus on dialogue as the means to address and resolve grievances.
-

Explanation

Companies should design the grievance mechanism in consultation with relevant stakeholders. Relevant stakeholders include, at a minimum, those affected by the mining operations. Early stakeholder engagement will help ensure that the grievance mechanism is culturally acceptable to all affected groups within communities, that it reasonably addresses accessibility and other barriers that may prevent communities from raising their concerns.

Engaging with stakeholders will also help companies ensure that the grievance mechanism will be used in practice, and that there is a shared interest in ensuring its success.

Because companies cannot, with legitimacy, both be the subject of complaints and unilaterally determine their outcome, the grievance mechanism should focus on reaching agreed solutions through dialogue. Where adjudication is needed, this should be provided by a legitimate, independent third-party mechanism.



Communicating regularly about the progress of individual grievances is also important to retain confidence in the process. At the same time, confidentiality of the dialogue between parties and of individuals' identities should be provided where necessary.

Companies should note that grievance mechanisms inform and complement but do not replace other forms of stakeholder engagement.

Performance Determination

Meets:

The company can demonstrate that stakeholder groups for whose use the operational-level grievance mechanism is intended were consulted on its design. The company can also demonstrate that it focuses on dialogue as a mean to address and resolve grievances.

Substantially Meets:

N/A

Partially Meets:

The company cannot demonstrate that all relevant stakeholder groups were consulted on the design of the grievance mechanism, however, the company can demonstrate that it has gained stakeholder support through its implementation and that it focuses on dialogue as a mean to address and resolve grievances.

Misses:

The company does not have an operational-level grievance mechanism in place.

> **Provision 8.18** Companies will respect the right of affected communities and other stakeholders to seek recourse for complaints related to the Company through mechanisms that include administrative, non-judicial or judicial remedies.

Explanation

A company's operational-level grievance mechanism is one form of non-state-based grievance mechanism. Additional forms of non-state-based grievance mechanisms include:

- > those administered by an industry association or a multi-stakeholder group;
- > regional and international human rights bodies that normally deal with alleged violations by States of their obligations to respect human rights, however, they may also deal with the failure of a State to meet its duty to protect its citizens against human rights abuses by a company.

State-based grievance mechanisms include:

- > domestic judicial mechanisms (a State's court of law);
- > administrative, legislative and other non-judicial mechanisms; these may be mediation-based, adjudicative, or follow other culturally appropriate and rights-compatible processes – or involve some combination of these.

A company operational-level grievance mechanism should not stop stakeholders from being able to access any other mechanisms, including those listed above, where such mechanisms are available to stakeholders.

However, in the instance where a complainant has already elevated a grievance to a judicial instance, such grievance would become unsuitable to the operational-level grievance



mechanism. This in order to avoid that the grievance mechanism functions as an additional instance to the Judicial Power or contradicts it.

Performance Determination

Meets:

The company can demonstrate that it respects the right of affected communities and other stakeholders to seek recourse for complaints related to the company through mechanisms that include administrative, non-judicial, or judicial remedies.

Substantially Meets:

N/A

Partially Meets:

N/A

Misses:

The company cannot demonstrate that it respects the right of affected communities and other stakeholders to seek recourse for complaints related to the company through mechanisms that include administrative, non-judicial, or judicial remedies.

III. VERIFICATION

Data Collection Method

Conformance with the provisions on operational-level grievance mechanisms is assessed through document review and through interviews with the company's management team and stakeholders.

Conformance with the provisions, where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other S takeholders (if applicable)
8.16		✓	✓			✓
8.17		✓	✓			✓
8.18		✓	✓			✓

Examples and Types of Evidence

- > Records of engagement and consultation activities with stakeholders;
- > grievance mechanism documentation, including written records of complaints;
- > description of or procedures of the operational-level grievance mechanism;
- > records of company responses to grievances received over the period from the implementation of the grievance mechanism to current date;
- > stakeholder committee reports and minutes.



Site Assessment

Interviews

During interviews with management, managers can demonstrate or describe:

- > how the operational-level grievance mechanism was designed in consultation with relevant stakeholders;
- > the process for collecting and responding to grievances lodged by affected stakeholders;
- > the process for finding solutions to grievances lodged, through dialogue;
- > how remediation action is monitored and reviewed;
- > clear lines of accountability and responsibility within the organisation for the oversight and implementation of the operational-level grievance mechanism.

During interviews with relevant stakeholders, they can demonstrate or describe:

- > the operational-level grievance mechanism, including how to report concerns;
- > that the company consulted them and continues to consult them for the purpose of designing the grievance mechanism and finding solutions to grievances lodged, through dialogue.

IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
5 Human Rights	5.1 and 5.2: Operational-level grievance mechanisms support the identification of adverse human rights impacts as a part of a company's ongoing human rights due diligence.
8 Communities and Stakeholders	8.1 – 8.5: An operational-level grievance mechanism should be specifically designed with a focus on stakeholders affected by the operation based on the stakeholder identification exercise described in Provision 8.1 on Stakeholder Engagement . In addition, an operational-level grievance mechanism forms an integral part of the broader stakeholder engagement programme.

V. FURTHER INFORMATION

- > IFC, *Good Practice Note Addressing Grievances from Project-Affected Communities* (available [here](#)) and *Grievance Management* (available [here](#)) provides guidance on basic principles and process steps that companies should take into account when creating and implementing grievance mechanisms.
- > UN, *Guiding Principles on Business and Human Rights* (available [here](#)) provide further guidance for companies to ensure that their grievance-mechanisms meet effectiveness criteria.



Cultural Heritage (8.19)



I. INTRODUCTION

Cultural heritage is, in its broadest sense, both “a product and a process, which provides societies with a wealth of resources that are inherited from the past, created in the present and bestowed for the benefit of future generations.”²⁰⁴ It refers to tangible or intangible heritage including customs, practices, monuments, archaeological sites, oral traditions, artistic expressions, rituals, and values.²⁰⁵

Cultural heritage is an important vehicle for the transmission of expertise, skills and knowledge between generations; it holds the potential of promoting access to and enjoyment of cultural diversity; and it enriches social capital by shaping an individual and collective sense of belonging, which contributes to social cohesion and cultural identity.

Cultural heritage is considered a ‘fragile wealth’ which, as such, requires policies and development models to be preserved, since, once lost, is non-renewable. If not managed effectively, mining operations may cause profound and irreversible damage to tangible cultural heritage, for example, because of the destroying or damaging of historical buildings, ancient artifacts, burial grounds or sites of spiritual significance. Damage to intangible cultural heritage may also occur, for example, as a result of inappropriate visitation of sites or the inappropriate use of traditional knowledge.

Cultural heritage may be legally protected. In such cases, companies should be aware of their legal requirements. However, companies should respect and protect cultural heritage regardless of whether it is. Since cultural heritage is not always protected by law, consultation with local stakeholders is an important means of identifying it, documenting its presence and significance, assessing potential impacts, and exploring mitigation options.

II. PROVISIONS AND PERFORMANCE DETERMINATION

- > **Provision 8.19** Companies will identify, document and protect cultural heritage within their area of influence and take action to avoid or remedy adverse impacts associated with their activities.
-

Explanation

Companies should be aware of their legal requirements with regards to critical cultural heritage, and they should not remove, significantly alter, or damage critical cultural heritage. In exceptional circumstances when impacts on critical cultural heritage are unavoidable, companies should engage affected communities to consult and negotiate on the operation and design additional programs with the purpose to enhance conservation of the protected area.

204. UNESCO, *Culture for Development Indicators: Heritage*, Accessed online: 2 January 2020 <https://en.unesco.org/creativity/sites/creativity/files/cdis/heritage_dimension.pdf>.

205. UNESCO, *What is Meant by Cultural Heritage??*, Accessed online: 2 January 2020 <<http://www.unesco.org/new/en/culture/themes/illegal-trafficking-of-cultural-property/unesco-database-of-national-cultural-heritage-laws/frequently-asked-questions/definition-of-the-cultural-heritage/>>.

In addition to complying with applicable law on the protection of cultural heritage, including national law implementing the host country's obligations under the *Convention Concerning the Protection of the World Cultural and Natural Heritage*, companies should identify and protect cultural heritage by ensuring that internationally recognised practices for the protection, field-based study, and documentation of cultural heritage are implemented.

Companies should identify and protect cultural heritage within their area of influence and assess potential risks and impacts to cultural heritage associated with their operations as part of the environmental, social, and human rights impacts assessments, and/or via stand-alone assessments, with the support of competent professionals, communities and other relevant stakeholders. Sources of information on cultural heritage may include:²⁰⁶

- > affected communities;
- > historical or traditional users and owners of cultural heritage;
- > traditional communities embodying traditional lifestyles;
- > ministries of archaeology, culture or similar national or heritage institutions;
- > national and local museums, cultural institutes and universities;
- > civil society concerned with cultural heritage or historical preservation;
- > and religious groups for whom the cultural heritage is traditionally sacred.

The assessment process should include:²⁰⁷

- > a description of the proposed operation including its alternatives;
- > cultural heritage baseline conditions in the operation's area of influence;
- > an analysis of operation alternatives in relation to the baseline conditions to determine potential impacts;
- > proposed impact mitigation measures, which may include avoidance or reduction of impacts by changes to the design of the mining operation and/or the introduction of special construction and operational procedures, and compensatory mitigations.

Companies should ensure that the mining operation does not prevent access to cultural heritage sites to affected communities, and offer continued access, subject to overriding health, safety and security concerns. In such cases, alternatives to open access should be identified through stakeholder consultations (for example, alternative access routes, providing health and safety equipment and training for specified users of the site etc.).

Where risks and impacts to cultural heritage are identified, companies should take action to avoid or remedy impacts, including through the implementation of restoration measures, as reflected in a cultural heritage management plan or equivalent documentation. Where the operation may present risks or impacts on replicable cultural heritage ("*tangible forms of cultural heritage that can themselves be moved to another location or that can be replaced by a similar structure or natural features to which the cultural values can be transferred by appropriate measures*"²⁰⁸), companies should apply the mitigation hierarchy:

- > if avoidance or removal is not feasible, companies should seek to minimise or eliminate adverse impacts and to implement restoration measures that aim to maintain its value and functionality;
- > if minimisation of impacts and/or restoration are not possible 'in situ', then companies may consider restoration at a different site;
- > where minimisation of adverse impacts and restoration to ensure maintenance of the value and functionality of the cultural heritage are demonstrably not feasible, companies should compensate affected communities using the cultural heritage for longstanding cultural purposes for loss of that tangible cultural heritage.

206. IFC, *Performance Standard 8 on Cultural Heritage*, 2012, Accessed online: 2 January 2020, <https://www.ifc.org/wps/wcm/connect/a02b1f32-1d64-4454-a7c4-aac49c9daa04/PS8_English_2012.pdf?MOD=AJPERES&CVID=jiVQJ7k>.

207. *Ibid.*

208. *Ibid.*



For non-replicable cultural heritage (“*cultural heritage is unique or relatively unique for the period it represents, or cultural heritage is unique or relatively unique in linking several periods in the same site*”²⁰⁹), for example, an ancient city or a temple, companies should avoid removal. Where avoidance is not feasible, no alternatives to removal exist, and the operation benefits outweigh the loss of cultural heritage, the client should remove and preserve the cultural heritage according to the best available techniques, following review by external experts and consultation with the historical or traditional owners and users of the cultural heritage.

Critical cultural heritage consists of one or both of the following types of cultural heritage:
➤ “*the internationally recognised heritage of communities who use, or have used within living memory the cultural heritage for long-standing cultural purposes; or*
➤ *legally protected cultural heritage areas, including those proposed by host governments for such designation.*”²¹⁰

When internationally recognised cultural heritage is critical to people who continue to use it for long-standing cultural purposes, and where the loss or damage of such heritage could endanger their livelihoods, or cultural, ceremonial or spiritual purposes that define the identity and community of the affected community, such heritage may be considered critical, even if it is not legally protected.

Where an operation proposes to use the intangible cultural heritage, including knowledge, innovations or practices of local communities for commercial purposes, companies should inform such communities of their rights under national law; the scope and nature of the proposed commercial development; and the potential consequences of such development, providing for fair and equitable sharing of benefits from commercialisation of such knowledge, innovation, or practice, consistent with the communities’ customs and traditions.

Finally, companies should design chance find procedures, meaning, a *procedure that outlines the actions to be taken if previously unknown cultural heritage is encountered*,²¹¹ where the risk and impact assessment determines that the mining operation is located in areas where cultural heritage is expected to be found, either during construction or operations.

Performance Determination

Meets:

The company:

- has identified cultural heritage in its area of influence and identified, documented, and protected cultural heritage within their area of influence;
- has designed and implemented actions to avoid or remedy adverse impacts associated with its activities.

Substantially Meets:

The company:

- has identified cultural heritage in its area of influence and identified, documented, and protected cultural heritage within their area of influence,
- designed actions to avoid or remedy adverse impacts associated with its activities, but such actions are not fully implemented.

Partially Meets:

The company:

- Has identified cultural heritage in its area of influence and identified, documented, and protected cultural heritage within their area of influence.

209. *Ibid.*

210. *Ibid.*

211. *Ibid.*



- > Has designed actions to avoid or remedy adverse impacts associated with its activities, but such actions are not substantially implemented; or
- > is in the process of developing such actions.

Misses:

The company has not carried out a risk and impact assessment in relation to cultural heritage.

III. VERIFICATION

Data Collection Method

Conformance with the provisions on cultural heritage is assessed through observation, document review, and through interviews with the company’s management team and other stakeholders.

Conformance with the provision, where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
8.19	✓	✓	✓			✓

Examples and Types of Evidence

- > Policy articulating the company’s commitment to the protection of cultural heritage;
- > mapping of intangible or tangible cultural heritage in the area of influence;
- > cultural heritage risk and impact assessments;
- > cultural heritage management plan;
- > chance find procedures;
- > stakeholder engagement reports;
- > documentation of avoidance and/or of mitigation and compensation measures.

Companies that do not have adverse impacts on cultural heritage may provide evidence of support for operations that contribute positively to protecting or restoring cultural heritage, for example:

- > planned annual budget or register of planned contributions;
- > cultural heritage project plan and monitoring reports.

Site Assessment

Interviews

During interviews with management, managers can demonstrate a good understanding or describe:

- > the cultural heritage risk and impact assessment process;
- > The company development and implementation of mitigation measures related to the management of cultural heritage;
- > That they fully implement the cultural heritage management plan including the mitigation measures to protect cultural heritage; and



> How community members and stakeholders are made aware of company’s cultural heritage assessment and management plan.

During interviews with community members and stakeholders, they can demonstrate:

- > a basic understanding of the company’s actions to protect cultural heritage and confirmation that the company engages with them on issues relating to cultural heritage; and
- > awareness of how to seek remedy in cases where they have concerns about cultural heritage impacts of the company’s activities or operations.

Site Walk-Through

During the Site Walk-Through and visits to local communities, the assessor:

- > does not observe adverse impacts on cultural heritage caused by the operation’s activities and operations.

IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
2 Policy and Management	2.3 – 2.8: Companies should consider potential risks and impacts to cultural heritage caused by or associated with the mining operation during the environmental, social and human rights impacts assessments.
8 Stakeholders and Communities	8.16 – 8.18: Companies should put in place an effective, formal and structured grievance mechanism to collect and provide remedy to grievances related to cultural heritage.

V. FURTHER INFORMATION

- > IFC, *Guidance Note 8 on Performance Standard 8 on Cultural Heritage and implementing resources* (available [here](#)). This Guidance Note helps companies in protecting cultural heritage from adverse impacts of their operations and in supporting its preservation. It also promotes the equitable sharing of benefits from the use of cultural heritage.
- > The UN Education, Scientific and Cultural Organization’s (UNESCO) *World Heritage List* (available [here](#)) provides additional information on World Heritage Sites.



09

WATER STEWARDSHIP

Companies will have systems in place that enable the efficient and responsible withdrawal, use and management of water in their operations to contribute to good water stewardship in the area of operation.



Introduction

Water is considered one of the most important substances on earth. It is a shared resource. All plants and animals need water to survive, and it is vital for the healthy functioning of ecosystems and economies. The United Nations recognises access to water as a human right, marking it as an indispensable basic need in every person's life. Not having access to safe, sufficient, and affordable water has a devastating effect on health, dignity and prosperity. Growing pressure on water resources, from population and economic growth, climate change, pollution, and other challenges, has major impacts on our collective social, economic and environmental well-being.

The Alliance for Water Stewardship²¹² describes stewardship as being “*about taking care of something that we do not own. Good water stewards recognise the need for collective response to the complex challenges facing the water resources we all rely on.*” *Water stewardship* refers to the actions to improve the efficiency and cleanliness of business operations, while also facilitating the sustainable management of shared water resources. Business risks and impacts on communities and economies are generated when water is poorly managed or over-exploited. When managed well, and when businesses collaborate with their peers, authorities, communities and civil society, maintaining sustainable water balance and access to this precious resource for multiple users is possible, even in the face of rapid social transformation, transitioning economies and changes in the natural world.

When implementing this provision, companies should consider the ICMM publications on water management, including its *Practical Guide to Catchment-Based Water Management for the Mining and Metals Industry*,²¹³ the *ICMM Water Stewardship Framework*,²¹⁴ and the joint publication with the IFC *Shared Water, Shared Responsibility, Shared Approach: Water in the Mining Sector*.²¹⁵

Bettercoal expectations on Water Stewardship include Provisions on:

- › [Water Assessment \(Provision 9.1 – 9.2\)](#)
- › [Water Management \(Provisions 9.3 – 9.6\)](#)

212. Alliance for Water Stewardship (AWS), *Alliance for Water Stewardship* [website], Accessed online: 3 January 2020, <<https://a4ws.org/about/>>.

213. ICMM, *A Practical Guide to Catchment-Based Water Management for the Mining and Metals Industry*, Accessed online: 3 January 2020, <https://www.icmm.com/website/publications/pdfs/water/practical-guide-catchment-based-water-management_en>.

214. ICMM, *Water Stewardship Framework*, 2014, Accessed online: 3 January 2020, <https://www.icmm.com/website/publications/pdfs/water/2014_water-stewardship-framework.pdf>.

215. ICMM, *Shared Water, Shared Responsibility, Shared Approach: Water in the Mining Sector*, Accessed online: 3 January 2020, <https://www.icmm.com/website/publications/pdfs/water/170321_icmm-ifc_shared-water-shared-responsibility.pdf>.



Water Assessment (Provision 9.1 - 9.2)



I. INTRODUCTION

Bettercoal Provisions 2.3 - 2.7 on Risk and Impact Assessments explain the importance of companies completing assessments to understand the environmental, social, and human rights risks and impacts associated with their operations. Applying these requirements to the stewardship of water found inside the boundaries of and surrounding their operations will enable companies to identify actual and potential impacts associated with their activities and is a fundamental first step in managing such impacts.

The withdrawal and use of water should always be considered in the context of the surrounding area and watershed. The company’s assessment of its potential and actual impacts on water should include its activities’ effects on other users and aggregate, or cumulative, impact of all uses in the watershed. Regulatory jurisdictions can require specific practices, outcomes and processes for closure and rehabilitation. Companies should know and apply all relevant regulations. In this context, stakeholder engagement is an important aspect of water stewardship.

A completed water assessment and its findings can be an effective tool for engaging stakeholders and communicating companies’ water stewardship plans

II. PROVISIONS AND PERFORMANCE DETERMINATION

- > **Provision 9.1** Companies will complete and document a water assessment that:
 - a) identifies and records their water withdrawal and use by source and type;
 - b) determines the water-related impacts in watersheds in their area of operation that takes into account at a minimum:
 - I. the effect of their activities on the sustained functioning of the watershed;
 - II. the implications of water withdrawal for other directly affected stakeholders’ access to and use of water;
 - III. the potential adverse impacts of discharges of water and effluents on the ecological functioning and biodiversity in the area; and
 - IV. water quality, water stress and other shared water-related challenges in the watershed and public-private initiatives to address them.
 - c) includes consultation on the determination of impact with government, civil society, community groups and, where present, Indigenous Peoples groups.

Explanation

Companies should undertake and document a comprehensive water assessment as early as possible in the lifecycle of the mine. The assessment should be carried out before any significant expansion or other change to the mining operations that might extend the physical footprint, create new or intensify existing impacts. Assessments should be carried out for new and existing mining operations. If a water assessment has not previously been carried out at an already commissioned operation, it needs to be completed to meet this provision.

Companies should adopt an approach to the assessment based on the *watershed* (which is often referred to as a water catchment or drainage basin). A watershed is an area of land that drains all the streams and rainfall to a common outlet, such as the outflow of a reservoir, mouth of a bay, or any point along a stream channel.

The water assessment should be designed to enable an understanding of the social, cultural, economic and environmental value of water in the watershed to identify material water stewardship impacts and provide context for corporate and operational water management. When defining the scope of the assessment companies should consider 'on-site' and 'off-site' business activities and their potential implications for water, and their direct and indirect impacts. The assessment should consider cumulative impacts (see [Provision 9.2 on Water Assessment](#)). Where impacts are indirect, such as when they are associated with a supplier or service provider, companies should consider their ability to influence the activities and actions resulting in an impact, especially where there is a strong dependency on the associated activity.

Companies should identify and record their water withdrawal and use, including discharge volumes. When doing so, companies should consider all water types (e.g. freshwater, brine, potable, recycled etc.) and sources (ocean, lakes, rivers, municipal supply, water treatment plants etc.) from/to surface or subsurface waters, and sewers that lead to rivers, oceans, lakes, wetlands, treatment facilities or ground water. This could be through a defined withdrawal or discharge point (point source), over land in a dispersed or undefined manner (non-point source), and water imported and wastewater removed from the organisation in a truck.

For larger mining operations, additional details might include the name and location of water sources, including the water service provider (if applicable), water quantities, and ultimate source of the water; and, water discharge points, their name, location and quantity, including the destination or ultimate receiving water body.

Companies should complete a baseline water quality sampling as part of water assessments. Baseline sampling is used to establish the level of naturally-occurring substances and existing non-mine pollution present in waterbodies and the variability in water quantity. Documentation of baseline conditions can help to prevent mis-attribution of pollution and water quantity changes to the mine. If baseline sampling was not done before the start of the operations, companies should establish background water quality conditions.

To document the sources of water withdrawn, the use of water, and where there are discharges to water, companies should consider developing representative water maps and compiling water inventories. The core purpose of such records is to target the assessment of material water related impacts. For example, it is more important to identify water withdrawn from water bodies that are considered sensitive because they provide for a local population or farmland, instead of trying to accurately account for every litre of water sourced from a municipal supply. Examples of tables for inventories can be found in the ICMM's *A Practical Guide to Consistent Water Reporting* and the Aluminium Stewardship Initiative's *Performance Standard V2 – Guidance* (see [Further Information](#)).

The water assessment should be documented, retained by companies, and should include detailed research to identify and assess impacts to water and should cover at a minimum the following:

- > a watershed scale approach that includes other mining and industrial or infrastructure operations, and organisations or agencies working on relevant water stewardship activities within or at the watershed scale;
- > a water map and/or inventory identifying water source, type, use, quantity, where it is used and why, where it is discharged and its final destination;
- > identification of sensitive sources and/or bodies of water in the watershed;
- > the water quality, water stress and other shared water-related challenges in the watershed;



- › the actual and potential environmental impacts of their withdrawal of water, including on the sustained functioning of the watershed;
- › the actual and potential adverse impacts of discharges of water and effluents on the ecological functioning and biodiversity in the watershed;
- › the actual and potential economic and social impacts of water withdrawal on directly affected stakeholders' in the watershed, including on their continued access to water;
- › consideration of the potential cumulative impacts from the identified impacts, and how different proposed mitigation measures might decrease the cumulative impacts;
- › the estimated cost of water stewardship and details of the financial resources and how and when they will be made available;
- › the findings from consultations with stakeholders, including their concerns and aspirations for water management in the watershed; and
- › a list or register of legal and other requirements applying to water stewardship.

It should be noted that where Indigenous Peoples groups or communities are present in or around mining operations, they should be active participants in the water assessment. Particular attention should be paid to potential impacts on water upon which affected communities' livelihoods are dependent.

Completing water assessments requires specialist knowledge, professional judgement and the involvement of trained experts for the evaluation of potential and actual impacts, directly or indirectly linked to the operation. Gathering and analysing data can be very complex in some countries or in areas where there is little information to enable comparisons. In such circumstances, extensive fieldwork may be needed to better understand the relative value of sites and the potential implications of mining activities.

The water assessment should be documented and may be stand-alone or part of a broader environmental study, such as an Environmental Impact Assessment, or a landscape-scale sensitivity study. It could be a formal requirement from government to complete such a water assessment, a study undertaken voluntarily by the company, or undertaken by third parties as part of a joint effort in which the company participates.

Performance Determination

Meets:

The company has completed and documented a comprehensive water assessment that:

- › identifies and records its water withdrawal and use by source and type;
- › determines the water-related impacts in the watershed where it operates; and
- › includes consultation on the determination of impacts with affected stakeholders.

Substantially Meets:

N/A

Partially Meets:

The company:

- › has completed a water assessment, but the assessment is incomplete because it
 - › does not take a watershed scale approach;
 - › does not cover all environmental, social, and economic impacts of its activities on water;
 - › does not cover both potential and actual impacts;
 - › does not include consultations with affected stakeholders; or
- › is in the process of assessing the impacts of its activities on water, but not all assessment activities have been completed.

Misses:

The company has not started to assess the impacts of its activities on water.



> **Provision 9.2** Companies will combine the findings of their water assessments with other stakeholders and relevant water stewardship initiatives where present, to better understand and manage cumulative impacts in their area of influence

Explanation

Cumulative impacts refer to the incremental impacts of the company's activities from the time impacts are identified in the water assessment. In the context of watersheds, cumulative impacts are understood to be additive, interactive, or nonlinear outcomes of other existing, planned, or reasonably defined developments. Examples of cumulative impacts include: reduction of water flows in a watershed due to multiple withdrawals; increases in sediment loads to a watershed over time; or impacts from canalisation of waterways from dredging to facilitate waterborne transport.

Companies should be aware of the context in which they operate and to be appropriately informed by the water assessment in [Provision 9.1 on Water Assessment](#) of, not only their actual and potential impacts on water, but their dependencies and opportunities as well. Mining operations can contribute positively by participating in collective action that addresses shared water challenges and opportunities among diverse stakeholders, and by adopting approaches that lead to positive water governance outcomes at the local and regional levels. The proactive and collaborative identification of potential water quality and quantity issues and the development of suitable management strategies adapted throughout the lifecycle of a mine can help prevent or minimise surface water and groundwater contamination and impacts on water quantity.

Where the water assessment (see [Provision 9.1 on Water Assessment and Management](#)) identifies initiatives or programmes on water stewardship in the watershed led by industry, government, communities or civil society, companies should consider participating in those. At a minimum, companies should offer to share information from their own water assessment with others to aid watershed-scale planning for effective water stewardship. Similarly, companies should establish a reciprocal arrangement with others so they can incorporate the findings of others' assessments. This provision is not applicable where no initiatives or programmes are identified in companies' water assessment.

Performance Determination

Meets:

The company has established reciprocal arrangements with other stakeholders in its area of influence and has combined the findings of its water assessment to understand cumulative impacts.

Substantially Meets:

The company has established reciprocal arrangements with other stakeholders in its area of influence to share water assessment findings and data to understand cumulative impacts, however the information being shared is not fully complete because it does not cover all aspects of impacts on water or all relevant business activities in the watershed resulting in an incomplete understanding of the cumulative impacts in its areas of influence.

Partially Meets:

The company is in the process of establishing reciprocal arrangements with other stakeholders in the watershed to share water assessment findings and data to understand cumulative impacts in its areas of influence, but these arrangements are not yet fully in place.



Misses:

The company has not sought to establish reciprocal arrangements with other stakeholders to combine the findings of its water assessment to understand cumulative impacts in its area of influence.

III. VERIFICATION

Data Collection Method

Conformance with the provisions on water assessments is assessed through document review, and interviews with the company's employees, management team, and other external stakeholders. Conformance with the provisions where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
9.1		✓	✓			
9.2		✓	✓			✓

Examples and Types of Evidence

> A water assessment, that includes the cumulative impacts on water from its own and other stakeholder's activities in the watershed.

Site Assessment

Interviews

During interviews with management, managers can demonstrate or describe:

- > a good understanding of companies' exposure to risk from water availability in the watershed, and the actual and potential impacts of the company's activities on water;
- > examples of how data for the assessment of water is gathered, and whose responsibility it is to gather such information.

During interviews with employees, they can demonstrate or describe:

- > a basic understanding of the company's assessment of risks and responsibilities relating to water stewardship;
- > for those tasked with monitoring water-related impacts, a thorough understanding of the risk and indicators identified in the water assessment; and
- > for external affairs/community engagement personnel, a good understanding of which external stakeholders are most affected by the potential or actual impacts on water from companies' activities.

During interviews with affected communities and stakeholders, they can demonstrate or describe:

- > the frequency, content and nature of consultation meetings with the companies' personnel as part of the water assessment; and
- > for government agencies and municipalities, whether companies consulted appropriately during the water assessment.



Water Management (Provisions 9.3 – 9.6)



I. INTRODUCTION

Having in place plans and management systems and clear commitments for managing the adverse effects of *water withdrawal*, use of water in operations and the discharge of water, is not only good operational practice, but also a clear way to demonstrate to stakeholders the company's commitment to water stewardship.

Mining can affect water quality in many ways, including: the discharge of mine water to the environment; seepage through mine wastes to groundwater and surface water; breaches or failures of tailings and water storage facilities; spills of hazardous materials; and the release of uncontrolled stormwater. Companies should treat water they have used in their operations and discharge it in ways that minimise harm to surrounding water users and environmental resources. Companies should implement systems to put in place mechanisms to minimise risk of affected water quality, continually monitor this plan, and report on its effectiveness.

As mining is very often a large and significant economic and social presence in an area, companies should actively work with other business, authorities, local civil society and international organisations in its areas of operation to manage and mitigate cumulative impacts on water resources.

II. PROVISIONS AND PERFORMANCE DETERMINATION

- > **Provision 9.3** Companies will develop, document and implement systems aligned with the requirements of [Provisions 2.1](#) and [2.2](#) of this Code to manage the water-related risks identified in the assessment referred to in [Provision 9.1](#) of this Code. The systems will:
- ensure controlled discharge of, and protect the quality of water in surrounding water courses, lakes and other bodies of water and access to these by local communities;
 - be developed in consultation with affected communities and stakeholders;
 - apply to the full lifecycle of the mine;
 - set, monitor and disclose targets to guide implementation activities and management objectives;
 - where appropriate, include communities in water monitoring programmes; and
 - be adjusted where necessary following regular review of the assessment referred to in [Provision 9.1](#).
-

Explanation

Companies should develop, document and implement a system or multiple systems that address and manage water-related impacts identified in the water assessment in [Provision 9.1 on Water Assessment](#). The system or systems may be standalone or integrated into a management system with broader aspect coverage and should align with [Provisions 2.1 and 2.2 on Management Systems](#). Companies should ensure that there are sufficient financial and human resources to implement the system and monitor its effectiveness. Companies should

consider the need for long-term budgets to ensure water efficiency measures and monitoring can be carried out at operations, collaborate with other stakeholders to contribute to positive water stewardship outcomes in the watershed, retain relevant expertise and resources.

When implementing this provision, companies should consider the ICMM publications on *water management*, including its *Practical Guide to Catchment-Based Water Management for the Mining and Metals Industry*,²¹⁶ the *ICMM Water Stewardship Framework*,²¹⁷ and the joint publication with the IFC *Shared Water, Shared Responsibility, Shared Approach: Water in the Mining Sector*.²¹⁸

Discharge refers to *effluents* released to subsurface waters, surface waters, sewers that lead to rivers, oceans, lakes, wetlands, treatment facilities, and groundwater either through a defined discharge point, overland in a dispersed or undefined manner, or wastewater removed from the operation via truck. Companies should not consider collected rainwater as water discharge. The company's system should have adequate and appropriate internal controls in relation to all discharges to water. At a minimum, these controls should:

- a) include an inventory and baseline of any discharges that have the potential to adversely impact people, animals or the environment;
- b) ensure that applicable regulations and mandatory water quality standards are met;
- c) integrate any best practices on discharges for a specific region, where these exist and are applicable; and,
- d) ensure that waste water containing structures are designed, constructed and managed for the prevention of unplanned discharges (see Provision 9.5 on Water Management).

Companies should consult with communities that are affected by water-related impacts and, where feasible, incorporate their recommendations and ways to address any concerns into the system to mitigate such impacts. Affected communities and stakeholders includes towns, villages and individual households; local authorities and elected councils and committees; and, in some areas, Indigenous and Tribal Peoples groups and traditional authorities (see Provisions 8.1 - 8.5 on Stakeholder Engagement and Provisions 5.3 - 5.5 on Indigenous and Tribal Peoples).

Companies' consultation with communities and stakeholders should be continual and include engagement to communicate and discuss progress of the actions carried out by the companies as part of the system, share outcomes through annual reporting and other communications outlets, such as company websites, and receive input into future plans for the mitigation on water.

Impact on water can occur at all phases of the mine lifecycle, from early exploration through to closure. For example, even small exploration teams carrying out short-term activities can pollute bodies of water or, when drilling, can disturb the flow of sub-surface water courses and access to water by communities. At closure and decommissioning of mining operations, open pits and abandoned equipment can be a source of pollution that can affect the health of waterways and, if left unmanaged, pollution can release into the environment indefinitely. Underground mines when abandoned and pumping ceases can flood and pose a potential safety threat if access is not controlled. Therefore, the company should ensure that consideration for impacts on water are incorporated into the management system throughout the entire lifecycle of the mine. Companies should adopt best practice techniques to rehabilitate environments disturbed or occupied by mining activities in order to ensure continued access to water and to avoid the need for long-term water treatment post closure, especially for the treatment of acid rock drainage (see Provision 4.6 on Mine Rehabilitation and Closure).

216. ICMM, *A Practical Guide to Catchment-Based Water Management for the Mining and Metals Industry*, Accessed online: 3 January 2020, <https://www.icmm.com/website/publications/pdfs/water/practical-guide-catchment-based-water-management_en>.

217. ICMM, *Water Stewardship Framework*, 2014, Accessed online: 3 January 2020, <https://www.icmm.com/website/publications/pdfs/water/2014_water-stewardship-framework.pdf>.

218. ICMM, *Shared Water, Shared Responsibility, Shared Approach: Water in the Mining Sector*, Accessed online: 3 January 2020, <https://www.icmm.com/website/publications/pdfs/water/170321_icmm-ipc_shared-water-shared-responsibility.pdf>.



The system should incorporate time-bound targets to address the impacts identified through [Provision 9.1 on Water Assessment](#) and demonstrate a commitment to efficient water use. The targets should be supported by suitable indicators to monitor the implementation and effectiveness of plans to mitigate impacts on water.

Companies should consider including neighbouring communities in water quality monitoring. There are a growing number of examples of mining operations that have established community monitoring programmes giving complete independence to the community for collecting data and analysing that against agreed indicators, and to report such information publicly. Such programmes build trust with local stakeholders and alert the company to potential problems early. The resources provided in section [V Further Information](#) contain examples and more detailed guidance on this approach. Community monitoring programmes are not always applicable, however. For example, there might not be the requisite skills or education levels in the community, or community members might not have available time or interest to participate. Where the community is not able or willing to participate in community monitoring programmes, the company will ensure appropriate water reporting (see [Provisions 9.3 - 9.6 on Water Management](#)).

The system should allow the continual adaption of actions to avoid the potential and mitigate the actual impacts of companies' activities on water. Companies should monitor the system's performance using qualitative and quantitative indicators. Regular reviews will enable companies to update the system in light of new information on impacts and an evaluation of progress on desired targets and outcomes. Adjustments should be made to the system and specific mitigation plans following reviews of the conclusions of the assessment completed in [Provision 9.1 on Water Assessment](#). At a minimum, companies should review the system and the underlying plans annually and make necessary adjustments.

Performance Determination

Meets:

The company has developed and implemented a system or systems that meet the expectations of [Provisions 2.1 and 2.2 on Management Systems](#), and that manage the water-related impacts identified in [Provision 9.1 on Water Assessment](#). The system:

- › ensures the control of discharges to water;
- › has been completed in consultation with affected communities and stakeholders; is applied to the full lifecycle of the mine;
- › includes targets to monitor performance;
- › includes community monitoring, where appropriate; and
- › is adjusted in line with regular reviews of the underlying assessment in [Provision 9.1 on Water Assessment](#).

Substantially Meets:

The company has developed a system or systems to manage the water-related risks identified in the water assessment in [Provision 9.1 on Water Assessment](#), but there are isolated incidents of gaps or lapses in implementation that are non-systemic.

Partially Meets:

The company:

- › has developed systems to manage the water-related impacts identified in the water assessment in [Provision 9.1 on Water Assessment](#), however implementation has not started or is incomplete; or
- › is in the process of developing such systems, however the systems are not yet complete.

Misses:

The company has not developed a system to manage the water-related impacts identified in the water assessment in [Provision 9.1 on Water Assessment](#).



> **Provision 9.4** Companies will maintain a water balance at their operation and set and monitor targets for the efficient use of water.

Explanation

Water balance refers to an approach used to identify and map the flow of water in and out of a mining operation. A water balance is used to understand how water supply requirements change over the lifecycle of the mine. Mining operations can represent a large proportion of a watershed's water use, and even the most water-efficient operations may have significant impacts on a watershed in stress. Therefore, understanding the operational water balance and its impact on the watershed's water balance is critical.

Mining operations' water balance comprises three main components: water withdrawals, water discharge and *water consumption*. The formula for calculating mining operations' water balance is: withdrawal volume = discharge volume + consumption volume + any change in the volume of water storage inside the boundaries of the operation.²¹⁹

The means to collect data, including initial baseline data to calculate a mining operation's water balance should be collected in the water assessment in Provision 9.1 on Water Assessment. Companies should continually collect data and monitor information from the components of the water balance throughout the lifecycle of the mine, a process that should be incorporated into the water management system in Provision 9.1 on Water Assessment. The goal of water stewardship is to ensure water is used as efficiently as possible, especially when operating in watersheds in stress or arid areas. Maintaining a water balance can be useful for setting and measuring progress towards water use efficiency targets. Companies should set and show progress towards reaching water efficiency targets.

Companies should maintain a long-term water balance across the lifecycle of the mine. The information from a water balance should be used in reporting protocols (see Provision 9.6 on Water Management) and when consulting and engaging stakeholders. Information generated by the water balance may also be used for understanding cumulative impacts and therefore companies should share this information as described in Provision 9.2 on Water Assessment.

Performance Determination

Meets:

The company maintains a water balance at their operation and sets and monitors targets for the efficient use of water.

Substantially Meets:

The company has established a water balance at their operation and has set targets for the efficient use of water, but although the company has gathered and analysed substantial information for the water balance and to monitor water efficiency, not all necessary information has been gathered or analysed.

Partially Meets:

The company is in the process of establishing a water balance at their operation and setting targets for the efficient use of water, but this process is incomplete.

219. Aluminum Stewardship Initiative (ASI), *ASI Performance Standard*, 2017, Version 2, Page 54, Accessed online: 3 January 2020, <[https://aluminium-stewardship.org/asi-standards/asi-performance-standard/file:///Users/asshetonstewartcarter/Downloads/ASI-Performance-Standard-V2-Dec2017%20\(8\).pdf](https://aluminium-stewardship.org/asi-standards/asi-performance-standard/file:///Users/asshetonstewartcarter/Downloads/ASI-Performance-Standard-V2-Dec2017%20(8).pdf)>.



Misses:

The company does not have a water balance at their operation and has not set targets for the efficient use of water.

-
- > **Provision 9.5** Companies will implement a plan to prevent spills and leakage and the potential for contamination of water in the watershed. The plan will:
- a) identify all applicable structures, equipment and operating systems;
 - b) require regular inspections and testing of identified structures, equipment and operating systems;
 - c) include requirements to document and implement corrective and preventive actions to ensure structures, equipment and operating systems are in working order; and
 - d) maintain records of incidents and preventive and corrective actions.
-

Explanation

The system to manage water-related impacts in [Provision 9.3 on Water Management](#) should be supported by a specific documented plan to prevent spills and leakage from mining operations' activities and facilities, with the goal to ensure water in the watershed is not contaminated. Companies can benefit significantly from such plans through cost savings from more efficiently using and treating water in their operations. Companies should consider the following opportunities to prevent leaks and spills:

- > fixing dripping taps and leaking pipes;
- > installing water saving accessories;
- > treating water for reuse rather than disposing;
- > avoid using water where dry techniques are available, for example for cleaning or conveying materials; and
- > substituting potable water with lower quality water.

The goal of mining operations should be to design systems to prevent surface and groundwater contamination; remediation of pollution caused by mining can be extremely costly. Companies should include source control approaches in their plans to minimise water pollution, including: limiting infiltration of air and water to acid-generating waste and mined materials; collecting water affected by mining activities as close to the source as possible; and carefully controlling the discharge of stormwater and treated water to the environment.

The plan should include at a minimum the following parts:

- a) a full documented inventory of companies' structures, equipment and operating systems that have the potential to generate pollution to water, or that use water for their functioning. The inventory should include a mechanism to rank the risk of pollution associated with each item and / or where potential water efficiency gains can be made;
- b) a full documented inventory of the necessary materials and equipment for spill clean-up and checks to ensure its availability and that it is in sound working order;
- c) a schedule and designated staff responsibility for inspecting the items on the inventory. At a minimum, inspections should take place monthly;
- d) the inspections should result in a documented report on the status of the functioning of the items and, where needed, a corrective action plan to ensure all items on the inventory are in working orders. The corrective action plan should include:
 - > an assessment of the severity of the problem identified and the urgency of the corrective action;
 - > clear responsible person/s for completing the action;
 - > a timeline and specific date for completion of the action; and,
 - > an estimate of the budget needed to complete the action;



e) a documented log of all the issues and incidences identified during inspections, and the corrective actions taken to correct them.

Performance Determination

Meets:

The company has documented and implemented a plan to prevent spills and leakages and the potential for contamination of water in the watershed.

Substantially Meets:

The company has documented a plan to prevent spills and leakages and the potential for contamination of water in the watershed and there is evidence that implementation is advanced, but implementation has not started for all parts of the plan where the plan indicates they should have started.

Partially Meets:

The company:

- > is in the process of developing a plan to prevent spills and leakages and the potential for contamination of water in the watershed, but this process is incomplete; or
- > the plan does not cover all possible sources of spills and leakage; and/or
- > the plan does not include all minimum required parts.

Misses:

The company does not have a plan to prevent spills and leakage and the potential for contamination of water in the watershed.

-
- > **Provision 9.6** Companies will, in line with [Provision 3.1](#) of this Code, report on the progress of their systems for managing water and to address the impacts identified in the water assessment in [Provision 9.1](#).
-

Explanation

The availability of and access to water is one of the pressing issues facing business, especially in the face of climate change and fast shifting weather patterns globally. Because of the challenges related to water faced by society, and because mining can be a very significant user of water in many parts of the world, the industry has come under considerably scrutiny regarding its practices and stakeholders' expectations are for greater transparency at all levels of companies' operations, from corporate reporting to site level. Furthermore, reporting is expected from different stakeholders and in different formats, including from government agencies, international organisations, local authorities and municipalities, community groups and even individuals who are affected by a company's use of water. The effective reporting of water can be complicated and companies should report fully on the management of the water withdrawal, use and discharge and on their progress to meeting efficiency goals and managing impacts identified in [Provision 9.2 on Water Assessment](#).

Companies should report on their water management system, plans and progress to preventing and mitigating impacts on water from their activities in line with [Provision 3.1 on Sustainability Reporting](#). When implementing this provision, companies should follow the ICMM's publication



A Practical Guide to Consistent Water Reporting.²²⁰ Companies should include in their water management reports, the information described in the ICMM's Minimum disclosure standard for the mining and metals industry, which is provided in Table 1 below:²²¹

To describe the company's:	Narrative	Supporting metrics (tabular and/or graphical form)
Interactions with water	<p>Operational level</p> <ul style="list-style-type: none"> › What are the main operational water activities? › What are the main consumptive water uses? › What the main water sources used for withdrawal? › What are the main discharges? 	<ul style="list-style-type: none"> › Present total (company-wide) withdrawal volumes by source and quality (high and low). › Present total discharge volumes by destination and quality (high and low). › Present total consumption volumes by type and quality (high and low).
Water challenges and opportunities	<p>Corporate level</p> <ul style="list-style-type: none"> › Overall, how material is water risk to business value and performance? <p>Operational level</p> <ul style="list-style-type: none"> › What are the material risks or challenges facing the company? › Does the company hold significant operations in water stressed areas? › What are the material opportunities available to the company? 	<ul style="list-style-type: none"> › Present the proportion of sites (as absolute number or as commercial value) located in water stressed areas. › Present the overall company water risk profile, for example as a proportion of sites in each water risk category (very high to very low).
Commitment and response	<p>Corporate level</p> <ul style="list-style-type: none"> › Does the company integrate water into business strategy? If so, how? › What is the company's approach and commitments to water stewardship? › Does the company promote stakeholder engagement? If so, at what level (corporate and/or operational)? › With whom (local communities, government, NGOs and collective action groups, other companies or water users, employees)? › Include any relevant corporate level case studies to illustrate the above. <p>Operational level</p> <ul style="list-style-type: none"> › How does the company systematically identify, evaluate and manage material water risk across the company? › How does the company proactively manage elevated risk exposure in water stressed areas? › How does the company identify and realise available water opportunities? › Does the company require sites to set measurable performance targets? › Include any relevant operational case studies to illustrate the above. 	<ul style="list-style-type: none"> › Present efficiency values, as a company-wide average and an average for sites in water stressed areas. › Present the proportion of sites with water performance targets.



Performance Determination

Meets:

The company has reported on the progress of its systems for managing water and addressing the impacts identified in the water assessment in line with Provision 3.1 on Sustainability Reporting.

220. ICMM, *A Practical Guide to Consistent Water Reporting*, 2017, Accessed online: 3 January 2020, <https://www.icmm.com/website/publications/pdfs/water/water-reporting_en.pdf>.

221. *Ibid.*

Substantially Meets:

The company has developed a system to collect information to report on the progress of its systems for managing water and addressing the impacts identified in the water assessment, but public reporting is incomplete.

Partially Meets:

The company:

- › has developed a system to collect information on its systems for managing water and addressing the impacts identified in the water assessment, but public reporting has not yet started; or
- › is in the process of developing the system to collect information on its systems for managing water and addressing the impacts identified in the water assessment, but such system is not yet complete.

Misses:

The company has not reported on the progress of their systems for managing water and addressing the impacts identified in the water assessment in line with [Provision 3.1 on Sustainability Reporting](#).

III. VERIFICATION

Data Collection Method

Conformance with the provisions on water stewardship and management systems is assessed through observation, document review, and interviews with the company's employees, management team, and other external stakeholders.

Conformance with the provisions where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
9.3	✓	✓	✓	✓		
9.4		✓	✓			✓
9.5	✓	✓	✓	✓		
9.6		✓	✓			✓

Examples and Types of Evidence

- › Policies that state the company's commitment to conform with laws and regulations and implement best practices for the withdrawal, use, and discharge of water from their operations;
- › a register of the legal obligations and references on industry best practices applicable to the water stewardship;
- › a documented comprehensive plan and detailed procedures on the management of spills and leakage;
- › a water balance, including the calculation used to generate information, analysis of that information and examples of how that is used in the water management system;



- > water monitoring protocols;
- > inventory of equipment, structures, and operating processes and their potential to generate water impacts;
- > a record of consultations with employees, local authorities, business partners and suppliers, community leaders, and Indigenous or Tribal Peoples' groups demonstrating their involvement in decisions regarding water management system and plans;
- > agreements with initiatives led by the business sector, government, communities, or international organisations to manage water impacts in the watershed;
- > an assessment of and a post-closure strategy to mitigate the residual risks associated with access to water by local stakeholders and for water quality management, including and especially acid rock drainage; and
- > an annual water report to employees, local community, and/or shareholders.

Site Assessment

Interviews

During interviews with management, managers can demonstrate or describe:

- > a good understanding of companies' exposure to risk from water availability in the watershed, and the actual and potential impacts of companies' activities on water;
- > examples of key indicators used to monitor water stewardship at the mine;
- > the concerns of local stakeholders regarding mine rehabilitation and closure;
- > the costs estimate for ensuring appropriate provisions are in place to manage pollution to water and allow continued access to water by stakeholders post-mine closure;
- > the process for assuring access to water for local users post closure and provision to manage water quality and acid rock drainage;
- > their knowledge of industry best practices for water management, water reporting and collaborating with stakeholders in watersheds, especially the guidance provided by the ICMM; and the procedure for consulting with employees, organised labour groups, local authorities, and other external stakeholders on water-related matters.

During interviews with employees, they can demonstrate or describe:

- > a basic understanding of companies' policies on water stewardship;
- > for those tasked with monitoring water-related impacts, a thorough understanding of monitoring procedure, indicators and internal and external reporting requirements; and
- > for external affairs/community engagement personnel, a good understanding of which external stakeholders are most affected by the potential or actual impacts on water from companies' activities.

During interviews with affected communities and stakeholders, they can demonstrate or describe:

- > the frequency, content and nature of consultation meetings with companies' personnel as part of the water assessment;
- > whether the water management system and the plan to prevent spills and leakage are carried out in accordance with their understanding;
- > for government agencies and municipalities, whether companies are conducting activities in conformance with national and local regulations on water management; and
- > whether there will be a lasting residual impact from closure, for example from limited access to water or management of water quality.

Site Walk-Through

During the Site Walk-Through, the assessor observes:

- > the monitoring points and the process of collecting, recording, and reporting monitoring data;
- > the measures taken to prevent spills and leakage and avoid contamination in the watershed;
- > whether there are any areas at particular risk of generating acid rock drainage and methods being taken to manage such risks post closure.



IV REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
2 Policy and Management	2.1 – 2.2: When designing systems to manage impacts on water, companies should refer to <u>Provisions 2.1 and 2.2 on Management Systems</u> .
3 Transparency	3.1: When preparing reports on progress of their water management systems, companies should refer to <u>Provision 3.1 on Sustainability Reporting</u> .
4 Mine Rehabilitation and Closure	4.6: When considering the applicability of water management systems throughout the lifecycle of the mine, companies should refer to <u>Provision 4.6 on Mine Rehabilitation and Closure</u> and continued access to water and the need for long-term water treatment.
8 Stakeholders and Communities	8.16 – 8.18: Companies should put in place an effective, formal and structured grievance mechanism to collect and provide remedy to grievances related to cultural heritage.

V. FURTHER INFORMATION

- > B. Grizzetti et al, *Assessing Water Ecosystems Services for Water Resource Management*, 2016, Environmental Science & Policy (available [here](#)). A methodology to assess and value water ecosystem services is proposed.
- > HydroG Resources Group, *Basic Manual Water Level Measurement*, 2014, (available [here](#)). This is a self-directed course designed to introduce beginners to the concept of taking manual water level measurements in groundwater wells.
- > ICMM, *Practical Guide: Catchment Based Water Management* (available [here](#)). This guide outlines systematic approaches for catchment-based water-related risks.
- > ICMM, *Water Stewardship Framework* (available [here](#)). This Framework outlines a standardised approach to water stewardship for the mining and metals industry, recognising that water connects an operation to the surrounding landscape and communities.
- > ICMM, *A Practical Guide to Consistent Water Reporting* (available [here](#)). ICMM has developed this guide to support the industry in making consistent, transparent and material water reports, based on key elements of existing disclosure and accounting systems.
- > ISO, *14046 on Environmental Management – Water footprint – Principles, Requirements and Guidelines* (available [here](#)). ISO 14046:2014 specifies principles, requirements and guidelines related to water footprint assessment of products, processes and organisations based on lifecycle assessment (LCA).
- > WWF, *Water Risk Filter* (available [here](#)): A leading online tool designed to Explore, Assess, Respond & Value water risk.
- > Hydropower Sustainability, *Hydropower Sustainability Assessment Protocol* (available [here](#)). This Protocol is relevant when companies use hydropower for the generation of energy.

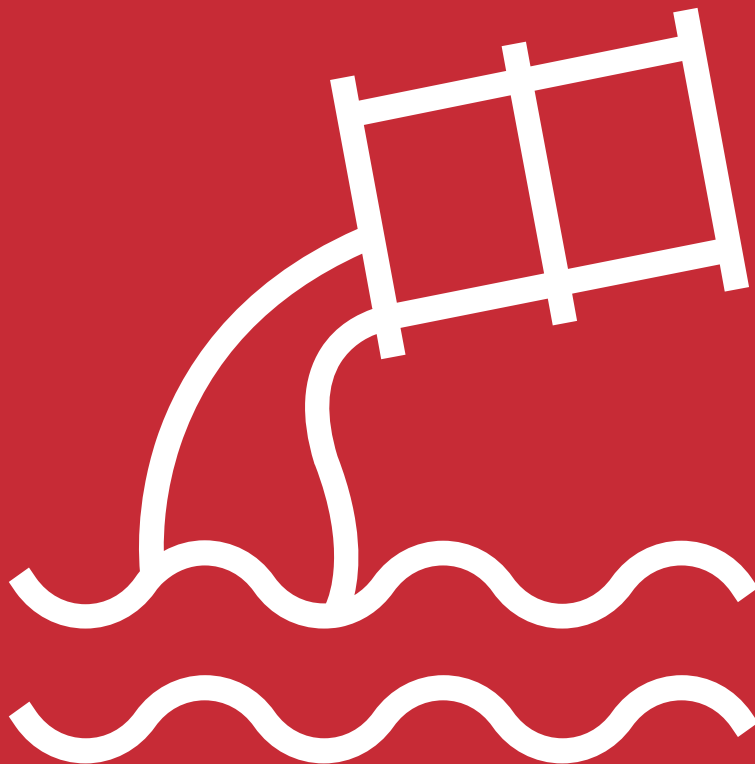


PRINCIPLE

10

MANAGEMENT OF EMISSIONS AND WASTE

Companies will have systems in place to avoid and minimise potentially harmful emissions and to manage waste in line with the mitigation hierarchy.



Introduction

Emissions refer to substances that are released or emitted from mining operations. Mining operations use and generate substances for extracting and processing that, if not disposed of carefully, can adversely impact communities and the environment and present risks to the health and safety of people and wildlife. Fuels used by heavy machinery; chemicals, such as solvents used to clean or maintain equipment or floatation chemicals; gases from furnaces; and liquid wastes from sewage treatment facilities can be harmful to life if spilled or otherwise discharged uncontrolled to the environment. In some surface mines, the generation of acid rock drainage is a major problem. Other significant impacts affecting local communities and the environment include fugitive dust, noise vibration and light pollution. Water is used substantially at mining operations; its management is the subject of [Principle 9 on Water Stewardship](#).

Mining necessarily involves moving significant quantities of rock and soil, generating large volumes of waste. This type of unprocessed waste is termed overburden or waste rock. Waste can also be generated from processing raw coal in a beneficiation or washing plant to remove non-combustible materials and inorganic sulphur. Coal beneficiation is based on wet physical processes such as gravity separation and flotation. Beneficiation produces two waste streams: fine materials that are discharged as a slurry to a tailings impoundment, and coarse material that is disposed as a solid waste. Waste can also be generated from indirect sources such as transportation, administration and infrastructure development linked to, but not under the control of, mining operations.

Waste can have chemical and physical characteristics that can be harmful. Mining wastes can also pose a risk to whole communities, as the storage of large volumes of material behind dams or impoundments holds the potential for catastrophic failure. This is particularly the case for tailings dams that have been strongly associated with incidents of dam breakages that have caused severe adverse impacts, bringing the mining industry under intense scrutiny by international rights and environmental organisations and the media.

Bettercoal expectations on Management of Emissions and Waste include Provisions on:

- › [Emissions and Waste Assessment \(Provision 10.1\)](#)
- › [Emissions and Waste Management \(Provision 10.2 – 10.10\)](#)
- › [Tailings Management \(Provision 10.11 – 10.13\)](#)



Emissions and Waste Assessment (Provision 10.1)



I. INTRODUCTION

Provisions 2.3 - 2.7 on Risk and Impact Assessments explain the importance of companies completing assessments to understand the environmental, social, and human rights risks associated with their operations. Applying these requirements to the management of emissions and waste generated at mining operations will enable companies to identify actual and potential impacts associated with their activities and is a fundamental first step in managing such impacts.

Regulatory jurisdictions can require specific practices, outcomes and processes for the management of emissions and waste. Companies should know and apply all relevant regulations.

A completed emissions and waste assessment and its findings can be an effective tool for engaging stakeholders and communicating companies' plans.

II. PROVISIONS AND PERFORMANCE DETERMINATION

- > **Provision 10.1** Companies will undertake and document an assessment to identify and assess the risks to communities and impacts on the environment associated with their operations' generation of emissions and waste.
-

Explanation

Companies should undertake and document a comprehensive assessment of the risks to communities and environmental impacts from their operation's emissions and generation and management of waste as early as possible in the lifecycle of the mine and before any significant expansion or other change to the mine operation that might extend its physical footprint, create new or intensify existing impacts. Assessments should be carried out for new and existing mining operations. If an assessment has not previously been carried out at an already commissioned operation, it needs to be completed to meet this provision (see Provisions 2.3 - 2.7 on Risk and Impact Assessments).

The assessment should be documented and may be stand-alone or part of a broader environmental study, such as an environmental impact assessment, or a landscape-scale sensitivity study. It could be a formal requirement of the government to complete such an assessment, a study undertaken voluntarily by companies, or undertaken by third parties as part of a joint effort in which companies participate. If required by law, the form and timing of the assessment are often defined by a government agency and these obligations should be reflected in the design of the assessment.

When defining the scope of the assessment, companies should consider the nature, scale and risks of the operation. For example, what might be appropriate at an exploration stage may be different than for a large-scale producing mining operation. Also, companies should consider its 'on-site' and 'off-site' business activities and their potential for generating emissions and

waste, and their direct and indirect impacts. Where impacts are indirect, such as when they are associated with a business partner, the company should consider its ability to influence the activities and actions resulting in an impact, especially where there is a strong dependency by companies on the associated activity.

Completing assessments on emissions and waste management requires specialist knowledge, professional judgement and the involvement of trained experts for the evaluation of potential and actual impacts, directly or indirectly linked to mining operations. Companies should retain and / or consult with qualified experts to ensure the best possible information on which to build their emissions and waste management strategy and plans.

Over the course of the mining operations' lifecycle, the assessment should be updated at a frequency commensurate with its risk profile and as required to meet the management objectives. The acceptable level of risk should be defined in the context of the mine and for its specific lifecycle phase, taking into account the likelihood and consequence of catastrophic failure, and the perspectives of the company, regulators and affected communities and other stakeholders.

The assessment should be documented, retained by companies, and should include detailed research to identify and assess risks and adverse impacts associated with emissions and waste. It should cover at a minimum the following:

> *For emissions:*

- > a baseline for air quality in the mining operation area;
- > a recent inventory of emissions to air that have adverse effects on people or the environment, at a level of detail that is appropriate to the nature of the operation;
- > the potential and anticipated actual releases of methane, greenhouse gas (GHG) emissions, and plans for the recovery of methane where feasible; and
- > the impacts to the receiving air quality, and potential environmental and health impacts from the mining operations' source emissions, based on the inventory and baseline of emissions; this may include air dispersion modelling that accounts for meteorological conditions and wind profiles, worst case emission scenarios, terrain and topography, nature of nearby buildings and structures, cumulative and contributory effects for other sources of air emissions, and the location of nearby sensitive receptors.

> *For waste:*

- > a recent inventory of existing and planned waste materials and substances, both mining and non-mining waste, and existing or projected plans for their storage, treatment and disposal;
- > the actual and potential adverse impacts, as well as the beneficial economic, and environmental and health impacts of the storage, treatment, and disposal of waste identified in the inventory in the long and short-term, both on and off-site (see [Principle 4 on Mine Rehabilitation and Closure](#)); and
- > identification of all existing and/or proposed mine waste facilities that have the potential to be associated with waste discharges or incidents, including catastrophic failures, that could lead to impacts on human health, safety, the environment, or communities.

> *For both emissions and waste:*

- > an analysis of alternative approaches to the design of the operation to avoid generation or reduce the adverse impacts of emissions and waste storage, treatment, and disposal, where appropriate; and
- > potential cumulative impacts, which result from the incremental impact, on areas used or directly impacted by the operation's storage, treatment and disposal of waste, and from other existing or planned development; some examples of cumulative impacts include: incremental contribution of gaseous emissions to an airshed, visual impacts from multiple waste dumps and exclusion zones in a landscape, or more traffic congestion and accidents due to increases in vehicular traffic on community roadways;



- › the findings from consultations with experts and stakeholders, including their concerns and aspirations for emissions and waste management;
- › a list or register of legal and other requirements applying to emissions and waste management;
- › consideration of risks to the company associated with financial, reputational, or other stakeholder considerations; and
- › scenarios for the management of emissions and waste during rehabilitation, closure and post closure (see [Principle 4 on Mine Rehabilitation and Closure](#)).

Where a mining operation is proposed in an area of significant conservation value, the assessment should refer to [Principle 12 on Biodiversity and Land Use](#), and especially [Provision 12.1 on Biodiversity and Land Use Assessments](#).

It should be noted that where Indigenous Peoples groups or communities are present in or around mining operations, they should be active participants in the assessment. Particular attention should be paid to potential impacts on the natural resources and cultural sites identified as being important to affected Indigenous Peoples communities. In consultation with Indigenous Peoples, the company should seek to determine acceptable levels of air emissions, including GHG emissions. Companies should note that during the assessment and operation approval, emissions to air will form part of a Free Prior Informed Consent process (see [Provisions 5.4 - 5.5 on Indigenous and Tribal Peoples](#)).

Performance Determination

Meets:

The company has completed and documented an assessment that identifies and assesses the risks and impacts of emissions from its operations and the generation, storage, treatment, and disposal of mine and non-mine waste on communities and the environment.

Substantially Meets:

N/A

Partially Meets:

The company:

- › has completed an assessment for the risks and impacts of emissions and waste from its operations, but the assessment is incomplete because it does not cover all environmental, social, and economic risks and impacts; does not cover both direct and indirect impacts or cumulative impacts; does not cover both potential and actual impacts; or, does not consider the perspectives of affected communities or other stakeholders;
- › is in the process of assessing the risks and impacts of emissions and waste generated and managed at its operations, but not all assessment activities have been completed.

Misses:

The company has not started to assess the risks and impacts of emissions and waste generated and managed at its operations.

III. VERIFICATION

Data Collection Method

Conformance with the provision on emissions and waste assessment is assessed through document review, and interviews with the company's employees, management team, and other external stakeholders.



Conformance with the provisions where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
10.1		✓	✓			

Examples and Types of Evidence

- > An emissions and waste assessment, which includes the potential and actual impacts from its activities on neighbouring communities;
- > a register of the legal obligations and references on industry best practices applicable to emissions and waste management.

Site Assessment

Interviews

During interviews with management, managers can demonstrate or describe:

- > how data for the management of emissions and waste assessment is gathered, and whose responsibility it is to gather such information;
- > the concerns of local stakeholders regarding tailings management;
- > the areas, structure, and activities on the operation that generate or have the potential to generate dust; and,
- > the regulations in the country of operation regarding noise, vibrations, light, waste management, and emissions.

During interviews with employees, they can demonstrate or describe:

- > a basic understanding of the company's assessment on emissions and waste;
- > for those tasked with monitoring emissions and waste-related impacts, a thorough understanding of the relevant parts of the assessment;
- > for external affairs/community engagement personnel, a good understanding of which external stakeholders have been consulted on the assessment.

During interviews with affected communities and stakeholders, they can demonstrate or describe:

- > the frequency, content, and nature of their consultation meetings with companies' personnel as part of the assessment; and,
- > for government agencies and municipalities, whether companies' have consulted them on the assessment on emissions and waste management.



Emissions and Waste Management (Provision 10.2 - 10.10)



I. INTRODUCTION

Having in place plans and management systems and clear commitments for managing emissions and waste is not only good operational practice but also a clear way to demonstrate to stakeholders company's commitment to environmental protection.

Although specific approaches taken to managing waste vary between operations, there are basic principles of *waste management* that companies should follow. These principles are captured in the 'waste management hierarchy', which can be summarised as a set of process options from most favourable to least favourable to protect human health and the environment from impacts associated with the generation, storage, handling, treatment, transportation and disposal of wastes.

There are existing waste management practices that follow the waste hierarchy and aim to prevent or greatly reduce the potential for catastrophic failures of mine waste facilities. These include best practices for the handling, storage, transportation and disposal of potentially hazardous materials. Also, geochemical testing can be used to determine whether mining waste, like tailings and waste rock, has the potential to generate acid or other contaminants. Increasingly, mining companies are also implementing stronger accountability mechanisms such as ensuring waste facility decisions are approved at the highest levels of the company; more rigorous assessments of sources of potential contamination and physical risks posed by mine waste facilities; and independent review of waste facility siting, design, construction, operation and closure plans.

II. PROVISIONS AND PERFORMANCE DETERMINATION

- > **Provision 10.2** Companies will develop, document and implement systems aligned with the requirements of [Provisions 2.1](#) and [2.2](#) of this Code to minimise and control mining-related pollutants to air and land in communities, and to the built and natural environment as identified in the assessment referred to in [Provision 10.1](#) of this Code. The systems will:
- be completed in consultation with affected communities and stakeholders;
 - apply to the full lifecycle of the mine;
 - set targets to be monitored and disclosed; and,
 - be adjusted where necessary following regular review of the assessment referred to in [Provision 10.1](#).
-

Explanation

Companies should establish a system or multiple systems that address and manage the risks and impacts identified in the assessment in [Provision 10.1 on Emissions and Waste Assessments](#). The systems may be stand-alone or integrated into a management system

with broader aspect coverage. Companies should ensure that there are sufficient financial and human resources to implement the system and monitor its effectiveness. Companies should consider the need for relevant expertise, as well as resources that may be required for consultative processes and monitoring during implementation (see [Provisions 2.1 and 2.2 on Management Systems](#)).

The system and underlying plans should cover all waste and emissions generated at companies' operations and those associated with the off-site movement and transportation of waste. Plans should characterise the wastes and emissions, considering factors such as sources, composition, separation, quantities, flow/production rates, transfer and storage, treatment, destination/pathways and disposal. Companies' systems should be able to ensure compliance with all applicable regulations and especially those for hazardous materials, and should include:

- > sustainable and integrated control measures that mitigate the identified risks and impacts;
- > periodic reviews and refreshing of the skills and training requirements for responsible personnel;
- > incorporation of consultation with affected communities;
- > application throughout the lifecycle of the mine;
- > setting of targets for the monitoring of performance; and
- > opportunity for adjustments following spot checks, internal audits and periodic review of the underlying assessment in [Provision 10.1 on Emissions and Waste Assessments](#), and the waste mitigation hierarchy (see [Provision 10.7 on Emissions and Waste Management](#)).

Companies should consult with communities that are affected by emissions and waste and, where feasible, incorporate their recommendations for ways to address any concerns into the system and plans to mitigate such risks and impacts. Affected communities and stakeholders includes towns, villages and individual households; local authorities and elected councils and committees; and Indigenous and Tribal Peoples groups and traditional authorities (see [Provisions 8.1 - 8.5 on Stakeholder Engagement](#) and [Provisions 5.3 - 5.5 on Indigenous and Tribal Peoples](#)).

Companies' consultation with communities and stakeholders should be continual and include engagement to communicate and discuss progress of the actions carried out as part of the system and underlying plans, share outcomes through annual reporting and other communications outlets, such as companies' websites, and receive input into future plans for the mitigation of risk and mitigations from emissions and waste.

Risk and impacts from emissions and waste can occur at all phases of the mine lifecycle, from early exploration through to closure; even small exploration teams, carrying out short-term activities, can utilise fuels, oil, and cleaning agents that have the potential to contaminate local watercourses and land. At closure and decommissioning of a mine, improper management of waste dumps and containment ponds, tailings dams, and equipment can cause pollution, which poses a threat to wildlife and damages the health of ecosystems. Emissions from untreated acid-generating waste or methane from abandoned pits can continue to pose a threat long after the operating company has left the site. Companies should ensure that consideration for these environmental aspects and their related economic and social implications is incorporated into the management system throughout the entire lifecycle of the mine.

Companies should include options in their systems and underlying plans for improved waste management, which may include technical measures (e.g. pollution control equipment), operational controls (e.g. better procedures), production controls (e.g. controlling types of materials used), management controls (e.g. clearly defined responsibilities) and training. See guidance on [Principle 4 on Mine Rehabilitation and Closure](#) on the implementation of a process of integrated mine closure and rehabilitation incorporating environmental, social, economic, and governance issues.



Companies' systems should incorporate an action plan with time-bound targets to deliver improvements over time and to address the risks and impacts identified through Provision 10.1 on Emissions and Waste Assessments. The targets should be supported by suitable biogeophysical, social and economic indicators to monitor the implementation and effectiveness of plans to mitigate risk and impacts from emission and waste generation, storage, treatment, and disposal.

Companies' systems should allow the continual adaption of underlying plans and actions to avoid the potential and mitigate the actual risks and impacts of their activities. Regular reviews will enable the companies to update plans in light of new information on risks and an evaluation of progress on desired targets and outcomes. Adjustments should be made to the system and specific mitigation plans following reviews of the conclusions of the assessment completed in Provision 10.1 on Emissions and Waste Assessments. At a minimum, companies should review their system and the underlying plans annually and make necessary adjustments.

Performance Determination

Meets:

The company has developed and implemented systems that meet the expectations of Provisions 2.1 and 2.2 on Management Systems and address the impacts and risks from emissions and waste identified in Provision 10.1 on Emissions and Waste Assessments. The system incorporates consultation with affected communities and stakeholders; is applied to the full lifecycle of the mine; includes targets to monitor performance; and is adjusted in line with regular reviews of the underlying assessment in Provision 10.1 on Emissions and Waste Assessments.

Substantially Meets:

N/A

Partially Meets:

The company:

- › has developed a system to address the risks and impacts from emissions and waste identified in Provision 10.1 on Emissions and Waste Assessments, but the system is not fully complete because:
 - › it does not cover all aspects of risk and impacts from emissions and waste;
 - › does not incorporate consultation with communities and stakeholders;
 - › both direct and indirect impacts;
 - › cumulative impacts; or
 - › does not set targets or a routine review and adjustment to underlying plans;
- › is in the process of developing a system that meets the expectations of Provisions 2.1 and 2.2 on Management Systems and address the impacts and risks from emissions and waste identified in Provision 10.1 on Emissions and Waste Assessments.

Misses:

The company has not yet developed a system that addresses the impacts and risks from emissions and waste identified in Provision 10.1 on Emissions and Waste Assessments.



-
- > **Provision 10.3** Companies will ensure that existing and projected impoundments and containment facilities for the storage and management of mine-related waste and non-hazardous materials are planned, designed and operated in ways that the risks of environmental, health and safety impacts are appropriately assessed and managed throughout the lifecycle of the mine and after its closure.
-

Explanation

Impoundment and containment facilities are areas and structures that contain, store, are constructed of, or come into contact with waste that is generated or created during mining (e.g. waste rock, pit walls, pit floors or underground workings, run-off or discharge from exposed mined areas) and mineral processing (e.g. tailings, effluent). These impoundments and facilities include, but are not limited to open pits, underground mine workings and subsidence areas, waste rock facilities, tailings storage facilities, process water facilities, stormwater facilities, borrow areas for construction and/or reclamation, water treatment facilities, and water supply dams/impoundments. This provision does not cover impoundments and containment facilities for tailings or for the storage of toxic substances (see [Provision 10.1 and 10.3 on Emissions and Waste Assessments](#)).

Although specifically written to guide the management of tailings, when implementing this provision, companies are recommended to follow the relevant principles and requirements in the *Global Industry Standard on Tailings Management*.²²²

To ensure that existing and projected impoundments and containment facilities are appropriately planned, designed, and operated, companies should pay attention to the structural stability of the facility and how catastrophic failures can be prevented; the ways to control discharge and protect the surrounding environment and local communities from potential impacts of acidification, loss, of containment or contamination; and, a plan to implement appropriate mitigation or treatment if impacts are identified.

Impoundments and containment facility design should be consistent with leading industry or government standards. Mining companies, industry organisations or governments across the world may have developed internal standards or guidelines that are similar in nature, or aligned with international standards in this area, and adherence to these is acceptable as long as best practice is implemented.

Before building impoundments and containment facilities, companies should complete a risk assessment to identify, prioritise and improve the engineering design and management controls. This risk assessment should be regularly updated and should, at a minimum, consider:

- > location and proximity of facilities to sensitive environments, including groundwater and affected communities;
- > the storage capacity of facilities, compared with the likely volume of waste to be managed over the mining operation's lifecycle;
- > potential impacts from extreme events, such as earthquakes or floods;
- > effectiveness of erosion control, including dust entrainment, sediment run-off and loss of topsoil; and
- > potential mobility of waste materials in the case of discharge—the use of techniques such as isolating acid-generating material.

²²². *Ibid.*



Once in operation, companies should carry out periodic inspections and assessments on the impoundments and containment facilities to confirm they remain safe and structurally stable. At a minimum, companies should:

- › complete daily or weekly visual inspections for evidence of instability, including erosion, corrosion, cracks or loss of containment;
- › carry out periodic geotechnical assessments based on local geology and meteorological conditions, as well as current and planned mining activities; and
- › conduct annual independent inspections of structural stability, operation and maintenance.

Performance Determination

Meets:

The company has planned, designed, and is operating waste impoundments and containment facilities that are consistent with leading industry standards.

Substantially Meets:

The company has completed the planning and designing, and has begun operating waste impoundments and containment facilities, but there are isolated incidents of gaps or lapse in implementation that are non-systemic.

Partially Meets:

The company:

- › has completed the planning and designing and has begun operating waste impoundments and containment facilities, but the plans, design, and operating procedures are not in line with industry leading standards.
- › is in the process of planning and designing waste impoundments and containment facilities, but the plan and design are incomplete.

Misses:

The company has not planned, designed, and is not operating waste impoundments and containment facilities that are consistent with leading industry standards.

-
- › **Provision 10.4** Companies will develop and implement a plan to fully integrate dust control measures into operating procedures.
-

Explanation

Dust refers to the tiny, dry particles in the air produced when materials are cut, drilled, demolished, sanded, or moved. This means many work activities can create dust. Mining operations can emit significant quantities of fugitive dust from blasting, drilling, dumping, large truck and equipment traffic, conveyors, and crushing of mined material or overburden. Dust can also be wind-blown from exposed surfaces such as roads, pits, and waste piles, or from dried surfaces of tailings impoundments. Surface mining generates more dust than underground mines. Storage and handling of coal can generate dust at rates significantly above the background level at the mine site.

Dust is not always an obvious health or environmental hazard as the particles which cause the most damage is often invisible to the naked eye and the health effects of exposure can take many years to develop. Not all dust is the same. Some dust is more harmful than others. Excessive exposure to some types of dust has been linked to the development of particular health problems, such as lung cancer or asthma when people are exposed to them over long



periods. Coal dust can contain heavy metals, which are toxic elements at low concentrations, including lead, mercury, nickel, tin, cadmium, mercury, antimony, and arsenic, as well as radioactive isotopes of thorium and strontium.

Companies should fully understand the types and quantities of dust generated at their operations, and ensure that the exposure of workers to dust is within national regulations and industry best practices for workplace exposure limits. Companies should refer to ICMM and the Institute of Environment and Health publication on '*The Setting and Use of Occupational Exposure Limits*'.²²³ The German TA Luft Regulation is a commonly cited standard in jurisdictions that do not have dust standards. The regulation states that dust deposition from mining-related activities should not exceed 350 mg/m² /day, measured as an annual average. Companies should consider these German guidelines in the absence of national or industry standards.

Companies should develop and implement a plan to reduce the generation and to control dust on their operations. Dust can generally be controlled with reasonably inexpensive measures. However, a mine's typically large geographic footprint makes control especially important and sometimes difficult. Companies' plans at a minimum should at a minimum:

- > enable compliance with national regulatory requirements related to dust;
- > include a dispersion model (i.e. potential % contribution of dust and emissions in relation to mining activity);
- > incorporate responses to concerns or recommendations raised by stakeholders related to dust;
- > document the practices employed to reduce and control dust emissions from the mine, which may include:
 - > spraying water by truck on roads and near blasting activities;
 - > specific dust suppression measures at crushing, coal processing and beneficiation operations, and handling and loading facilities, such as minimising drop distances, covering equipment and wetting storage piles;
 - > application of chemical additives, such as magnesium chloride added to water to increase the effectiveness and durability;
 - > prevention of accumulations of dusts;
 - > detailed risk assessments and procedures to minimise exposure of workers to hazardous dust;
 - > early revegetation and good maintenance of roads and work areas;
 - > engaging and collaborating with local communities and authorities to plant more trees or pave mine roads that are close to settlements;
 - > monitoring, documentation and recording of ambient air quality and dust associated with the mining operation through dust monitoring locations situated around the mine site, related operations and transportation routes and the surrounding environment.

Performance Determination

Meets:

The company has developed and implemented a plan to fully integrate dust control measures into operating procedures.

Substantially Meets:

The company has developed a plan to fully integrate dust control measures into operating procedures, however, not all aspects are fully covered and so implementation of the plan is incomplete.

Partially Meets:

The company is in the process of developing a plan to fully integrate dust control measures into operating procedures.

223. ICMM, *The Setting and Use of Occupational Exposure Limits Current practice*, Accessed online: 3 January 2020, <<https://www.icmm.com/website/publications/pdfs/health-and-safety/17.pdf>>.



Misses:

The company does not have a plan to fully integrate dust control measures into operating procedures.

-
- > **Provision 10.5** Companies will apply international standards, including, where applicable, prohibiting the manufacture, trade, transport and use of chemicals and hazardous substances that are subject to the terms and conditions of international treaties.
-

Explanation

Hazardous chemicals and substances can harm people, property and the environment. They include many common industrial, commercial, pharmaceutical, agricultural and domestic chemicals. Many hazardous chemicals and substances are also classified as dangerous goods. These can cause fires, explosions, corrosion, and hazardous reactions if not handled safely. Although working with hazardous chemicals and substances is often necessary at mining operations and when doing so companies should follow the good management practices covered in [Provision 7.3 on Workplace Hazards](#), there are some hazardous chemicals and substances that are subject to bans for some uses, manufacture or trade under certain circumstances or for which the use is severely restricted for health or environmental reasons under international conventions and treaties. For such chemicals and substances, companies must adhere to their requirements and guidance applicable to their circumstances in the relevant international treaties and the obligations of their host countries where the host country is a party of the treaty.

Companies should maintain a list of these chemicals and substances, the relevant international conventions, and the implications of the terms and conditions of those treaties and conventions for their use, manufacture and trade. Even if the country where the company is operating is not a party to an international convention that bans hazardous materials, companies should adhere to the relevant and applicable requirements and guidance.

At a minimum, the company should have a documented policy and procedure prohibiting the manufacture, trade and use of chemicals and hazardous substances that are subject to international bans.

Relevant hazardous chemicals and substances include those identified in the terms and conditions of the Basel Convention,²²⁴ the Rotterdam Convention,²²⁵ the Stockholm Convention,²²⁶ and the ILO Chemicals Convention 1990, No.170.²²⁷

Performance Determination

Meets:

The company has documented and implemented a policy prohibiting the manufacture, trade and use of chemicals and hazardous substances that are subject to international bans.

224. UN Environment Programme, *The Basel Convention*, Accessed online: 3 January 2020, <<http://www.basel.int/>>.

225. UN Environment Programme, *The Rotterdam Convention*, Accessed online: 3 January 2020, <<http://www.pic.int/>>.

226. UN Environment Programme, *The Stockholm Convention*, Accessed online: 3 January 2020, <<http://www.pops.int/>>.

227. ILO, *ILO Chemicals Convention No. 170 & its Recommendation No. 177*, 2020, Accessed online: 3 January 2020, <https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---safework/documents/publication/wcms_731982.pdf>.



Substantially Meets:

The company has documented a policy prohibiting the manufacture, trade and use of chemicals and hazardous substances that are subject to international bans, but implementation has not started for all parts of the policy where the company indicates they should have started.

Partially Meets:

The company is in the process of formulating a policy prohibiting the manufacture, trade and use of chemicals and hazardous substances that are subject to international bans.

Misses:

The company does not have a policy prohibiting the manufacture, trade and use of chemicals and hazardous substances that are subject to international bans.

> **Provision 10.6** Companies will adopt alternatives to hazardous substances used in production processes wherever technically and economically viable, and will use the least environmentally harmful products available.

Explanation

Through the assessments in [Provision 10.1 on Emissions and Waste Assessments](#) and [Provision 10.6 on Emissions and Waste Management](#), companies will have identified the hazardous substances and chemicals being used at their operations and evaluated the risk profile of each. Before using the materials identified, companies should research and examine the options for substituting such hazardous substances and chemicals with the intention of finding an alternative that presents fewer risks of harm to people and the environment. To be practicable, an alternative would have to be able to adequately perform the technical function of the substance it replaces and at a cost that is viable for that part of the operation.

Companies should have documented the options investigated as possible alternate options for the hazardous substance. Companies should not include “false” alternatives in the analysis simply to justify the alternative preferred by the proponent or the regulator. The methodologies for evaluating alternatives should be transparent.

Performance Determination

Meets:

The company has researched and documented the possible alternatives to hazardous substances used in production processes, and is using the products that are shown to be the least environmentally harmful available and that are technically and economically viable.

Substantially Meets:

The company has researched and documented the possible alternatives to hazardous substances used in production processes, but is not yet using the products that are shown to be the least environmentally harmful available and that are technically and economically viable.

Partially Meets:

The company is in the process of researching and documenting the possible alternatives to hazardous substances used in production processes, but has not yet completed the exercise.



Misses:

The company has not researched and documented the possible alternatives to hazardous substances used in production processes.

> **Provision 10.7** Companies will follow the waste management hierarchy.

Explanation

The waste management hierarchy can be summarised as a set of process options from most favourable to least favourable to protect human health and the environment from impacts associated with the generation, storage, handling, treatment, transportation and disposal of wastes.

The hierarchy aims to maximise the benefits from raw materials and process operations, so as to minimise the generation of waste. It incorporates the concepts of reuse, recycling, resource recovery and disposal as follows in order of most preferred to least preferred option:

1. avoidance, including action to prevent or reduce the amount of waste generated;
2. resource recovery, including re-use, recycling, reprocessing and energy recovery, consistent with the most efficient use of the recovered resources;
3. disposal, including management of all disposal options in the most environmentally responsible manner.²²⁸

Companies should integrate the waste management hierarchy into their management systems, including in relevant policies, plans, and procedures, that should be applied to both new and existing facilities. This provision applies to all types of waste generated at a company's operations, including both mine waste and non-mining waste, such as that generated from inputs to the mining process.

Performance Determination

Meets:

The company has documented its commitment to and procedures for following the waste management hierarchy to manage both mined and non-mining waste streams on its operations.

Substantially Meets:

The company has documented its commitment to and procedures for following the waste management hierarchy, but implementation does not cover all possible sources of mined and non-mining waste.

Partially Meets:

The company is in the process of documenting its commitment to and procedures to follow the waste management hierarchy, but this process is incomplete.

Misses:

The company has not documented its commitment or procedures for following the waste management hierarchy.

228. Environmental Protection Authority NSW, European Union, *Waste Framework Directive*, Accessed online: 3 January 2020, <https://ec.europa.eu/environment/waste/framework/framework_directive.htm>.



> **Provision 10.8** Companies will identify and remediate historically accumulated contaminants associated with their operations, determine whether they are responsible for mitigation measures, and will take action to resolve their liabilities, including rehabilitation, in compliance with applicable law and industry best practices.

Explanation

Not all mining operations are ‘green field’, many have been operating for years or even multiple decades. Furthermore, mining operations can change ownership or attract additional shareholders as more capital is required for expansion, and new companies or joint ventures can form to take over operations at different stages of the mine’s lifecycle. In some cases, such changes are accompanied by liabilities associated with clean-up of contaminated land or treatment of waste, workings, or equipment generating *pollutants* into the environment.

The rules relating to inheriting or retaining environmental liability on an asset or share sale in an asset varies between jurisdictions. For many, the ‘polluter pays’ principle is codified in law and any historical pre-acquisition environmental liabilities associated with the asset generally remain with the seller. In some jurisdictions, however, the buyer takes on the liabilities. In others still, the liability will vary by the type of the asset. In most cases, a buyer may agree contractually to assume the seller’s pre-acquisition liabilities.

Companies should understand what, if any, historical environmental liabilities they are responsible for when acquiring or taking over the operational responsibility for a mine. Companies should keep a register of the applicable legislation and regulations and be able to demonstrate how these are being applied where historical contamination at the operation have been inherited. Where these liabilities are related to the rehabilitation and closure of the mine, companies should apply the practices described in [Principle 4 on Mine Rehabilitation and Closure](#).

Performance Determination

Meets:

The company has carried out an assessment to identify whether there are any historically accumulated contaminants associated with their operations for which they might be legally responsible and, where there are such responsibilities, is remediating the land in compliance with applicable law and industry best practices.

Substantially Meets:

The company has carried out an assessment to identify whether there are any historically accumulated contaminants associated with their operations for which they might be legally responsible, but, where such responsibilities are identified, the company has not yet begun to remediate the land in compliance with applicable law and industry best practice.

Partially Meets:

The company is in the process of carrying out an assessment to identify whether there are any historically accumulated contaminants associated with their operations for which they might be legally responsible, but this process is incomplete.

Misses:

The company has not carried out an assessment to identify whether there are any historically accumulated contaminants associated with their operations for which they might be legally responsible.



-
- > **Provision 10.9** Companies will develop and implement a plan to reduce and manage the impacts of noise, vibration and light from operating procedures on nearby communities.
-

Explanation

Mining operations can create significant noise and/or vibration through blasting in both open pit and underground mines; large ore and waste rock truck traffic on the mine site; ore stockpiling, screening, and crushing; and truck or rail traffic bringing inputs to the mining operation. Mining operations are often 24-hour operations and are brightly lit to ensure the safety of workers on-site. Furthermore, traffic into and leaving mining operations can also take place at night and pass frequently through neighbouring communities. Lighting can be visible over long distances and can significantly affect inhabitants. There are direct links between noise and light pollution and health. Health problems related to noise and light pollution include stress-related illnesses, high blood pressure, speech interference, hearing loss, and sleep disruption.

Many noises can be moderated or partially managed by mitigation measures, including berms, mufflers, sequenced blasting, planning, timing, and communications. However, effective control may be challenging due to a mining operation's typically large geographic footprint, especially when a mine is located near communities. Studies have also demonstrated that vibrations, such as those created by blasting, can sometimes be felt in nearby communities, and even cause damage to buildings or the contents of buildings, such as items on walls or shelves. Vibration impacts from blasting can be mitigated, for example, by controlling charge weight diameter and charge coupling within boreholes, or controlling the direction of blast initiation.

Companies should have and be implementing a documented plan to reduce and manage the impacts on nearby communities of noise and/or vibration and light from the mining operations. The plan should include at a minimum the following:

- > a full documented assessment determining whether and where there are potential or actual significant impacts on off-site human communities from the operation's noise, vibration, or lighting; the assessment should include a mechanism to rank the risk of each of the identified impacts;
- > where potential or actual impacts are found, a documented baseline of ambient noise levels and level of light (pollution) from relevant positions;
- > a commitment to conforming with national requirements on noise, vibration, and light at the operation, and to following international best practice on mitigation of impacts, where they occur; this commitment will include a registry of the relevant regulations and industry standards;
- > a schedule and designated staff responsibility for monitoring and inspecting the areas of potential or actual impact identified; at a minimum, inspections should take place monthly;
- > a documented log of all the problems and incidences identified during inspections, and the actions taken to correct them.

Performance Determination

Meets:

The company has documented and implemented a plan to reduce and manage the impacts on nearby communities of noise, and/or vibration and light, from mining operations.

Substantially Meets:

The company has documented and is implementing a plan to reduce and manage the impacts on nearby communities of noise, and/or vibration and light, from mining operations, but implementation has not started for all parts of the plan where the plan indicates they should have started.



Partially Meets:

The company:

- › has developed a plan, but it does not cover all possible sources of noise and/or vibration and light; or
- › is in the process of documenting a plan to reduce and manage the impacts on nearby communities of noise and/or vibration and light from mining operations, but this process is incomplete.

Misses:

The company has not documented a plan to reduce and manage the impacts on nearby communities of noise and/ or vibration and light from mining operations.

-
- › **Provision 10.10** Companies will implement a plan to prevent spills and leakage and the potential for contamination of air and/or soil. The plan will:
 - a) identify all applicable structures, equipment and operating systems;
 - b) require regular inspections and testing of identified structures, equipment and operating systems;
 - c) include requirements to document and implement corrective and preventive actions to ensure structures, equipment and operating systems are in working order; and
 - d) maintain records of incidents and preventive and corrective actions.
-

Explanation

Spills and leakage refer to accidental release of a substance that have the potential to adversely affect soil and air quality. Companies should have a specific documented plan to prevent spills and leakage from the mine's activities and facilities, with the goal to ensure soil and air is not contaminated. This provision should be applied in conjunction with [Provision 9.5 on Water Management](#) on preventing spills and leaks with the potential of contaminating water in the watershed.

Spills can occur from accidental release of chemicals, mine wastes, ore concentrations, or from process waters; leakages from unplanned discharge of treated or untreated mining effluent, wastewater, or stormwater; or unmanaged release of contaminants from mined materials and surfaces, and mine wastes, such as acid rock drainage.

Remediation of mining-caused pollution can be extremely costly, and the design of mine systems to prevent surface soil and air pollution should be the goal of the mining operation. Companies should include in their plans source control approaches to minimise pollution.

The plan should include at a minimum the following parts:

- a) a full documented inventory of companies' structures, equipment, and operating systems that have the potential to generate pollution to air and soil; the inventory should include a mechanism to rank the risk of pollution associated with each item;
- b) a schedule and designated staff responsibility for monitoring and inspecting the items on the inventory; at a minimum, inspections should take place monthly;
- c) the inspections should be aimed at preventing and detecting spills and leakage and result in a documented report on the status of the functioning of the items and, where needed, a corrective action plan to ensure all items on the inventory are in working orders; the corrective action plan should include:
 - › an assessment of the severity of the problem identified and the urgency of the corrective action;



- > clear responsibility for completing the action;
 - > a timeline and specific date for completion of the action; and
 - > an estimate of the budget needed to complete the action;
- d) d) a documented log of all the problems and incidences identified during inspections, and the actions taken to correct them.

Companies should provide regular training for relevant staff and contractors relating to prevention and mitigation of these risks.

Companies should develop an external communication plan in consultation with key stakeholders including regulatory authorities on how reporting of spills would be carried out, including identification of relevant stakeholders. Companies should publicly disclose, on at least an annual basis, updated information about significant spills, the assessment of their impacts and the mitigation actions undertaken.

Performance Determination

Meets:

The company has documented and implemented a plan to prevent spills and leakage and the potential for contamination of air and soil.

Substantially Meets:

The company has documented a plan to prevent spills and leakage and the potential for contamination of air and soil, and there is evidence that implementation is advanced, but implementation has not started for all parts of the plan where the plan indicates they should have started.

Partially Meets:

The company:

- > has developed the plan, but it does not cover all possible sources of spills and leakage; and/or
- > is in the process of developing a plan to prevent spills and leakage and the potential for contamination of air and soil, but this process is incomplete.

Misses:

The company does not have a plan to prevent spills and leakage and the potential for contamination of air and soil.

III. VERIFICATION

Data Collection Method

Conformance with the provisions on emissions and waste management is assessed through observation, document review, and interviews with the company's employees, management team, and other external stakeholders.

Conformance with the provisions where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.



Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
10.2		✓	✓			✓
10.3	✓	✓	✓	✓	✓	
10.4	✓	✓	✓	✓		✓
10.5		✓	✓			
10.6		✓	✓			
10.7	✓	✓	✓			
10.8		✓	✓			
10.9	✓	✓	✓			
10.10	✓	✓	✓		✓	

Examples and Types of Evidence

- > Policies that state the company's commitment to conform with laws and regulations and implement best practices for the planning, design, and operation of waste impoundments and containment facilities and the handling of chemicals and hazardous wastes;
- > a register of the legal obligations and references on industry best practices applicable to emissions and waste management;
- > a documented comprehensive plan and detailed procedures on the management of emissions and waste that includes a strategy for closure and post-closure scenarios;
- > emissions monitoring protocols;
- > inventory of activities and structures and operating processes that have the potential to cause dust emissions and the severity of the impact of those emissions on employees and communities;
- > a documented commitment to follow the waste management hierarchy in policies and procedures;
- > a documented plan to prevent spills and leakage with the potential to impact air and soil.

Site Assessment

Interviews

During interviews with management, managers can demonstrate or describe:

- > examples of how data for the management of emissions and waste is gathered, and whose responsibility it is to gather such information;
- > examples of key indicators used to monitor emissions and waste at the mine;
- > the areas, structure, and activities on the operation that generate or have the potential to generate dust and the mitigation measures to manage such emissions;
- > the regulations in the country of operation regarding noise, vibrations, light, waste management, and emissions;
- > the process for assuring access to water for local users post closure and provision to manage water quality and acid rock drainage;
- > the procedure for consulting with employees, organised labour groups, local authorities, and other external stakeholders on emissions and waste-related matters.

During interviews with employees, they can demonstrate or describe:

- > a basic understanding of the company's policy on emissions and waste management;



- › for those tasked with monitoring emissions and waste-related impacts, a thorough understanding of monitoring procedure, indicators and internal and external reporting requirements;
- › for external affairs/community engagement personnel, a good understanding of which external stakeholders are most affected by the potential or actual impacts from dust, noise, vibration, light, emissions, and waste management.

During interviews with affected communities and stakeholders, they can demonstrate or describe:

- › the frequency, content, and nature of consultation meetings with the company's personnel as part of the planning for and design of tailings dams, impoundments, or containment facilities;
- › for government agencies and municipalities, whether the company is conducting its activities in conformance with national and local regulations on emissions and waste management; and
- › whether there will be a lasting residual impact from closure, for example from permanent waste and/or containment facilities.

Site Walk-Through

During the Site Walk-Through, the assessor observes:

- › the monitoring points and the process of collecting, recording, and reporting monitoring data;
- › the measures taken to prevent spills and leakage and avoid contamination of soil;
- › whether there are any areas at particular risk of generating acid rock drainage and methods being taken to manage such risks post closure;
- › whether there is (uncontrolled) discharge from waste impoundments, dams, or containment facilities;
- › whether employees and contractors on site are wearing appropriate PPE to manage impacts on health from noise and vibration;
- › whether effective measures are in place to manage dust emissions, such as continual spraying of water on dust-emitting structures and access roads.

Tailings Management (Provisions 10.11 – 10.13)

I. INTRODUCTION

Publicity surrounding *tailings* dams' breaches and the adverse impacts of these events on nature and people has deepened the awareness of the risks associated with tailings impoundments, dams and containment facilities at mining operations and the need for their appropriate design, maintenance and closure. Companies should follow best international standards in ways that geotechnical risks and environmental, health, and safety impacts are appropriately assessed and managed throughout the lifecycle of the mine and after its closure.

Tailings disposal and management is in the centre of often fierce debates on the trade-off between the costs and benefits of mining. Environmental groups, including and especially the International Union for the Conservation of Nature (IUCN), have for many years questioned the disposal of tailings onto the ocean floor, as well as into rivers and still water, such as lakes, and have called for nations to ban the practice. The adverse environmental impact of marine, riverine and lake disposal can be significant – for example by contamination of water and air through heavy metals, distribution of contaminants through submarine currents, destruction of marine and coastal habitat and biodiversity, modification of the coastal line, canalisation of rivers, sedimentation of lakes, bays, and ports, and loss of natural and cultural heritage.



When designing strategies and plans for managing tailings, Bettercoal encourages companies to consider the Global Industry Standard on Tailings Management, published by the ICMM, UN Environment Programme and the Principles for Responsible Investment.²²⁹



II. PROVISIONS AND PERFORMANCE DETERMINATION

> **Provision 10.11** Companies will ensure that existing and projected tailings impoundments, dams and containment facilities are planned, designed and operated in alignment with international standards in ways that geotechnical risks and environmental, health and safety impacts are appropriately assessed and managed throughout the lifecycle of the mine and after its closure by:

- a) establishing structural stability;
- b) introducing measures to prevent catastrophic failures;
- c) ensuring controlled discharge and protection of the surrounding environment and local communities; and
- d) implementing appropriate mitigation or treatment if impacts are identified.

Explanation

In August 2020, the *Global Industry Standard on Tailings Management* (Global Tailings Standard) was published by the ICMM, the UN Environment Programme and the Principles for Responsible Investment.²³⁰ Companies should align with and apply the Global Tailings Standard at their operations because it is considered to be the benchmark leading industry standard. For producing sites with existing tailings dams or containment facilities, companies should make adjustments to the management of the tailings dam to align with the Global Tailings Standard. This provision also applies to significant expansion of existing mining operations where the company has been awarded new mining rights in the area.

Performance Determination

Meets:

The company has aligned its planning, design and operation of existing and projected tailings impoundments, dams, and containment facilities with the Global Tailings Standard.

Substantially Meets:

The company has aligned its planning, design, and operation of existing and projected tailings impoundments, dams, and containment facilities with the Global Tailings Standard, but some aspects of its tailings planning, design, or operation remain unaligned or the Global Tailings Standard has not been fully applied.

Partially Meets:

The company is in the process of aligning its planning, design, and operation of existing and projected tailings impoundments, dams and containment facilities with the Global Tailings Standard, but this process is incomplete.

229. Global Tailings Review, *Global Industry Standard on Tailings Management*, 2020, Accessed online: 3 January 2020, <https://globaltailingsreview.org/wp-content/uploads/2020/08/global-industry-standard_EN.pdf>.

230. *Ibid.*

Misses:

The company has not aligned its planning, design, and operation of existing and projected tailings impoundments, dams, and containment facilities with the Global Tailings Standard.

> **Provision 10.12** Companies will develop a tailings emergency response plan in consultation with stakeholders.

Explanation

Companies should align with and apply at their mining operations Principle 13 of the *Global Tailings Standard on Emergency Response and Long-Term Recovery*.²³¹

Performance Determination

Meets:

The company has aligned its tailings emergency response plan with Principle 13 of the Global Tailings Standard.

Substantially Meets:

The company has aligned its tailings emergency response plan with Principle 13 of the Global Tailings Standard, but some aspects of the plan remain unaligned or have not been fully applied.

Partially Meets:

The company is in the process of aligning its tailings emergency response plan with Principle 13 of the Global Tailings Standard, but this process is incomplete.

Misses:

The company has not aligned its tailings emergency response plan with Principle 13 of the Global Tailings Standard.

> **Provision 10.3** Companies will apply a policy that prohibits the discharge of production residues, tailings and waste rock to riverine, submarine and lake environments.

Explanation

Riverine disposal refers to the practice of waste and tailings being disposed into, and dispersed by, active rivers. Riverine disposal is rare, currently, it is only known to be used at three sites in Indonesia and Papua New Guinea where high rainfall, mountainous terrain, and seismic activity rule out other storage or disposal options.

Submarine disposal refers to the practice of waste, most often treated tailings being discharged into the sea through a submerged pipe. This type of disposal is generally only permitted where the case is made that land-based disposal is not an option—for example, if local conditions carry a high risk of acid rock drainage or catastrophic failure, or if the surrounding area has a high biodiversity value or has high economic or cultural value.

231. *Ibid.*



Lake disposal refers to the disposal of waste or tailings into a natural lake or an artificial lake that has been purposively built for recreation for local communities and visitors. Exempted from this provision is sub-aqueous storage, which are purpose-built structures designed to keep tailings under water indefinitely. This practice is known to be a good way of preventing acid rock drainage, but is only really a viable option in countries where rainfall outstrips evaporation.

Companies should implement a policy and have procedures to avoid the discharge of production residues, tailings, and waste rock to riverine, submarine, and lake environments; including instances where this is a continuing practice at an existing mine. This provision also applies to significant expansion of existing mining operations where the company has been awarded new mining rights in the area.

Performance Determination

Meets:

The company has, and adheres to, a policy to prohibit the discharge of its production residues, tailings, or waste rock into riverine, submarine, or lake environments.

Substantially Meets:

N/A

Partially Meets:

The company is in the process of developing a policy to prohibit the discharge of its production residues, tailings, or waste rock into riverine, submarine, or lake environments, but the formulation of the policy is not complete.

Misses:

The company has no policy to prohibit the discharge of its production residues, tailings, or waste rock into riverine, submarine, or lake environments; and/or is actively discharging aforementioned substances into these environments.



III. VERIFICATION

Data Collection Method

Conformance with the provisions on tailings management is assessed through observation, document review, and interviews with the company’s employees, management team, and other external stakeholders.

Conformance with the provisions where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
10.11	✓	✓	✓			✓
10.12	✓	✓	✓			
10.13		✓	✓			

Examples and Types of Evidence

- › Policies that state companies' commitment to conform with laws and regulations and implement best practices for the planning, design, and operation of tailings;
- › the detailed plans of tailings impoundments or dams showing operation options and alternative structures, how catastrophic events can be avoided, and how the structure and management conforms with leading industry standards;
- › emissions monitoring protocols for tailings management;
- › inventory of tailings structures and operating processes that have the potential to impact employees and communities;
- › a documented plan to prevent spills and leakage from tailings structures with the potential to impact air and soil;
- › a documented tailings emergency response plan and evidence that the plan has been written in consultation with stakeholders and employees.

Site Assessment

Interviews

During interviews with management, managers can demonstrate or describe:

- › examples of key indicators used to monitor risks at tailings impoundments;
- › the concerns of local stakeholders regarding tailings management;
- › the regulations in the country of operation regarding noise, vibrations, light, waste management, and emissions;
- › their knowledge of industry best practices for tailings management, and especially the Global Industry Standard on Tailings Management;
- › the procedure for consulting with employees, organised labour groups, local authorities, and other external stakeholders on tailings management and concerns.

During interviews with employees, they can demonstrate or describe:

- › for those tasked with monitoring, a thorough understanding of monitoring procedure, indicators and internal and external reporting requirements on tailings management;
- › for external affairs/community engagement personnel, a good understanding of which external stakeholders are most affected by the potential or actual impacts from tailings at the mining operations.

During interviews with affected communities and stakeholders, they can demonstrate or describe:

- › the frequency, content, and nature of consultation meetings with the company's personnel as part of the planning for and design of tailings dams, impoundments, or containment facilities;
- › whether they are aware of the company's tailings emergency response plan and have been trained in their participation and required response in the case of catastrophic failure;
- › for government agencies and municipalities, whether the company is conducting its activities in conformance with national and local regulations on tailings management; and
- › whether there will be a lasting residual impact from closure from permanent structures related to tailing impoundments or containment facilities.

Site Walk-Through

During the Site Walk-Through, the assessor observes:

- › the monitoring points and the process of collecting, recording, and reporting monitoring data related to tailings management; and,
- › the measures taken to prevent spills and leakage and avoid contamination of soil;
- › whether there is (uncontrolled) discharge from tailings and other waste impoundments, dams, or containment facilities.



IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
2 Policy and Management	2.1 and 2.2: When designing systems to manage impacts from emissions and waste, companies should refer to Provisions 2.1 and 2.2 on Management Systems and management commitments.
	2.3 – 2.7: When conducting assessments for risks of impact from emissions and waste, companies should refer to Provisions 2.3 - 2.7 on Risk and Impact Assessments .
4 Mine Rehabilitation and Closure	4.6: When considering the applicability of water management systems throughout the lifecycle of the mine, companies should refer to Provision 4.6 on Mine Rehabilitation and Closure and continued access to water and the need for long-term water treatment.
9 Water Stewardship	9.5: When developing and implementing a plan to prevent spills and leakage and the potential for contamination, companies should refer to Provision 9.5 on Water Management on spills and leakage and the impact on water.

V. FURTHER INFORMATION

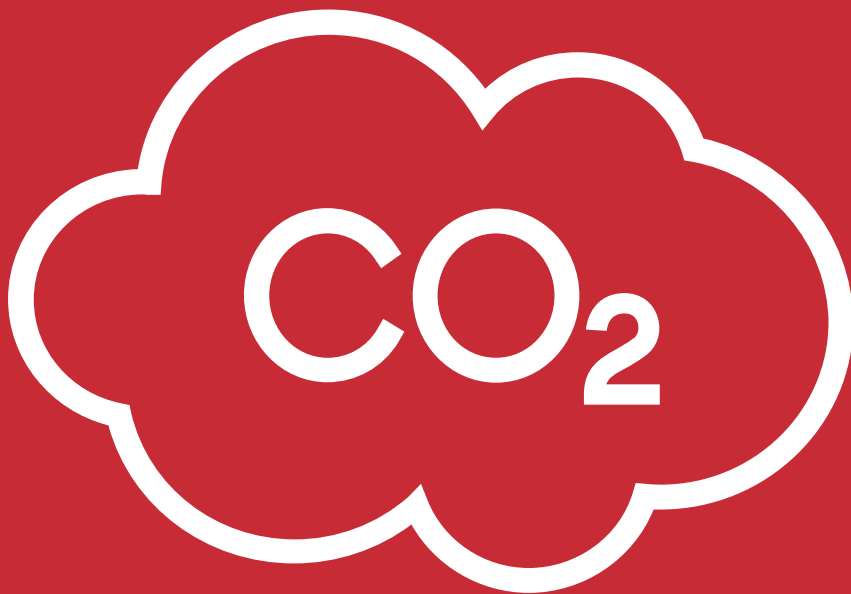
- > Aluminium Stewardship Initiative, *Performance Standard, Version 2*, December 2017 (available [here](#)). This standard defines 59 environmental, social and governance principles, and criteria, with the aim to address sustainability issues in the aluminium value chain.
- > Initiative for Responsible Mining Assurance, *Standard for Responsible Mining, IRMA-STD-001*, June 2018 (available [here](#)). IRMA's Standard for Responsible Mining defines good practices for what responsible mining should look like at the industrial-scale. It provides the list of expectations that independent auditors will use as the benchmark for responsible mines.
- > The Responsible Jewellery Council, *Code of Practice, Guidance* (available [here](#)). This Guidance offers general information and suggestions on how to implement the RJC Code of Practices.
- > ICM, The UN Environment Programme, The Principles for Responsible Investment, *Global Industry Standard on Tailings Management* (available [here](#)). The Standard provides a framework for safe tailings facility management while affording Operators flexibility as to how best to achieve this goal.

PRINCIPLE

11

GREENHOUSE GAS (GHG) EMISSIONS

Companies will have systems in place to measure, avoid and minimise greenhouse gas emissions at all stages of the mine lifecycle.



Introduction

Greenhouse Gas (GHG) is gas that contributes to the greenhouse effect by absorbing infrared radiation.²³² Key GHG emissions include:

- > carbon dioxide (CO₂);
- > methane (CH₄);
- > nitrous oxide (N₂O);
- > hydrofluorocarbons (HFCs);
- > perfluorocarbons (PFCs);
- > sulphur hexafluoride (SF₆);
- > nitrogen trifluoride (NF₃).

GHG emissions are a major contributor to climate change, which is today considered one of, if not the most, relevant risk for the global economy. Failure of climate change mitigation and adaptation is the top long-term risk by impact, according to the World Economic Forum Global Risk Report.²³³ Research shows that climate change is striking harder and more rapidly than many expected. Natural disasters are becoming more intense and more frequent, and global temperatures are on track to increase by at least 3°C towards the end of the century — twice what climate experts have warned is the limit to avoid the most severe economic, social and environmental consequences of climate change, which include social and geopolitical tensions, biodiversity loss, climate-induced migration, and, in extreme cases, loss of life.

The impacts of climate change are particularly relevant for the mining industry. Climate-related risks such as heavy precipitation, drought, and heat, as they become increasingly frequent and intense, are likely to increase the physical challenges for mining operations worldwide; these include: water stress; flooding; damage to processing or transportation infrastructure located near coastlines; and consequent operational and supply chain disruptions.

Given the extensive global impact of climate change, GHG emissions are governed by the UN *Framework Convention on Climate Change* and the subsequent UN *Kyoto Protocol*. Under the *2015 Paris Agreement*, 195 countries pledged to limit global warming to well below 2.0°C, and ideally not more than 1.5°C above pre-industrial levels. That target, if pursued, would manifest in decarbonisation across industries, with

232. GRI, *GRI Standards Glossary 2020*, 2020, Accessed online: 3 January 2020, <<https://www.globalreporting.org/standards/gri-standards-download-center/gri-standards-glossary/>>.

233. World Economic Forum (WEF), *Global Risk Report 2020*, 2020, Accessed online: 3 January 2020, <http://www3.weforum.org/docs/WEF_Global_Risk_Report_2020.pdf>.



consequences in demand patterns for upstream mining commodities, as well as commodity prices.

Because mining portfolio evaluations are a key factor in the potential decarbonisation of other sectors, the mining industry itself faces increased pressure from governments, investors, customers and the wider public to reduce emissions. It is noted that, while coal demand is still rising, capital investments in coal mines have become more difficult, with public opinion hardening and some banks pulling away from the industry in certain regions.

At the time of writing, the mining industry is responsible for 4% to 7% of GHG emissions globally, taking into account Scope 1 and Scope 2 CO₂ emissions from the sector (those incurred through mining operations and power consumption, respectively, which amount to 1%) and fugitive-methane emissions from coal mining (estimated at 3% to 6%). A significant share of GHG emissions (28%) would be considered Scope 3 (indirect) emissions, including the combustion of coal by companies downstream.²³⁴

Bettercoal expectations on GHG Emissions include Provisions on:

- › [Greenhouse Gas Emissions Assessment \(Provision 11.1\)](#)
- › [Greenhouse Gas Emissions Management \(Provision 11.2\)](#)

234. McKinsey & Company, *Climate Risks and Decarbonisation: What Every Mining CEO Needs to Know*, 2020, Accessed online: 3 January 2020, <<https://www.mckinsey.com/business-functions/sustainability/our-insights/climate-risk-and-decarbonization-what-every-mining-ceo-needs-to-know>>.



Greenhouse Gas Emissions Assessment (Provision 11.1)



I. INTRODUCTION

Assessing GHG emissions is an important step not only to ensure responsible environmental management, but also to identify opportunities for cost and energy savings, and to ensure compliance with regulatory requirements.

GHG emissions are closely associated to energy use. For this reason, conducting a GHG emissions assessment is often an opportunity for companies to assess the efficiency of their operations, contributing to economic benefits in addition to environmental ones.

Different national and international regulations and incentive systems, such as emissions trading, aim to control the volume and reward the reduction of GHG emissions. In such cases, companies should be aware of their legal obligations. Beyond legal compliance, companies should be aware of the GHG emissions caused by their mining operations and power consumption and to take action to minimise and control their emissions.

II. PROVISIONS AND PERFORMANCE DETERMINATION

- **Provision 11.1** Companies will undertake and document an assessment that identifies and quantifies at least the Scope 1 and Scope 2 GHG emissions associated with their operations.

Explanation

GHG emissions are categorised into three groups:²³⁵

- **Scope 1 emissions or direct GHG emissions:** *GHG emissions from sources that are owned or controlled by an organisation.* A GHG source is any physical unit or process that releases GHG into the atmosphere. Direct (Scope 1) GHG emissions can come from the following sources owned or controlled by the company:
 - generation of electricity, heating, cooling and steam: these emissions result from combustion of fuels and from other combustion processes;
 - physical or chemical processing: most of these emissions result from the manufacturing or processing of chemicals and materials, and waste processing;
 - transportation of materials, products, waste, workers, and passengers: these emissions result from the combustion of fuels in mobile combustion sources owned or controlled by the company, such as trucks, trains, ships, airplanes, buses, and cars;
 - fugitive emissions: these are emissions that are not physically controlled but result from intentional or unintentional releases of GHG emissions. These can include equipment leaks from joints, seals, packing, and gaskets; methane emissions (e.g. from coal mines) and venting; HFC emissions from refrigeration and air conditioning equipment; and methane leakages (e.g. from gas transport).
- **Scope 2 emissions or energy indirect GHG emissions:** *GHG emissions that result from the generation of purchased or acquired electricity, heating, cooling, and steam consumed by an organisation;*

235. GRI, *GRI Standards Glossary 2020*, 2020, Accessed online: 3 January 2020, <<https://www.globalreporting.org/standards/gri-standards-download-center/gri-standards-glossary/>>.

➤ Scope 3 emissions or other indirect GHG emissions: *indirect GHG emissions not included in energy indirect (Scope 2) GHG emissions that occur outside of the organisation, including both upstream and downstream emissions.*

Companies should identify and quantify at least their Scope 1 and Scope 2 GHG emissions, including fugitive-methane emissions.

Companies should adopt sound and recognised methodologies for identifying and quantifying GHG emissions. Calculations should be based on measured data or, where data cannot be measured directly, on estimates, in accordance with recognised GHG accounting standards.

The assessment should be documented and may be stand-alone or part of a broader environmental study, such as an Environmental Impact Assessment (see [Provisions 2.3 - 2.7 on Risk and Impact Assessments](#)). Completing assessments on GHG emissions may require specialist knowledge, professional judgement and the involvement of trained experts for the evaluation of risks and impacts, directly or indirectly linked to the mining operations.

Over the course of the mine's lifecycle, the assessment should be updated at a frequency commensurate with the risks and impacts identified and quantified to meet the management objectives.

Companies are not precluded from calculating their Scope 3 emissions. It is acknowledged that the greatest share of GHG emissions produced by companies implementing the Bettercoal Code is represented by their Scope 3 emissions; specifically, by the combustion of coal by companies downstream. Scope 3 emissions of companies implementing the Bettercoal Code should thus be quantified by companies downstream as part of their own Scope 1 and 2 assessments.

Performance Determination

Meets:

The company has completed and documented an assessment that identifies and quantifies the Scope 1 and Scope 2 GHG emissions associated with its operations.

Substantially Meets:

The company has completed an assessment of its Scope 1 and Scope 2 emissions, but the assessment is incomplete because it does not cover all sources of emissions.

Partially Meets:

The company is in the process of assessing its Scope 1 and Scope 2 emissions.

Misses:

The company has not started assessing its Scope 1 or Scope 2 emissions.

III. VERIFICATION

Data Collection Method

Conformance with the provisions on GHG emissions is assessed through document review and through interviews with the company's employees and management team.

Conformance with the provisions, where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.



Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
11.1		✓	✓	✓		

Examples and Types of Evidence

- > GHG emissions risk and impact assessment;
- > Scope 1 and Scope 2 emissions calculation files;
- > procedures for identifying GHG emissions and setting targets;
- > annual report, corporate sustainability report, and/or regulatory submissions including GHG emissions data.

Site Assessment

Interviews

During interviews with management, managers and/or technical figures having responsibility for identifying and quantifying GHG emissions, they can demonstrate or describe:

- > the methodology used for identifying and quantifying GHG emissions;
- > the risk and impact assessments that are conducted in respect of GHG emissions.
- > that carbon accounting is integrated into the business system.

Site Walk-Through

During the Site Walk-Through, the assessor observes:

- > the different measures that have been put in place to measure GHG emissions.

IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
2 Policy and Management	2.3 – 2.7: Companies should consider <u>Provisions 2.3 - 2.7 on Risk and Impact Assessments</u> in relation to environmental risk and impact assessments when undertaking an assessment to identify and quantify their GHG emissions.

V. FURTHER INFORMATION

- > World Resources Institute (WRI), World Business Council (WBC on Sustainable Development (WBCSD)), *GHG Protocol Corporate Accounting and Reporting Standard (GHG Protocol Corporate Standard)* and *GHG Protocol Corporate Value Chain (Scope 3) Accounting and Reporting Standard (“GHG Protocol Corporate Value Chain Standard”)* two standards that are part of the *GHG Protocol* (available [here](#)). Created to identify, calculate, and report GHG emissions by outlining a standard for accurate, complete, consistent, relevant and transparent accounting and reporting by companies and organisation.
- > Intergovernmental Panel on Climate Change (IPCC), *Fifth Assessment Report* (available [here](#)) provides information on the global warming potential rates that companies can use to calculate CO₂ equivalent emissions.



Greenhouse Gas Emissions Management (Provision 11.2)



I. INTRODUCTION

Having identified and quantified GHG emissions, companies should develop, document, and implement a management system to set clear reduction targets and ensure that the company takes appropriate action to achieve such targets, within the stated timeline.

Decarbonising the mining industry requires a serious effort by the coal industry, particularly in addressing fugitive methane. Solutions for capturing methane (and using it to generate power) exist, but they are not commonly implemented, as investment is not economical in many cases. The decarbonisation potential for mines varies by mine type, power source, and grid emissions, among other factors. Mitigation measures include: operational efficiency to improve the energy intensity of mining production; moving to renewable sources of electricity; and the electrification of mining equipment, such as diesel trucks and gas-consuming appliances.

II. PROVISIONS AND PERFORMANCE DETERMINATION

- > **Provision 11.2** Companies will develop, document and implement systems aligned with the requirements of [Provisions 2.1](#) and [2.2](#) of this Code to minimise and control the GHG emissions identified and quantified in the assessment referred to in [Provision 11.1](#). The systems will:
- apply to the full lifecycle of the mine;
 - set, monitor and disclose energy efficiency and GHG emissions intensity reduction targets based on the mitigation hierarchy for Scope 1 and Scope 2 GHG emissions; and
 - be adjusted where necessary following regular review of the assessment referred to in [Provision 11.1](#).

Explanation

Companies should establish a system or multiple systems to minimise and control the GHG emissions identified and quantified in the assessment required by [Provision 11.1 on Greenhouse Gas Emissions Assessments](#). The systems may be standalone or integrated into a management system with broader aspect coverage (see [Provisions 2.1 and 2.2 on Management Systems](#)). Companies should ensure that there are sufficient financial and human resources to implement the system and monitor its effectiveness. Companies should consider the need for relevant expertise, as well as resources that may be required for consultative processes and monitoring during implementation.

The system and underlying plans should cover at least Scope 1 and Scope 2 GHG emissions. Plans should characterise the emissions, considering factors such as sources, composition, and quantities. Companies' systems should ensure compliance with all applicable regulations and include sustainable and integrated control measures that minimise and control emissions, applied throughout the lifecycle of the mine; setting of targets for the monitoring of performance, and the opportunity for adjustments following periodic review of the underlying assessment in [Provision 11.1 on Greenhouse Gas Emissions Assessments](#).

GHG emissions can be produced during all phases of the mine lifecycle, from early exploration through to closure, including any industrial activity needing to be powered via fuel combustion or electricity. At closure and decommissioning of a mine, emissions from methane from abandoned pits can continue to pose a threat long after the operating company has left the site. The company should ensure that consideration of these environmental aspects is incorporated into the management system throughout the entire lifecycle.

The system should incorporate an action plan with time-bound energy efficiency and GHG emissions intensity reduction targets to deliver improvements over time and to minimise GHG emissions identified through [Provision 11.1 on Greenhouse Gas Emissions Assessments](#).

Emissions intensity refers the ratio of GHG emissions in the context of an organisation-specific metric, for example, relative to a unit of activity, output, or any other organisation-specific metric (e.g. unit of product or production volume).

Targets should be based on the carbon mitigation hierarchy, a blueprint for aligning corporate actions for climate change with the dynamics of natural systems and prioritising the actions that lead to the best outcomes for people and nature. The GHG mitigation hierarchy calls for companies to proceed in the following order:

1. *avoid*: avoid producing emissions from the outset;
2. *reduce*: reduce the intensity and/or extent of impacts of emissions that cannot be completely avoided;
3. *restore*: restore ecosystems that are degraded or affected by emissions;
4. *compensate*: compensate for any significant residual, adverse impacts that cannot be avoided, reduced, and/or restored;
5. *offset*: compensation adverse impact to produce a “net” or “neutral” outcome.

Targets should support the COP 21 or Paris Agreement objectives to keep global temperature increase below 2°C above pre-industrial levels and to pursue efforts to limit the temperature increase even further to 1.5°C. Targets should allow for growth and/or changing product mix, where relevant.

The system should allow the continual adaption of underlying plans and actions to avoid the risks and mitigate the impacts of companies’ activities. Regular reviews enable companies to update plans in light of new information on risks and an evaluation of progress on desired targets and outcomes. Adjustments should be made to the system and specific mitigation plans following reviews of the conclusions of the assessment completed in [Provision 11.1 on Greenhouse Gas Emissions Assessments](#). At a minimum, companies should review the system and the underlying plans annually and make necessary adjustments.

Performance Determination

Meets:

The company is implementing systems that meet the requirements of [Provisions 2.1 and 2.2 on Management Systems](#) and addresses the risks and impacts of GHG emissions identified and quantified in [Provision 11.1 on Greenhouse Gas Emissions Assessments](#). The system is applied to the full lifecycle of the mine; includes targets to monitor performance; and is adjusted in line with regular reviews of the underlying assessment in [Provision 11.1 on Greenhouse Gas Emissions Assessments](#).

Substantially Meets:

N/A



Partially Meets:

The company:

- > has established a system that addresses the risks and impacts of GHG emissions identified and quantified in Provision 11.1 on Greenhouse Gas Emissions Assessments, however, the system is not fully complete because it does not cover all aspects of risk and impacts from GHG emissions, or has not set targets or conducted a routine review or adjustment to underlying plans; and/or
- > is in the process of developing a system that meets the requirements of Provisions 2.1 and 2.2 on Management Systems and addresses the GHG emissions identified and quantified in Provision 11.1 on Greenhouse Gas Emissions Assessments.

Misses:

The company has not yet developed a system that address the risks and impacts of GHG emissions.

III. VERIFICATION

Data Collection Method

Conformance with the provisions on GHG emissions is assessed through document review and through interviews with companies' employees and management team.

Conformance with the provisions, where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
11.2		✓	✓	✓		

Examples and Types of Evidence

- > Environmental policy or climate change policy;
- > formal and documented climate change strategy;
- > company reports on GHG emissions and targets using an internationally reporting protocol, including, Intergovernmental Panel on Climate Change or GHG Protocol, or standard, such as, the GRI Standard;
- > third-party assurance that an international reporting protocol or standard has been used;
- > procedures for identifying GHG emissions and setting targets;
- > procedures for monitoring GHG emission trends;
- > evidence of training of relevant personnel;
- > GHG emissions disclosure in annual report or corporate sustainability report, website, regulatory submissions, filings, etc; and
- > publicly disclosed analysis of data demonstrating progress towards compliance with the target by the future year noted.



Site Assessment

Interviews

During interviews with management, managers can demonstrate or describe:

- › companies' policies, performance and targets on GHG emissions;
- › how GHG emission reduction targets are established, measured and reviewed to drive continuous improvement;
- › how information on GHG emissions are made available to appropriate internal and external stakeholders;
- › that carbon accounting is integrated into the business system.

During interviews with technical figures having responsibility for setting and tracking performance targets on GHGs and tracking performance targets on GHG emissions, they can demonstrate or describe:

- › how targets were defined and whether the analysis was reasonable;
- › how GHG emission reduction targets are established and measured to drive continuous improvement;
- › how control measures are implemented.

During interviews with employees, they will demonstrate a basic understanding of or describe:

- › companies' policies on GHG emissions;
- › that they received training on the policy and the measures in place to reduce emissions.

Site Walk-Through

During the Site Walk-Through, the assessor observes:

- › the different measures that have been put in place to measure and reduce GHG emissions.

In some cases, companies will only be able to make incremental improvements to their current practices because of their circumstances and/or due to earlier efforts to reduce emissions. In such cases, the site or facility's overall efforts to reduce or maintain emissions levels will be taken into account for the determination of conformance with the Provision.

IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
2 Policy and Management	2.1 – 2.2: Companies should consider <u>Provisions 2.1 and 2.2 on Management Systems</u> when establishing a system to minimise and control GHG emissions.
3 Transparency	3.1: Companies should consider <u>Provision 3.1 on Sustainability Reporting</u> when disclosing energy efficiency and GHG emissions intensity reduction targets.

V. FURTHER INFORMATION

- › World Resources Institute (WRI), World Business Council (WBC on Sustainable Development (WBCSD), *GHG Protocol Corporate Accounting and Reporting Standard (GHG Protocol Corporate Standard)* and *GHG Protocol Corporate Value Chain (Scope 3) Accounting and Reporting Standard (GHG Protocol Corporate Value Chain Standard)* two standards that are part of the *GHG Protocol*



(available [here](#)). Created to identify, calculate, and report GHG emissions by outlining a standard for accurate, complete, consistent, relevant and transparent accounting and reporting by companies and organisation.

- > *The GRI Sustainability Reporting Standards (GRI Standards)* (available [here](#)) represent the global best practice for reporting on a range of economic, environmental and social impacts, including for reporting on GHG emissions.
- > The Sustainability Accounting Standards Board (SASB) has developed a complete set of 77 industry standards, providing a complete set of globally applicable industry-specific standards (available [here](#)) which includes information on how to report GHG emissions.
- > The CDP runs a global disclosure system for investors, companies, cities, states and regions to manage their environmental impacts, with a focus on climate, water, and forests. *Guidance for companies* (available [here](#)).
- > The Task Force on Climate-related Financial Disclosures (TCFD) was created in 2015 by the Financial Stability Board (FSB) to develop consistent climate-related financial risk disclosures for use by companies, banks, and investors in providing information to stakeholders. *TCFD Publications* (available [here](#)).



12

BIODIVERSITY AND LAND USE

Companies will identify their impacts on biodiversity, protected areas and land use and apply the mitigation hierarchy to the management of their impacts throughout the lifecycle of the mine.



Introduction

Biodiversity, or biological diversity, describes the variability among all living organisms on land, in marine, and in freshwater environments, including within and between animal and plant species, and the *habitats* and ecosystems in which they live. It covers all living things from microorganisms to the genes of individual species. Biodiversity is important because it underpins ecosystem functioning critical for the survival of the natural world and the provision of ecosystem services essential for human well-being. It provides for food security, human health, clean air and water, and contributes to local livelihoods and economic development. It is a central component of many belief systems, world views and identities. Despite its importance, biodiversity continues to be threatened and the ecosystems it supports undermined by unsustainable harvesting, hunting and land use, and the introduction of alien species.

Mining can take place in landscapes that are already heavily modified or degraded, and therefore pose little or no threat to biodiversity and to ecosystems and the services they provide to communities. When located in areas of high biodiversity value or of priority for sensitive ecosystems, however, there is the potential that mining may lead to a temporary or permanent loss in biodiversity and ecosystem services. Opportunities for mitigating impacts vary significantly from one operation to another and depend not only on the operation itself, but also on its associated infrastructure, including roads, rail lines, power lines, ports, as well as migration and resettlement with which it is associated.

Most countries have recognised and formally designated large areas and specific sites for their biodiversity or cultural values. Governments set objectives and regulations for the management of these ‘*protected areas*’, including in some cases on whether mining can take place inside or near their boundaries. Protected areas are fundamentally important for global conservation efforts, yet many areas of international importance for biodiversity lie outside of designated protected areas and many populations of threatened species remain unprotected.

Companies should understand the impact of their business on biodiversity, ecosystems, protected areas, and productive landscapes, to avoid and reduce such impacts and to contribute to creating positive biodiversity and land use outcomes. To meet these responsibilities, companies should take the following actions, which are further described below:



- › complete comprehensive risk assessments of their activities on biodiversity, ecosystems and land use;
- › establish a management systems with the objective to achieve a net gain of biodiversity;
- › respect the integrity, relevant laws, and management objectives of designated protected and HCVAs;
- › prevent the introduction and spread of alien invasive species; and
- › implement a land use management plan to address the risks of impacts on ecosystem services and productive lands.

Bettercoal expectations on Biodiversity and Land Use include Provisions on:

- › [Biodiversity and Land Use Assessment \(Provision 12.1\)](#)
- › [Biodiversity and Land Use Management \(Provisions 12.2 – 12.3\)](#)
- › [Designated and High Conservation Value Areas, Natural Habitats and Threatened Species \(Provisions 12.4 – 12.8\)](#)
- › [Invasive Alien Species \(Provisions 12.9 – 12.10\)](#)



Biodiversity and Land Use Assessment (Provision 12.1)



I. INTRODUCTION

Bettercoal [Provisions 2.3 - 2.7 on Risk and Impact Assessments](#) explain the importance of companies completing assessments to understand the environmental, social, and human rights risks associated with their operations. Applying these requirements to biodiversity and land use on and surrounding their operations will enable companies to identify actual and potential impacts, and is a fundamental first step in managing such impacts. Assessments should estimate impacts on land use and biodiversity at multiple spatial scales.

The effects of companies' activities will vary across ecosystem types and in different climates, and assessments should account for these differences. Completing biodiversity and land use assessments are often legally required prior to mine development. The requirements of this provision might contribute to meeting national and/or local regulations, and vice versa, but a biodiversity and land use assessment alone does not mean an operation will or should proceed. A completed assessment and its findings, however, can be an effective tool for engaging stakeholders and communicating company's biodiversity and land use management plans.

II. PROVISIONS AND PERFORMANCE DETERMINATION

> **Provision 12.1** Companies will undertake and document a comprehensive assessment of the actual and potential direct and indirect risks and impacts of their activities on biodiversity, ecological functioning, ecosystem services and land use.

Explanation

Companies should undertake a comprehensive assessment (see [Provisions 2.3 - 2.7 on Risk and Impact Assessments](#)) as early as possible in the lifecycle of the mine and before any significant expansion or other change that might extend their physical footprint, create new or intensify existing impacts. Assessments can be carried out for new and existing mines. If a biodiversity and land use assessment has not previously been carried out at an operation, it will need to be completed to meet this provision.

When defining the scope of the assessment, companies should consider their 'on-site' and 'off-site' business activities and their potential direct impact on biodiversity and land use, their buildings and facilities and how they are used, as well as indirect impacts. Where impacts are indirect, such as when they are associated with a supplier or service provider, companies should consider their ability to influence the activities and actions resulting in an impact, especially where there is a strong dependency on associated activities.

Companies' approach to mitigating impacts on biodiversity, ecological functioning, ecosystems, and land use, and therefore the assessment that informs such a strategy, should be informed by, and tailored to, an understanding of the local context. The assessment should include detailed research to identify and assess risks and impacts to relevant biodiversity and land use and cover at a minimum the following:

- › a landscape level approach that includes other mining, industrial, or infrastructure operations, and organisations or agencies working on relevant biodiversity and land use activities within or at the landscape scale;
- › where relevant, impacts on fishing, and marine and coastal ecosystems, and marine reserves, conservation zones and protected areas;
- › identification and spatial mapping of designated protected areas and areas of high biodiversity value outside protected areas, such as [Key Biodiversity Areas](#), [High Conservation Value Areas](#) and areas of critical habitat (see [Box 9: Focus on Resources for Biodiversity Assessments and Management](#) for resources to enable assessments);
- › criteria for the size of habitats, for the value of ecosystem services, and for determining whether an identified area is of local, regional, national, or international importance for its biodiversity value, which may include the species endemism, rarity, population size, and fragility;
- › a list or register of legal and other requirements applying to any relevant legally protected areas; and
- › the nature, extent, and economic value of productive lands that could be directly or indirectly affected by the mine operation.



BOX 9: FOCUS ON RESOURCES FOR BIODIVERSITY ASSESSMENTS AND MANAGEMENT

- › [The Akwe Kon Guidelines](#) developed under the Convention for Biological Diversity provide guidance on how to incorporate traditional knowledge into biodiversity assessments.
- › The [Business and Biodiversity Offset Programme \(BBOP\)](#) has developed best practice in following the mitigation hierarchy (avoid, minimise, restore, offset) to achieve no net loss or a net gain of biodiversity and its Cost-Benefit Handbook, Standard and Roadmaps provide good practice principles on valuing biodiversity for offsets.
- › The Global Invasive Species Database (GISD) is a free, online searchable source of information about alien and invasive species that negatively impact biodiversity. It focuses on invasive alien species that threaten native biodiversity and natural areas and covers all taxonomic groups from micro-organisms to animals and plants.
- › [The Good Practice Guidance for Mining and Biodiversity](#) published by the International Council on Mining & Metals (ICMM) provides mining professionals with practical tools for companies for improving biodiversity management throughout the mine cycle, including how to identify and evaluate biodiversity and how to understand the connections between their activities and biodiversity.
- › The [Integrated Biodiversity Assessment Tool \(IBAT\)](#) is a tool that can be used as a first step to identify the location of protected areas and other areas of biodiversity and conservation importance outside of protected areas. It uses a central database for globally recognised biodiversity information including Key Biodiversity Areas and legally protected areas. These include:
 - › [IUCN category I-IV protected areas and marine protected areas I-V](#)
 - › [World Heritage Sites & Nominated World Heritage Sites](#)
 - › [Ramsar Sites \(wetlands\)](#)
 - › [Core areas of UNESCO biosphere reserves](#)
 - › [High Conservation Value Areas \(HCVA\)](#)
 - › [Key Biodiversity Areas](#)
- › [The International Finance Corporation \(IFC\) Performance Standard 6 \(PS6\)](#) on Biodiversity Conservation and Sustainable Management of Living Natural Resources (2012) is a widely invoked standard applied to mining, infrastructure and natural resource projects. The IFC PS6 includes expectations for operating practices of projects funded by the IFC, guidance for its application and implementation resources.
- › [IUCN's Red List of Threatened Species](#) can be accessed to provide taxonomic, conservation status and distribution information about species that are threatened with extinction. The IUCN provides definitions for the Red List Categories, such as 'critically endangered' and 'endangered'.
- › [The IUCN Policy on Biodiversity Offsets](#) provides for reference, a framework to guide the design, implementation and governance of biodiversity offset schemes and projects.

Box 9: Focus on Resources for Biodiversity Assessments and Management provides a list of resources for carrying out assessments on biodiversity and ecosystems and for evaluating risks from mining activities. Where Indigenous Peoples groups or communities are present in or around company's mining operations, they should be active participants in the biodiversity and land use assessment. Particular attention should be paid to potential impacts on biodiversity or on ecosystem services upon which affected communities' livelihoods are dependent.

Completing assessments on biodiversity requires specialist knowledge, professional judgement and the involvement of a trained ecologist for the evaluation of potential and actual impacts, directly or indirectly linked to the mining operations. Gathering and analysing data can be very complex in some countries or in areas where there is little information to enable comparisons. In such circumstances, extensive fieldwork may be needed to better understand the relative value of sites and the potential implications of mining activities.

The assessment should be documented and may be standalone or part of a broader environmental study, such as a legally required Environmental Impact Assessment, or a landscape-scale sensitivity study.

Performance Determination

Meets:

The company has completed and documented a comprehensive assessment of its actual and potential direct and indirect risks and impacts of its activities on biodiversity, ecological functioning, ecosystem services and land use.

Substantially Meets:

N/A

Partially Meets:

The company:

- › has completed an assessment of its actual and potential direct and indirect risks and impacts of its activities on biodiversity, ecological functioning, ecosystem services and land use, but the assessment is incomplete because it does not comprehensively cover biodiversity, ecological functioning, ecosystem services or land use aspects; does not cover both direct and indirect risks and impacts; or, does not cover both potential and actual risks and impacts; and;
- › is in the process of assessing the risks and impacts of its activities on biodiversity, ecological functioning, ecosystem services and land use, but not all assessment activities have been completed.

Misses:

The company has not started to assess the impacts of its activities on biodiversity, ecological functioning, ecosystem services and land use.

III. VERIFICATION

Data Collection Method

Conformance with the provisions on biodiversity and land use risk assessments is assessed through document review, and interviews with companies' employees and management teams.

Conformance with the provision where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.



Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
12.1		✓	✓	✓	✓	✓

Examples and Types of Evidence

- > A documented assessment of the presence of important biodiversity, ecosystems, and the nature of land use in the areas of the companies' operations and the actual and potential risk of activities on these features;
- > a register of protected areas and other designated areas that are in companies' area of operation;
- > legal documentation or agreement from a government agent, such as a permit or license, authorising operation in a protected area and the conditions associated with that operation.

Site Assessment

Interviews

During interviews with management, managers can demonstrate or describe:

- > how they have determined the risks to biodiversity and land use associated with their activities;
- > how they have identified and documented their plans to achieve long term goals for conservation or land use outcomes;
- > the actual or potential risk of the further spread and presence of invasive species when found to present on the companies' property or operations; and
- > the register of threatened species at risk of extinction on their property or in the path of the mine-related activities, if applicable.

During interviews with employees, they can demonstrate or describe:

- > a basic understanding of companies' approach to identifying protected areas and other areas of high biodiversity or conservation importance and to whom to ask for more information of the presence of such area in or near companies' operations;
- > to the extent of their knowledge, whether there are/are not threatened species at risk of extinction on companies' operations or in the path of companies' mine-related activities.

During interviews with affected communities and stakeholders, they can demonstrate or describe:

- > the frequency, content and nature of consultation meetings with companies' personnel as part of the assessment of impacts and / or the nature of compensatory measures, or offsets, for the loss of biodiversity;
- > whether options for alternatives to operating in critical natural habitat were explored with relevant planning authorities and conservation groups working locally, if applicable;
- > whether there are any known threatened species in the areas of companies' operations; and,
- > how to access the completed biodiversity and land use assessment and how to submit comments and suggestions on the assessment.



Biodiversity and Land Use Management (Provisions 12.2 – 12.3)



I. INTRODUCTION

Having in place plans and management systems and clear commitments for avoiding, minimising and compensating for biodiversity loss and adverse impacts on neighbouring land use, is not only good operational practice but also a clear way to communicate to stakeholders companies' contributions to conservation goals. The concepts of the biodiversity mitigation hierarchy and no net loss, or a net gain, of biodiversity, have become of fundamental importance to public and corporate policy and the conservation community. Their application to mines is a core requisite of this Code.

II. PROVISIONS AND PERFORMANCE DETERMINATION

- > **Provision 12.2** Companies will develop a plan and implement systems aligned with the requirements of [Provisions 2.1](#) and [2.2](#) of this Code to address the biodiversity, ecosystem services and land use impacts and risks identified in the assessment referred to in [Provision 12.1](#). The systems will:
- follow the biodiversity mitigation hierarchy;
 - minimise the risk of subsidence from underground coal mining;
 - be developed in consultation with affected communities and stakeholders;
 - apply to the full lifecycle of the mine;
 - set targets to monitor performance; and
 - be adjusted where necessary following regular review of the conclusions of the assessment referred to in [Provision 12.1](#).



Explanation

Companies should follow the guidance given for [Provisions 2.1 and 2.2 on Management Systems](#) when implementing this provision on plans and systems for managing biodiversity, ecosystem services and land use impacts and risks associated with their activities. The plans and systems may be stand-alone or integrated into a management system with broader aspect coverage. Companies should ensure that there are sufficient financial and human resources to implement the plans and systems and monitor their effectiveness. Companies should consider the need for long-term budgets to deliver positive conservation and land use outcomes, relevant biodiversity expertise, as well as resources that may be required for consultative processes and monitoring during implementation.

Where the assessment in [Provision 12.1 on Biodiversity and Land Use Assessments](#) reveals significant impacts on biodiversity, companies should have a specific biodiversity action plan to demonstrate how such impacts will be mitigated. For major developments or large expansions, significant impacts are often determined through a formal legally mandated impact assessment. Any impact from companies' activities on a legally protected area would be a potential significant impact to biodiversity. Companies should also consider the significance of risks associated with regulatory, financial, reputational, or other stakeholder considerations related to biodiversity and conservation.

Companies' plans and systems should be designed to incorporate the mitigation hierarchy, consultation with affected communities, application throughout the lifecycle of the mine, setting of targets for the monitoring of performance and opportunity for adjustments following periodic review of the underlying assessment in [Provision 12.1 on Biodiversity and Land Use Assessments](#). Guidance on these system features are provided below. Companies should integrate the mitigation hierarchy into plans and management systems, including in relevant policies and procedures, that should be applied to both new and existing sites. By implementing the expectations for the assessment set out in [Provision 12.1 on Biodiversity and Land Use Assessments](#), companies should have identified priority biodiversity, ecosystem services and land use for affected communities. This information can be used for the management of potential and actual impacts on such ecosystems and their services to affected populations.

The mitigation hierarchy involves ordering options for managing impacts sequentially, starting with action to avoid impacts through finding alternative locations or methods for potentially harmful *mine-related activities*, followed by action to reduce and minimise them. If the adverse environmental impacts are significant, it can also be appropriate to restore and, finally, offset them (see [Box 10: Focus on Mitigation Hierarchy and Biodiversity](#)). Companies should make reasonable efforts to compensate any community, household or individuals who are adversely affected by impacts on ecosystem services associated with their activities to achieve a state that leave affected parties at least as well off – and preferably better off – than they were before.

When applied to biodiversity, the mitigation hierarchy has been developed as a tool for achieving 'no net loss' or a 'net gain' of biodiversity (see [Provision 12.2 on Biodiversity and Land Use Management](#)). Companies should consider following the guidance provided by the Business and Biodiversity Offset Programme and the IUCN Policy on Biodiversity Offsets when implementing the mitigation hierarchy, the links for which are provided in [Box 10: Focus on Mitigation Hierarchy and Biodiversity](#).

BOX 10: FOCUS ON MITIGATION HIERARCHY AND BIODIVERSITY

- 1. Avoid:** design or modify a proposed mine or existing operation to prevent potential impacts on biodiversity. This might include not proceeding with particular features of an operation development as originally planned, or even amending the plan to situate infrastructure or facilities in already degraded areas.
- 2. Minimise:** take measures to reduce the duration, intensity and/or extent of biodiversity impacts.
- 3. Restore or rehabilitate:** take measures to improve degraded or removed ecosystems, which should be a part of planning for mine closure (see [Principle 4 on Mine Rehabilitation and Closure](#)).
- 4. Offset:** take measures to compensate for any residual impact left after the previous three steps have been taken. Compensatory measures are direct *in situ*, such as actions or resources that provide a commensurate conservation or land use value. Measures for making offsets may include improving existing or creating new habitats for species impacted by companies' activities, reducing threats to species and their habitat, supporting existing or the development of new protected areas, including, where relevant, marine protected areas, and averting the loss of a species or its habitat by securing its future use for conservation purposes. Options to make offsets locally should be considered first. Where it is not possible to reach a balanced level of compensation through making offsets locally, then options should be explored at the landscape-level, nationally or even regionally.
- 5. Additional actions:** Where it is not possible to take direct measures to offset impacts on biodiversity, indirect additional actions may be taken as part of mitigation, such as research grants or education scholarships, that do not offset residual losses but support conservation generally or enable sustainable resource use.

Note that the company should only choose to offset impacts on biodiversity as a last resort to tackle residual impacts. Any residual impacts must be permitted under applicable national law.



Subsidence occurs when the ground moves vertically downwards, usually accompanied by horizontal strains, due to it not being supported by underlying material. This loss of support is linked to the presence of underground cavities of both artificial and natural origin. The effects can range from settlements of the order of a few millimetres to sudden collapse of the ground into cavities several metres deep. Subsidence associated with mining varies in scale from the sudden collapse of ground into mineshafts or shallow voids (either natural cavities or due to mine workings) to the more general subsidence associated with deep coal mining.

Most impact from subsidence is associated with collapse of buildings or structures, or the fracturing of gas mains and other services. Subsidence can also open pathways by which hazardous gases and other pollutants may move, increasing the risks of contamination. Subsidence within alluvial or coastal flood plains can increase the risk of flooding, as well as producing low-lying areas that do not drain.

Companies should take necessary and appropriate engineering measures of the ground to reduce the potential for subsidence to occur. For new developments, prevailing industry best practice should be applied. At currently operating mines, especially those which have been operating for decades, engineering measures can also be taken to reduce the chances of subsidence occurring, such as by infilling abandoned mine voids.

Companies should consult with communities that are affected by their risks and impacts on biodiversity, ecosystem services and land use and, where feasible, incorporate their recommendations and ways to address any concerns into the system and plans to mitigate such risks and impacts. Affected communities and stakeholders include towns, villages and individual households; local authorities and elected councils and committees; and Indigenous and Tribal Peoples groups and traditional authorities (see [Provisions 8.1 - 8.5 on Stakeholder Engagement](#) and [Provisions 5.3 - 5.5 on Indigenous and Tribal Peoples](#)).

Companies' consultation with communities and stakeholders should be continual and include engagement to communicate and discuss progress of the actions carried out by companies as part of their plans and systems; share outcomes through annual reporting and other communications outlets, such as company websites; and receive input into future plans for the mitigation of risk and mitigations on biodiversity.

Risks and impacts on biodiversity, ecosystem services and land use can occur at all phases of the mine lifecycle, from early exploration through to closure. For example, even small exploration teams carrying out short-term activities can introduce and spread *alien species*. At closure and decommissioning of a mine, open pits and abandoned equipment can pose a threat to wildlife and be the cause of pollution that can affect the health of ecosystems and limit opportunities for productive land use. Companies should ensure that consideration for such environmental and land use aspects and their related economic and social implications is incorporated into the management system throughout the entire lifecycle.

Opportunities for progressive mine site rehabilitation during active mining operations should also be actively explored and implemented where feasible, as it can bring important biodiversity, ecological and ecosystem benefits.

[Principle 4 on Mine Rehabilitation and Closure](#) describes expectations for the implementation for a process of integrated mine closure and rehabilitation incorporating environmental, social, economic and governance issues. This Principle and its associated guidance should be read and applied when implementing [Provision 12.2 on Biodiversity and Land Use Management](#).

The plans and system should incorporate time-bound targets to address the risks and impacts identified through [Principle 12 on Biodiversity and Land Use Assessment](#). The targets should enable actions taken by companies to result in a no net loss and ideally deliver biodiversity



benefits, preservation of ecosystem services, and restoration of land to enable it to be used in the same way as prior to its disturbance by the mine’s activities, or a new land use where that is agreed with affected stakeholders. The targets should be supported by suitable biogeophysical, social and economic indicators to monitor the implementation and effectiveness of plans to mitigate risk and impacts on biodiversity, ecological functioning and land use.

The plans and system should allow the continual adaption of actions to avoid the potential and mitigate the actual risks and impacts of companies’ activities. Regular reviews will enable companies to update plans in light of new information on risks and an evaluation of progress on desired targets and outcomes. Adjustments should be made to the system and specific mitigation plans following reviews of the conclusions of the assessment completed in Provision 12.1 on Biodiversity and Land Use Assessment. At a minimum, companies should review the system and the underlying plans annually and make necessary adjustment.

Performance Determination

Meets:

The company is implementing systems that meet the expectations of Provisions 2.1 and 2.2 on Management Systems, and that address the impacts and risks to biodiversity, ecological functioning, ecosystem services and land use identified in Provision 12.1 on Biodiversity and Land Use Assessment. The system follows the biodiversity mitigation hierarchy, has been completed in consultation with affected communities and stakeholders; is applied to the full lifecycle of the mine; includes targets to monitor performance; and is adjusted in line with regular reviews of the underlying assessment in Provision 12.1 on Biodiversity and Land Use Assessment.

Substantially Meets:

The company has developed systems to address the impacts and risks to biodiversity, ecological functioning, ecosystem services and land use associated with its business activities that includes all the specific features listed in this provision, but implementation is incomplete.

Partially Meets:

The company has developed a system to address the impacts and risks to biodiversity, ecological functioning, ecosystem services and land use associated with its business activities but implementation has not started or the system is in the process of being developed but currently it does not include all the specific features listed in this provision and therefore is incomplete.

Misses:

The company has not yet developed a plan, system or multiple systems that address the impacts and risks to biodiversity, ecological functioning, ecosystem services and land use identified in Provision 12.1 on Biodiversity and Land Use Assessment.

> **Provision 12.3** Companies will publicly commit to achieve no net loss of biodiversity and strive to achieve a net gain of biodiversity.

Explanation

A no net loss of biodiversity is the point at which the impacts on biodiversity are balanced or outweighed by measures taken to avoid and minimise the impacts, to restore affected areas and finally to offset the residual impacts, so that no loss remains. Where the gain exceeds the loss, the term ‘net gain’ may be used instead.



No net loss or net gain of biodiversity should be defined relative to an appropriate biological and / or conservation reference. No net loss or net gain of biodiversity should include no net loss of socioeconomic and cultural values of biodiversity in order to leave affected communities at least as well off – and preferably better off – than they were before.

At a minimum, companies should make a public statement in their corporate literature, annual reports or their website to commit to a goal of achieving a no net loss of biodiversity. This commitment should be supported by demonstrating they have followed the mitigation hierarchy and taken measures to avoid and minimise their operations' impacts, and to implement site-level restoration where possible. Where opportunities for avoidance, minimisation and restoration have been exhausted, significant residual impacts can be offsets at an appropriate geographic scale (see [Provision 12.2 on Biodiversity and Land Use Management](#)).

Striving for a net gain of biodiversity can be demonstrated through companies taking additional biodiversity conservation actions as described in [Box 10: Focus on Mitigation Hierarchy and Biodiversity](#) in this Guidance.

Companies should use a credible system to measure their impacts on biodiversity and the mitigation actions and offset measures taken to achieve a no net loss of biodiversity. The approach companies take to biodiversity mitigation, to no net loss and a net gain of biodiversity should also be recorded. [Box 9: Focus on Resources for Biodiversity Assessments and Management](#) provides a list of credible sources on the topic and companies should consider the guidance provided by the [Business and Biodiversity Offset Programme](#) and the [IUCN Policy on Biodiversity Offsets](#).

Performance Determination

Meets:

The company has a public commitment to achieve a no net loss of biodiversity and can demonstrate through presentation of a credible methodology for measuring biodiversity impacts and the results of its biodiversity mitigation plan that the impact on biodiversity it has caused are balanced or outweighed by measures taken to avoid and minimise such impacts.

Substantially Meets:

The company has no public commitment to no net loss of biodiversity but is able to demonstrate that it has developed and applied a credible methodology for measuring biodiversity impacts caused by its activities and is in the process of implementing a mitigation plan to take measures that balance or outweigh such impacts.

Partially Meets:

The company has no public commitment to no net loss of biodiversity but is able to demonstrate that it is in the process of developing a credible methodology for measuring biodiversity impacts caused by its activities and a mitigation plan to take measures that balance or outweigh such impacts.

Misses:

The company has no public commitment to and is unable to demonstrate that it has taken measures to achieve no net loss of biodiversity to balance the impact on biodiversity caused by its activities.



III. VERIFICATION

Data Collection Method

Conformance with the provisions on companies’ policies, policy commitments, plans and systems to manage biodiversity and land use at mine operation, including having a no net loss of biodiversity, is assessed through observation, document review, and interviews with the companies’ employees and management teams.

Conformance with the provisions where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
12.2	✓	✓	✓	✓		✓
12.3		✓				

Examples and Types of Evidence

- > A public statement on companies’ websites, for example, stating a commitment to achieve a no net loss of biodiversity, and strive to achieve a net gain of biodiversity;
- > a policy and procedures that state companies’ commitment to respect protected areas legal boundaries and to not operate in *World Heritage Sites* and other designated areas of important biodiversity and conservation value;
- > a register of protected areas and other designated areas that are in companies’ areas of operation;
- > third-party assurance of a formal management system that covers the management of biodiversity aspects of the operation, such as ISO 14001;
- > a documented procedure on management of subsidence;
- > a record of consultations with Indigenous or Tribal Peoples’ groups demonstrating their involvement in decisions regarding measures taken to offset or compensate for the loss of biodiversity when in or near their territory or community.

Site Assessment

Interviews

During interviews with management, managers can demonstrate or describe:

- > a good understanding of companies’ policy to implement the mitigation hierarchy for the management of impacts on biodiversity, priority ecosystems, or productive lands;
- > examples of activities to compensate for unavoidable loss of biodiversity through conservation actions, such as protecting an area of high biodiversity value land or contributing financially to the management of a formally designated protected area;
- > how they have allocated resources for the implementation of a system to manage the companies’ impacts on biodiversity, ecological functioning, ecosystems, and land use;
- > the procedure for when subsidence occurs, and the measures taken to minimise its impact.

During interviews with employees, they can demonstrate or describe:

- > a basic understanding of the companies’ policies on protected areas and other areas of high biodiversity or conservation importance and to whom to ask for more information of the presence of such area in or near the operations;



- > their specific responsibilities under the biodiversity and land use management system; and
- > the type and content of the training they have received on the policy for implementing the mitigation hierarchy.

During interviews with affected communities and stakeholders, they can demonstrate or describe:

- > where there has been subsidence at the mine, whether companies' policies and procedures are known to stakeholders and whether they were followed, especially in regard to compensation to property;
- > whether options for alternatives to operating in critical natural habitat were explored with relevant planning authorities and conservation groups working locally, if applicable; and,
- > whether stakeholders are aware of companies' conservation actions and whether such actions compensate for loss of biodiversity from actions associated with the mine operation.

Site Walk-Through

During the Site Walk-Through, the assessor observes:

- > the measures taken for the continual rehabilitation of disturbed land in accordance with the management system or biodiversity action plan;
- > mitigation measures being taken in areas of critical natural habitat, if applicable; and,
- > programmes or measures to offset or compensate for harm to or loss of biodiversity, priority ecosystems, or productive lands;

Designated and High Conservation Value Areas, Natural Habitats and Threatened Species (Provisions 12.4 – 12.8)

I. INTRODUCTION

The World's biodiversity is unevenly distributed, and some areas are recognised by governmental and non-governmental organisations as being particularly important for conservation because of their biodiversity features and the threat posed to species and their habitats. They are typically areas that contribute significantly to the global persistence of biodiversity, in lands, in water or on the seas. These areas are often defined in National Biodiversity Strategies and Action Plans prepared under the UN 'Convention on Biological Diversity'. [Box 9: Focus on Resources for Biodiversity Assessments and Management](#) provides references to resources to enable companies to identify these areas.

A protected area is a geographically defined area that is legally designated or regulated and managed to achieve specific conservation objectives. Protected areas are very often a key strategy of national and international conservation strategies, supported by governments and international frameworks such as the Convention on Biological Diversity. Protected areas aim to ensure that ecosystems, habitats and species are protected from damage and loss, particularly areas which are highly valued for their biodiversity richness, rarity and/or sensitivity. It should be noted, however, that some areas of international importance for biodiversity lie outside of designated protected areas and the assessments carried out by private companies can identify and describe areas that may be considered critical *natural habitats* even if not designated as such.



Respecting protecting areas, and other areas designated for their conservation value, is fundamental to demonstrate mining’s environmental responsibility and support to national biodiversity action plans.



II. PROVISIONS AND PERFORMANCE DETERMINATION

- > **Provision 12.4** Companies will not explore or develop new mines in:
- a) World Heritage sites;
 - b) areas falling within IUCN protected area management categories I to III;
 - c) core areas of UNESCO biosphere reserves;
 - d) Ramsar sites;
 - e) Key Biodiversity Areas; and
 - f) internationally and nationally recognised protected areas, unless all conditions of [Provision 12.6](#) of this Code are met



Explanation

The management of some of sites designated for their conservation value are considered to be incompatible with mining by many governments, scientific institutions and conservation groups. These include those listed in this provision and companies will not conduct any exploration or new mining-related activities in these sites. Information on these can be found on their respective websites, the links for which are provided below:

- > [World Heritage sites](#);
- > areas falling within [IUCN protected area management categories I to III](#);
- > core areas of [UNESCO biosphere reserves](#);
- > [Ramsar sites](#);
- > [Key Biodiversity Areas](#); and
- > internationally and nationally recognised [protected areas](#).



Companies should ensure that their relevant policies and procedures prohibit exploration or development of new mines in these sites. This may also apply to significant expansion of existing mining operations where companies have been awarded new mining rights in the area. This does not apply to the routine expansion, renewal or reapplication for an existing government issued mining permit or license.



Performance Determination

Meets:

The company has no exploration or mine development-related activities in World Heritage sites, areas falling within IUCN protected area management categories I to III, core areas of UNESCO biosphere reserves, Ramsar sites, Key Biodiversity Areas, or protected areas where conditions under [Provision 12.6 on Designated and High Conservation Value Areas, Natural Habitats and Threatened Species](#) are not followed.

Substantially Meets:

N/A

Partially Meets:

N/A

Misses:

The company has exploration or mine development-related activities in a World Heritage site, and area falling within IUCN protected area management categories I to III, a core area of an UNESCO biosphere reserve, a Ramsar site, a Key Biodiversity Areas, or a protected area where conditions under [Provision 12.6 on Designated and High Conservation Value Areas, Natural Habitats and Threatened Species](#) are not being followed.

-
- > **Provision 12.5** Companies will do all that is reasonably possible to ensure that their activities do not adversely impact World Heritage sites or World Heritage site buffer zones adjacent to their operations
-

Explanation

A World Heritage site is a place that is listed by the UN Educational, Scientific and Cultural Organization (UNESCO) as having special cultural or physical significance. *World Heritage sites* are recognised for their outstanding universal “value” or their natural or cultural worth. This value is determined based on standards and processes established under the World Heritage Convention’s Operational Guidelines. The list of World Heritage properties continues to grow through nominations made by countries that are parties to the World Heritage Convention. There are over 1100 World Heritage properties, of which more than 200 are categorised as ‘Natural’ sites.

As well as committing to not explore or develop new mines inside the boundaries of World Heritage sites, companies should be aware that operating near or adjacent to a World Heritage site can adversely impact the World Heritage site itself, or the surrounding area or buffer zone of the site. ‘Adjacent’ means that mining operations are connected geographically either by borders, mine transit roads, or upstream waterways. Buffer zones are important to safeguard the integrity of the World Heritage property and companies should not impede their continued effectiveness.

At a minimum, companies should identify and record whether any existing or planned activities are near or adjacent to World Heritage sites listed on the UNESCO website. Where operations are located adjacent to World Heritage Sites or buffer zone, companies should ensure that potential or actual risk or impacts of their operations are covered in the assessment, as set out in [Provision 12.1 on Biodiversity and Land Use Assessment](#). Where potential or actual adverse impacts are identified, companies should ensure that their systems and management plans, as set out in [Provision 12.2 on Biodiversity and Land Use Management](#), address such impacts.

Performance Determination

Meets:

The company has identified and recorded whether its operations are adjacent to a World Heritage Site or World Heritage site buffer zone, assessed whether there are actual or potential risks and impacts to the site or its buffer zone, and included measures to address such risks in its management system and mitigation plan.

Substantially Meets:

The company’s operation is adjacent to a World Heritage site and/or World Heritage site buffer zone and has recorded its location, has started a process to assess whether there are actual or potential risks and impacts to the site or its buffer zone, and to include measures to address such risks in its management system and mitigation plan, but implementation of these processes is incomplete.



Partially Meets:

The company's operation is adjacent to a World Heritage site and/or World Heritage site buffer zone and has recorded its location, but has not assessed whether there are actual or potential risks and impacts to the site or its buffer zone, or included measures to address such risks in its management system and mitigation plan.

Misses:

The company's operation is adjacent to a World Heritage site and/or World Heritage site buffer zone, but has not recorded its location, assessed whether there are actual or potential risks and impacts to the site or its buffer zone, or included measures to address such risks in its management system and mitigation plan.

-
- > **Provision 12.6** Companies operating in nationally or internationally recognised protected areas such as those in [Provision 12.4](#) of this Code will:
- a) confirm that operations are legally permitted;
 - b) act in a manner consistent with any government-recognised management plans for the area;
 - c) consult protected area sponsors and managers, affected communities, Indigenous and Tribal peoples, and other stakeholders throughout the lifecycle of the mine as appropriate;
 - d) implement additional programmes, as appropriate, to promote and enhance the conservation aims and effective management of the area; and
 - e) develop mine closure plans in conjunction with protected area sponsors, managers and other relevant stakeholders.
-

Explanation

In some cases, companies may operate in protected areas. Such cases include where the protected area falls outside the definition of IUCN management categories I to III, where the location has been designated a protected area after the start of the mine, where the status of the protected area's IUCN management category has changed after the start of the mine, or where companies have been operating in the protected area prior to the publishing of the Bettercoal Code. In all cases companies should operate with the requisite legal permissions.

Where companies are operating in a protected area they should be able to demonstrate that they are acting in a manner consistent with any government-recognised management plans for the area. Companies should be able to demonstrate that they are aware of any such plans, that such plans are recorded and incorporated into their own management systems and plans, and that these systems and plans are continually updated in line with any changes made by the relevant government agencies.

Companies should consult with the protected area's sponsors and managers, affected communities, Indigenous and Tribal Peoples, and other stakeholders throughout the lifecycle of the mine in line with [Principles 5 on Human Rights](#) and [8 on Communities and Stakeholders](#).

Companies should be able to demonstrate that they have considered supporting programmes, projects or activities led by governments agencies, non-government organisations or initiated by their own staff that support the management objectives of the protected areas. These might include financial contributions to bolster the staffing capacity of the protected area, research to monitor the effectiveness of the area's objectives, or communication efforts to promote the importance of the biodiversity under protection.



Companies should ensure that when operating in a protected area rehabilitation and closure plans for their operations are in line with the expectations set out in [Principle 4 on Mine Rehabilitation and Closure](#).

Performance Determination

Meets:

The company is operating in a protected area and is legally permitted to do so, can demonstrate that it is aware of and its activities are fully conformant with government-recognised plans for the area, is consulting with relevant stakeholders, is promoting and enhancing the conservation aims of the area, and is developing and implementing closure plans in conjunction with relevant stakeholders.

Substantially Meets:

N/A

Partially Meets:

The company is operating in a protected area and is legally permitted to do so, but it cannot demonstrate that it is aware of and that its activities are fully conformant with government-recognised plans for the area, is not consulting with relevant stakeholders, is not promoting and enhancing the conservation aims of the area, and is not developing and implementing closure plans in conjunction with relevant stakeholders.

Misses:

The company is operating in a protected area but is not legally permitted to do so, cannot demonstrate that it is aware of and that its activities are fully conformant with government-recognised plans for the area, is not consulting with relevant stakeholders, is not promoting and enhancing the conservation aims of the area, and is not developing and implementing closure plans in conjunction with relevant stakeholders.

-
- › **Provision 12.7** Companies will not convert or degrade critical natural habitats, in particular high conservation value areas, unless all of the following are met:
- a) there are no other viable options for the development of the mining operations on modified or natural habitats that are not critical;
 - b) consultation has established the views and, where possible and appropriate, addressed the concerns of stakeholders, including affected communities, with respect to the extent of conversion and degradation; and
 - c) any conversion or degradation is mitigated according to the biodiversity mitigation hierarchy.
-

Explanation

The International Financial Corporation describes critical habitats as areas that have high biodiversity value, including (i) habitat of significant importance to critically endangered and/or endangered species; (ii) habitat of significant importance to endemic and/or restricted-range species; (iii) habitat supporting globally significant concentrations of migratory species and/or congregatory species; (iv) highly threatened and/or unique ecosystems; and/or (v) areas associated with key evolutionary processes.²³⁶ Resources to enable companies to

236. IFC, *International Finance Corporation's Guidance Note 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources*, Accessed online: 2 January 2020, <https://www.ifc.org/wps/wcm/connect/5e0f3c0c-0aa4-4290-a0f8-4490b61de245/GN6_English_June-27-2019.pdf?MOD=AJPERES&CVID=mRQjZva>.



and systems under the Planetary Boundaries concept that regulate the stability and resilience of the Earth System. Companies should discover through the assessment referred to [Provision 12.1 on Biodiversity and Land Use Assessment](#) whether their activities have the potential to increase the risk of species' extinction.

The International Union for the Conservation of Nature (IUCN) is the custodian of the Red List of Threatened Species and manages the programme that maintains the Red List database. The programme evaluates the relative risk of extinction of species and provides a system to evaluate the threats of species. Species that meet the IUCN criteria for Vulnerable (VU), Endangered (EN) or Critically Endangered (CR), are facing a high, very high or extremely high risk of extinction in the wild.

The IUCN Red List also provides information on range, population size, habitat and ecology, use and/or trade, threats, and conservation actions that will help inform necessary conservation decisions.

Companies should consult the IUCN Red List and relevant national and local databases and maintain a register of species that their activities are placing at risk or have the potential to place at greater risk of extinction. This information should be incorporated into the system and biodiversity action plans referred to in [Provision 12.2 on Biodiversity and Land Use Management](#) and commitments made under [Provision 12.3 on Biodiversity and Land Use Management](#) to have a no net loss or a net gain of biodiversity at companies' operations.

Performance Determination

Meets:

The company maintains a register of species that are potentially and actually affected by its activities and their threatened status on relevant international and national data lists and is taking measures to ensure that these species are not in danger of extinction.

Substantially Meets:

N/A

Partially Meets:

The company:

- > maintains a register of species that are potentially and actually affected by its activities and their threatened status on relevant international and national data lists, but its activities pose a risk of extinction to these species and the company is not taking measures to mitigate this risk to these species; or
- > the company's activities do not pose a risk of extinction to species that appear on relevant international and national data lists, but it does not maintain a register of species that are potentially and actually affected by its activities and their threatened status.

Misses:

The company's activities pose a risk of extinction to species that appear on relevant international and national data lists, it does not maintain a register of these species, and is not taking measures to ensure that these species' level of threat is reduced.



At a minimum, companies should consider the following potential vectors for the introduction and spread of alien invasive species:

- › Transport: ships can carry aquatic organisms in their ballast water; trucks can carry weeds through sediment on tyres.
- › Wood products: insects can get into wood, shipping palettes, crates and packing material that are shipped around the world.
- › Ornamental plants: some ornamental plants in gardens can escape into the wild and become invasive.

Performance Determination:

Meets:

The company has completed and documented an assessment that identifies the potential of their business to deliberately or accidentally introduce alien invasive species and has evaluated the risks to biodiversity of any alien invasive species present or with the potential to be introduced to the area of its operation.

Substantially Meets:

The company has completed and documented an assessment that identifies the potential of their business to deliberately or accidentally introduce alien invasive species and evaluated the risks to biodiversity of any alien invasive species present or with the potential to be introduced, but the assessment does not cover the entirety of its area of operation and so is incomplete.

Partially Meets:

The company:

- › has started to assess and document the potential of their business to deliberately or accidentally introduce alien invasive species but the assessment has not evaluated the risks to biodiversity of any alien invasive species present or with the potential to be introduced to the area of its operation; or
- › has completed an assessment and evaluated the risks to biodiversity of alien invasive species, but the assessment and evaluation has not been documented.

Misses:

The company has not started to assess the potential of their business to deliberately or accidentally introduce alien invasive species.

-
- › **Provision 12.10** Companies will develop and implement systems aligned with the requirements of [Provisions 2.1](#) and [2.2](#) of this Code to prevent the introduction and/or the further spread of alien invasive species, and for the elimination of invasive alien species that have adverse impacts on biodiversity as per the assessment referred to in [Provision 12.1](#) of this Code. The systems will:
 - a) set targets to monitor performance; and
 - b) be adjusted where necessary following regular review of the assessment referred to in [Provision 12.1](#) of this Code.
-

Explanation

Companies will establish a system or multiple systems to prevent the introduction and/or the further spread of alien invasive species, and for the elimination of invasive alien species that have adverse impacts on biodiversity as per the assessment referred in [Provision 12.1](#) on



Biodiversity and Land Use Assessment. They system should include controls for the accidental introduction of alien species through companies' activities and operations, such as through the vectors noted in the guidance for Provision 12.9 on Designated and High Conservation Value Areas, Natural Habitats and Threatened Species.

Where alien species that could have significant adverse impacts on biodiversity are present in an area under companies' control, companies should identify and implement measures to prevent spreading of the species.

If considering the deliberate introduction of alien species within an area under companies' control, an Environmental Impact Assessment must demonstrate that such species do not have adverse impacts on local ecosystems and biodiversity.

The systems may be standalone or integrated into a management system with broader aspect coverage. Companies should ensure that there are sufficient financial and human resources to implement the system and monitor its effectiveness.

Performance Determination

Meets:

The company is implementing systems that meet the expectations of Provisions 2.1 and 2.2 on Management Systems and that prevents the introduction and/or the further spread of alien invasive species that have adverse impacts on biodiversity as per the assessment referred to in Provision 12.1 on Biodiversity and Land Use Assessment. The company sets targets to monitor the performance of the system.

Substantially Meets:

The company is implementing systems that meet the expectations of Provisions 2.1 and 2.2 on Management Systems and that prevent the introduction and/or the further spread of alien invasive species that have adverse impacts on biodiversity as per the assessment referred to in Provision 12.1 on Biodiversity and Land Use Assessment. The company sets targets to monitor the performance of the system, but the system is not fully complete because it does not cover all business activities or relevant areas under the control of the company or there are minor flaws in the implementation of the system resulting in the intended objectives not being fully addressed.

Partially Meets:

The company has started but is not fully implementing systems that meet the expectations of Provisions 2.1 and 2.2 on Management Systems to prevent the introduction and/or the further spread of alien invasive species that have adverse impacts on biodiversity as per the assessment referred to in Provision 12.1 on Biodiversity and Land Use Assessment. The company sets targets to monitor the performance of the system, but the system does not cover a significant proportion of business activities or relevant areas under the control of the company and is therefore incomplete and there are systemic flaws in the implementation of the system resulting in the intended objectives not being addressed.

Misses:

The company is not implementing systems to prevent the introduction and/or the further spread of alien invasive species that have adverse impacts on biodiversity as per the assessment referred to in Provision 12.1 on Biodiversity and Land Use Assessment of this Code.



III. VERIFICATION

Data Collection Method

Conformance with the provisions on the management of alien invasive species is assessed through document review, and interviews with the companies’ employees and management teams.

Conformance with the provisions where corrective actions are required, may be assessed remotely or through an on-site visit, as indicated in the continuous improvement plan.

Provision	Verification Method					
	Observation	Document Review	Interviews			
			Management	Employees	Contracted Workers (if applicable)	Other Stakeholders (if applicable)
12.9		✓	✓			
12.10		✓	✓	✓	✓	

Examples and Types of Evidence

- > Policy and procedures that state companies’ commitments to avoid and manage the presence of alien invasive species on their operations;
- > a documented assessment of the presence and the risk of alien invasive species at companies’ operations;
- > a procedure on avoiding the introduction and accidental spread of invasive alien species and the management actions in cases where invasive alien species are introduced into the companies’ area of operation.

Site Assessment

Interviews

During interviews with management, managers can demonstrate or describe:

- > a good understanding of company’s knowledge and policy on alien invasive species;
- > examples of when the introduction or spread of alien invasive species has been avoided or mitigated through following the relevant procedure; and
- > the process for preventing the further spread and eradicating the presence of invasive species when found to present on companies’ property or operations.

During interviews with employees, they can demonstrate or describe:

- > the type and content of the training they have received on companies’ policies for avoiding the introduction of spread of alien invasive species; and
- > whether there are any known threatened species in the areas of companies’ operations and the actions taken to mitigate such occurrences.

Site Walk-Through

During the Site Walk-Through, the assessor observes:

- > checks taken by employees to manage the risk of introduction of spread of alien invasive species from, for example, transport, plants used for rehabilitation, or construction materials.



IV. REFERENCE TO OTHER PRINCIPLES AND PROVISIONS

Principle	Provision
2 Policy and Management	2.1 and 2.2: When designing and implementing a system to manage impacts to biodiversity, companies should refer to <u>Provisions 2.1 and 2.2 on Management Systems</u> .
	2.3 – 2.7: When completing a comprehensive assessment of the actual and potential direct and indirect risks and impacts of their activities on biodiversity, companies should refer to <u>Provisions 2.3 - 2.7 on Risk and Impact Assessments</u> .
4 Mine Rehabilitation and Closure	4.1 – 4.6: When considering progressive actions to manage, and especially to rehabilitate or offset loss to biodiversity, ecosystem services or land use, companies should refer to <u>Principle 4</u> and its guidance on integrated rehabilitation and mine closure.
5 Human Rights	5.3 – 5.5: When engaging and ensuring their rights of Indigenous and Tribal Peoples are followed and the principles of Free, Prior and Informed Consent applied, companies should refer to <u>Provisions 5.3 - 5.5 on Indigenous and Tribal Peoples</u> .
8 Communities and Stakeholders	8.1 – 8.5: When engaging stakeholders on the management of biodiversity, companies should refer to <u>Provisions 8.1 - 8.5 on Stakeholder Engagement</u> .
	8.16 – 8.18: Companies should put in place an effective, formal and structured grievance mechanism to collect and provide remedy to resettlement-related grievances from the start of resettlement planning.
	8.19: Companies should identify and consider archaeological, cultural and religious resources and develop appropriate cultural heritage management plans to mitigate impacts of resettlement. Companies should also consult with communities to determine appropriate rites and ceremonies for affected sites, where necessary.

V. FURTHER INFORMATION

- › Aluminium Stewardship Initiative, *Performance Standard, Version 2*, December 2017 (available [here](#)). The ASI Performance Standard defines 59 environmental, social and governance principles and criteria, with the aim to address sustainability issues in the aluminium value chain.
- › Responsible Jewellery Council, *Code of Practices, 2019* (available [here](#)). The COP provides a common standard for ethical, social, human rights and environmental practices, and COP certification is mandatory for all RJC commercial members. COP certification provides a strong system for assuring stakeholders, shareholders, customers and business partners that a company conducts its business responsibly.
- › Initiative for Responsible Mining Assurance, *Standard for Responsible Mining, IRMA-STD-001*, June 2018 (available [here](#)). The Standard for Responsible Mining v.1.0 specifies a set of objectives and leading performance requirements for environmentally and socially responsible



practice. The Standard serves as the basis of a voluntary system offering independent third-party assessment and certification of environmental and social performance measures at industrial-scale mine sites around the world.

> ResponsibleSteel *Standard Development - Current and Past Standard* (available [here](#)). The objective of the ResponsibleSteel Standard is to support the responsible sourcing and production of steel, as a tool for the achievement of ResponsibleSteel’s vision: to maximise steel’s contribution to a sustainable society.



ANNEX A List of Abbreviations and Acronyms

ARD	Acid Rock Drainage
CAHRA	Conflict-Affected and High-Risk Area
CDP	Carbon Disclosure Project
CSR	Corporate Social Responsibility
EITI	Extractive Industries Transparency Initiative
ESIA	Environmental and Social Impact Assessment
EU	European Union
FPIC	Free, Prior and Informed Consent
GHG	Greenhouse Gas
GRI	Global Reporting Initiative
Guiding Principles	UN Guiding Principles for Business and Human Rights
HCVA	High Conservation Value Areas
IASB	International Accounting Standard Board
IAASB	International Auditing and Assurance Standards Board
ICoCA	International Code of Conduct Association
ICMM	International Council on Mining and Metals
IFC	International Finance Corporation
ILO	International Labour Organisation
IRMA	Initiative for Responsible Mining Assurance
ISO	International Organisation of Standardisation
IUCN	International Union for Conservation of Nature
KYC	Know Your Counterparty
OECD	Organisation for Economic Co-Operation and Development
OECD Guidance	OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas
SDGs	Sustainable Development Goals
UBO	Ultimate Beneficial Owner
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFCCC	United Nations Framework Convention on Climate Change
TCFD:	Task Force on Climate-related Financial Disclosures
Voluntary Principles	Voluntary Principles on Security and Human Rights
WEPs	UN Women's Empowerment Principles
WBC	World Business Council

ANNEX B Declaration / Convention / Treaty / International Standard

AccountAbility1000 Stakeholder Engagement Standard

Alliance for Water Stewardship International Water Stewardship Standard

Convention Concerning the Protection of the World Cultural and Natural Heritage (1972 World Heritage Convention)

EITI Standards

EU Directive 2001/95/EC on Whistleblower Protection

EU Directive 2014/95/EU on Non-Financial Disclosure

GHG Protocol

GRI Sustainability Reporting Standards

IAASB International Standards on Auditing

IASB International Financial Reporting Standards

ICMM Global Industry Standard on Tailings Management

IFC Performance Standards

ILO Chemicals Convention 1990, (No.170)

ILO Code of Practice – Safety and Health in opencast mines (1991)

ILO Code of Practice - Safety and Health in underground coal mines (2006)

ILO Employment Injury Benefits Convention, 1964 (No. 121)

ILO Employment Injury Benefits Recommendation, 1964 (No. 121)

ILO fundamental Conventions:

1. Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87);
 2. Right to Organise and Collective Bargaining Convention, 1949 (No. 98);
 3. Forced Labour Convention, 1930 (No. 29) (and its 2014 Protocol);
 4. Abolition of Forced Labour Convention, 1957 (No. 105);
 5. Minimum Age Convention, 1973 (No. 138);
 6. Worst Forms of Child Labour Convention, 1999 (No. 182);
 7. Equal Remuneration Convention, 1951 (No. 100);
 8. Discrimination (Employment and Occupation) Convention, 1958 (No. 111).
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ILO Indigenous and Tribal Peoples Convention, 1989 (No.169)

ILO Occupational Safety and Health Convention, 1981(No. 155)

ILO Protocol of 2002 to the Occupational Safety and Health Convention, 1981

ILO Safety and Health in Mines Recommendation, 1995 (No. 183)

ILO Safety and Health in Mines Convention, 1995 (No. 176)

ILO Social Security (Minimum Standards) Convention, 1952 (No. 102)

International Bill of Human Rights:

Universal Declaration on Human Rights; International Covenant on Civil Political Rights; International Covenant on Economic, Social and Cultural Rights

IRMA Standard for Responsible Mining

ISO Standards

OECD Guidelines for Multinational Enterprises

OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas

OHSAS 18001 Occupational Health and Safety Management System

Task Force on Climate-related Financial Disclosures

The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal

The Ramsar Convention on Wetlands of International Importance

The Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade

The Stockholm Convention on Persistent Organic Pollutants

UN Convention Against Corruption

UN Convention Against Transnational Organized Crime.

UN Protocol Against the Smuggling of Migrants by Land, Air and Sea

UN Convention on the Elimination of All Forms of Discrimination against Women

UN Declaration on the Rights of Indigenous Peoples

UN Framework Convention on Climate Change

UN Guiding Principles on Business and Human Rights

UN Kyoto Protocol

UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children

Voluntary Principles on Security and Human Rights

ANNEX C Glossary

Accessible

In the context of grievance mechanisms and engagement processes, the term indicates the quality of being known to all stakeholder groups, and/or providing adequate assistance for those who may face barriers to access.²³⁸

Acid Rock Drainage (ARD)

The outflow of acidic water from metal mines or coal mines, produced when rocks with sulphide or other acid-producing minerals oxidise, and generate an acidic water stream. ARD generally contains elevated concentrations of toxic metals which, combined with a reduced pH, produce adverse impacts on affected water bodies and wildlife.

Adverse Impact

The negative effect an organisation has on the economy, the environment, and/or society. Adverse impacts can be actual, potential, direct, indirect, short-term, long-term, intended, or unintended.²³⁹

Affected Communities

People or communities in the proximity of mining operations, who are subject to actual or potential direct and indirect mining operation-related risks and adverse impacts on their physical environment, health, or livelihoods.

Affected Stakeholders

Stakeholders that may be directly or indirectly adversely affected by the mining operations.

Alien Species

Animals, plants, or other organisms that are introduced into places outside their natural range, adversely impacting native biodiversity, ecosystem services or human well-being. Alien species are termed invasive if they become problematic by causing changes in the structure and composition of ecosystems, detrimentally affecting ecosystem services and human economies and well-being.²⁴⁰

238. OHCHR, *Guiding Principles on Business and Human Rights*, 2011, Page 33, Accessed online: 21 December 2020, https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf.

239. Adapted from the Global Reporting Initiative (GRI), *GRI Standards Glossary 2020*, 2020, Page 12, Accessed online: 21 December 2020, <https://www.globalreporting.org/how-to-use-the-gri-standards/gri-standards-english-language/>.

240. Adapted from International Union for Conservation of Nature (IUCN), *'Invasive Species'*, Accessed online: 13 March 2020, <https://www.iucn.org/theme/species/our-work/invasive-species>.

Applicable Law

In the context of the Bettercoal Code, this refers to the national laws of the country in which a mining company operates, as well as relevant international standards.

Area of Influence

An area that encompasses:²⁴¹

› The area likely to be affected by: (i) the mining operations, activities and facilities that are directly owned, operated or managed (including by contractors) and that are a component of the operations; (ii) impacts from unplanned but predictable developments caused by the operations that may occur later or at a different location; or (iii) indirect impacts of the mining operations on biodiversity or on ecosystem services upon which affected communities' livelihoods are dependent;

› associated facilities;

› cumulative impacts that result from the incremental impact, on areas or resources used or directly impacted by the operations, from other existing, planned or reasonably defined developments at the time the impacts identification process is conducted.

Artisanal and Small-Scale Mining (ASM)

Formal or informal mining operations with predominantly simplified forms of exploration, extraction, processing and transportation. ASM is normally not capital intensive and uses high labour intensive technology. ASM can include men and women working on an individual basis as well as those working in family groups, in partnership or as members of cooperatives or other types of legal associations and enterprises involving hundreds or thousands of miners.²⁴²

241. Adapted from International Finance Corporation (IFC), *IFC Performance Standards on Environmental and Social Sustainability. Guidance Note 1: Assessment and Management of Environmental and Social Risks and Impacts*, 2012, Page 7, Accessed online: 21 December 2020, https://www.ifc.org/wps/wcm/connect/c02c2e86-e6cd-4b55-95a2-b3395d204279/IFC_Performance_Standards.pdf?MOD=AJPERES&CVID=kTjHBzk.

242. Organisation for Economic Co-operation and Development (OECD), *OECD Due Diligence Guidance on Responsible Mineral Supply Chains from Conflict Affected and High Risk Areas*, 3rd Edition, 2016, Page 65, Accessed online: 21 December 2020, <http://www.oecd.org/corporate/mne/mining.htm/>.

Assessment

The process of determining Bettercoal Suppliers' level of alignment with the expectations reflected in the Bettercoal Code. The Bettercoal Assessment Process is composed of five steps and results in a conclusion, in the Assessment Report, on the Suppliers' level of performance against the provisions of the Bettercoal Code.

Assessor

An independent, third-party person meeting Bettercoal's selection criteria and approved to carry out Bettercoal's site assessments.

Beneficial Owner

The natural person(s) who directly or indirectly ultimately owns or controls a corporate entity, a license or other property.²⁴³ Also referred to as the Ultimate Beneficial Owner (UBO).

Best Practice

The application of a set of control measures and strategies that reflect expectations accepted as the industry norm. The Bettercoal Guidance provides indications on what is considered to be the recommended best practice for key issue areas addressed by the Code.

Biodiversity

The variation among living organisms from all sources, including, inter alia, terrestrial, marine, and other aquatic ecosystems, as well as the ecological complexes of which they are part. This concept includes diversity within species, among species, and of ecosystems.

Biodiversity Offset

A measurable conservation outcome of actions designed to compensate for significant residual adverse biodiversity impacts arising from the development of mining operations after appropriate prevention and mitigation measures have been taken. The goal of biodiversity offsets is to achieve no net loss, and preferably a net gain, of biodiversity with respect to species composition, habitat structure, and ecosystem function, and people's use and cultural values associated with biodiversity.²⁴⁴

243. Extractive Industries Transparency Initiative (EITI), *The EITI Standard 2019*, 2nd Edition, 2019, Page 19, Accessed online: 21 December 2020, <https://eiti.org/files/documents/eiti_standard_2019_en_a4_web.pdf>.

244. Business and Biodiversity Offsets Programme (BBOP), *Glossary*, 3rd Edition, 2018, Page 9, Accessed online: 21 December 2020, <https://www.forest-trends.org/wp-content/uploads/2018/11/BBOP_Updated_Glossary-01-11-18.pdf>.

Bonded Labour or Debt Bondage

Work undertaken by a worker who mortgages his or her services or those of family members to someone providing credit in order to repay a loan or advance.

Bribery

The offering, promising or giving, as well as the solicitation or acceptance, of an undue advantage²⁴⁵ to influence the actions, whether directly or indirectly, of:

- › a public official;
- › a political candidate, party, or other official in charge of a public or legal duty; or
- › a person who directs or works for a private sector enterprise in any capacity.

Broad Community Support

A collective expression by the community in support of the mining operations. Support may be demonstrated through credible (i.e. transparent, inclusive, informed, democratic) local government processes or other processes/methods agreed to by the community and company. There may be broad community support even if some individuals or groups object to the business activity.²⁴⁶

Bullying

An ongoing and deliberate misuse of power in relationships through repeated verbal, physical and/or social behaviour that intends to cause physical, social and/or psychological harm. It can involve an individual or a group misusing their power, or perceived power, over one or more persons who feel unable to stop it from happening.²⁴⁷

Business Integrity

Conducting business responsibly, without engaging, whether directly or through business relationships, in any serious corporate misconduct that violates local, national, or international laws and regulations.

245. Adapted from Transparency International, *Glossary*, Accessed online: 10 November 2020, <<https://www.transparency.org/en/glossary>>.

246. Institute for Responsible Mining Assurance (IRMA), *IRMA Standard Guidance*, 1st Edition, 2019, Page 158, Accessed online: 21 December 2020, <https://responsiblemining.net/wp-content/uploads/2018/07/IRMA_STANDARD_v.1.0_FINAL_2018.pdf>.

247. National Centre Against Bullying, *Definition of Bullying*, Accessed online: 24 November 2020, <<https://www.ncab.org.au/bullying-advice/bullying-for-parents/definition-of-bullying/>>.

Business Partner

An individual, organisation or business entity with which a company has direct business relations (excluding consumers, but including contractors, customers, suppliers, and joint venture partners) and that buys and/or sells a product or service that contributes to the extraction of coal.

Business Relationship

An association between individuals or companies entered into for commercial purposes and sometimes formalised with legal contracts or agreements.

Chemical Substance

A compound or mixture which may be present in the workplace in the form of a liquid, solid (including particles) or gas (vapour).

Child

A person under the age of 18, unless, under the law applicable to the child, majority is attained earlier.²⁴⁸

Child Labour

Work that is mentally, physically, socially or morally dangerous and harmful to children, and interferes with their schooling by: depriving them of the opportunity to attend school, obliging them to leave school prematurely, or requiring them to attempt to combine school attendance with excessively long and heavy work.²⁴⁹

Collaboration

The process of shared decision-making in which stakeholders constructively explore their differences and develop a joint strategy for action.²⁵⁰

Collective Bargaining

Negotiations which take place between an employer, a group of employers or one or more employers' organisations, on the one hand, and one or more workers' organisations, on the other, for determining working conditions and terms

248. United Nations General Assembly, *Convention on the Rights of the Child*, Adopted 20 November 1989, Entered into force 2 September 1990, Article 1, Accessed online: 21 December 2020, <https://ec.europa.eu/antitrafficking/sites/antitrafficking/files/un_convention_on_the_rights_of_the_child_1.pdf>.

249. International Labour Organisation (ILO), *ILO Convention No. 138*, Adopted 26 June 1973, Entered into force 19 June 1976, Accessed online: 21 December 2020, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138>.

250. IRMA, *IRMA Standard for Responsible Mining*, 1st Edition, 2018, Page 184, Accessed online: 21 December 2020, <https://responsiblemining.net/wp-content/uploads/2018/07/IRMA_STANDARD_v.1.0_FINAL_2018.pdf>.

of employment, for regulating relations between employers and workers, and/or for regulating relations between employers or their organisations and a workers' organisation or workers' organisations.²⁵¹

Community

A group of people or families who live in a particular locality, sometimes share a common interest (e.g. water users' associations, fishers, herders and grazers), often have common cultural and historical heritage, and have different degrees of cohesiveness.

Community Development

Process whereby people increase the strength and effectiveness of their communities, improve their quality of life, enhance their participation in decision-making, and achieve greater long-term control over their lives. It is done with, rather than for, communities, thereby reflecting local people's needs and priorities.

Community Engagement

A two-way information sharing and decision-making process covering community issues and priorities, as well as the concerns and needs of the business. Beyond just listening, the aim is to ensure mutual understanding and responsiveness by all parties to enable them to manage decisions that have the potential to affect all concerned.

Company (Companies)

In the context of the Bettercoal Code, a coal mining company with all of its activities and facilities, which might include but is not limited to:

- › the principal activities and facilities associated with the mining and extraction of coal;

- › all sites and facilities for the management of waste, storage and maintenance of equipment, offices and administration, and other auxiliary activities; and

- › activities and facilities critical to the viability of the company's mine site operation, such as the transport of coal to points of sale and storage facilities at ports and terminals.

Compliance

The act of conforming or obeying to an order, rule or request.

251. ILO, *ILO Convention No. 154*, Adopted 3 June 1981, Entered into force 11 August 1983, Accessed online: 21 December 2020, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312299>.

Conflict-Affected and High-Risk Areas

Areas in a state of armed conflict or fragile post-conflict as well as areas witnessing weak or non-existent governance and security, such as failed states, and widespread and systematic violations of international law, including human rights abuses.²⁵² Conflict-affected and high-risk areas are identified by the presence of armed conflict, widespread violence or other risks of harm to people. Armed conflict may take a variety of forms, such as a conflict of international or non-international character, which may involve two or more states, or may consist of wars of liberation, insurgencies, civil wars, etc. High-risk areas may include areas of political instability or repression, institutional weakness, insecurity, collapse of civil infrastructure and widespread violence. Such areas are often characterised by widespread human rights abuses and violations of national or international law.²⁵³

Consultation

A formal process whereby management takes the views of workers and/or other stakeholders into account before making a decision.

Continuous Improvement

An ongoing process of enhancing performance and management systems in line with the Bettercoal Code.

Contractor

A company, or other legal entity that carries out work or performs services pursuant to a contract for services for a coal mining company. This term includes subcontractors.

Contracted workers

Workers engaged through third party contractors to perform work related to the operations at the mine.

Control (Management)

Control by a company, defined as:

- › direct or indirect ownership or control (alone or pursuant to an agreement with other companies) of 50 percent or more of the voting equities/rights (or equivalent) of a business or operation; and/or,
- › day-to-day or executive management of a business or operation; or

252. European Parliament and of the Council, *EU Regulation 2017/821*, 2017, OJ L130/1, Accessed online: 21 December 2020, <<https://op.europa.eu/en/publication-detail/-/publication/8b0e378b-3c59-11e7-a08e-01aa75ed71a1/language-en>>.

253. OECD, *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*, 3rd Edition, 2016, Page 13, Accessed online: 21 December 2020, <<http://www.oecd.org/daf/inv/mne/OECD-Due-Diligence-Guidance-Minerals-Edition3.pdf>>.

- › any legally recognised concept of “Control” analogous to those described above in a relevant jurisdiction.

(Core) Areas of Biosphere Reserves

Areas comprising terrestrial, marine and coastal ecosystems. They are nominated by national governments and remain under the sovereign jurisdiction of the states in which they are located, and their status is internationally recognised.

Corporate governance

The system of rules, practices and processes by which a company is directed and controlled.

Corrective Action

An action implemented by a company to significantly mitigate or eliminate the cause of a non-conformance in order to prevent a recurrence.

Corruption

The misuse of entrusted power for private gain.

Cultural Heritage

A product and a process, which provides societies with a wealth of resources that are inherited from the past, created in the present and bestowed for the benefit of future generations.²⁵⁴ It refers to tangible or intangible heritage including customs, practices, monuments, archaeological sites, oral traditions, artistic expressions, rituals and values.²⁵⁵

Direct (Scope 1) Greenhouse Gas (GHG) emissions

GHG emissions from sources that are owned or controlled by an organisation.

Discharge

Effluents released to subsurface waters, surface waters, sewers that lead to rivers, oceans, lakes, wetlands, treatment facilities, and groundwater either through a defined discharge point, overland in a dispersed or undefined manner, or wastewater removed from the organisation via truck.

Discipline

A means to correct or improve job-related behaviour or performance.

254. The United Nations Educational, Scientific and Cultural Organization (UNESCO), *Culture for Development Indicators*, Heritage, Page 132, Accessed online: 21 December 2020, <https://en.unesco.org/creativity/sites/creativity/files/cdis/heritage_dimension.pdf>.

255. UNESCO, *What is Meant by Cultural Heritage?*, Accessed online: 13 March 2020, <<http://www.unesco.org/new/en/culture/themes/illicit-trafficking-of-cultural-property/unesco-database-of-national-cultural-heritage-laws/frequently-asked-questions/definition-of-the-cultural-heritage/>>.

Discrimination

Any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.²⁵⁶ In particular, discrimination against women is defined as any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.²⁵⁷

Displaced Person

A person who has been obliged to leave their former habitual residence due to the act of displacement. Displaced persons include:²⁵⁸

- › persons who have formal legal rights to the land or assets they occupy or use;
- › persons who do not have formal legal rights to land or assets, but have a claim to land that is recognized or recognisable under national law; or
- › persons who have no recognisable legal right or claim to the land or assets they occupy or use.

Displacement

A process by which mining operations cause people to relocate or lose shelter (see Physical Displacement), or to lose assets or access to assets (see Economic Displacement) as a result of mining operation-related land acquisition and/or restrictions on land use. Also referred to as Resettlement.²⁵⁹

Due Diligence (General)

An ongoing, proactive and reactive process through which companies can identify, prevent, mitigate and account for how they address their actual and potential adverse impacts as an

integral part of business decision-making and risk management systems.²⁶⁰

Due Diligence (Human Rights)

In the context of Human Rights, due diligence comprises an ongoing management process that a reasonable and prudent enterprise needs to undertake, in light of its circumstances (including sector, operating context, size and similar factors), to meet its responsibility to respect Human Rights.²⁶¹

Economic Displacement

The loss of assets or access to assets that leads to a loss of income sources or other means of livelihood, as a result of mining operation-related land acquisition and/or restrictions on land use.²⁶²

Ecosystem

A community of organisms together with their physical environment, viewed as a system of interacting and interdependent relationships and including such processes as the flow of energy through trophic levels and the cycling of chemical elements and compounds through living and non-living components of the system.

Ecosystem Services

The benefits that ecosystems provide to human beings, including: provisioning services, such as food and water; regulating services, such as flood and disease control; cultural services, such as spiritual, recreational, and cultural benefits; and supporting services, such as nutrient cycling that maintain the conditions for life on Earth.

Effluents

Treated or untreated wastewater that is discharged by mining operations.²⁶³

Emergency

An abnormal occurrence that can pose a threat to the safety or health of employees, contractors, visitors, customers, or local communities, or which can cause damage to assets or the environment.

256. ILO, *ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111)*, 1958, Accessed online: 14 December 2020, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C111:NO>.

257. UN Women, *Overview of the Convention*, Accessed online: 19 August 2020, <<https://www.un.org/womenwatch/daw/cedaw/>>.

258. IFC, *Performance Standard 5*, 2012, Page 1, Accessed online: 21 December 2020, <https://www.ifc.org/wps/wcm/connect/c02c2e86-e6cd-4b55-95a2b3395d204279/IFC_Performance_Standards.pdf?MOD=AJPERES&CVID=kTjHBzk>.

259. *Ibid.*

260. OECD, *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*, 3rd Edition, 2016, Page 13, Accessed online: 21 December 2020, <<http://www.oecd.org/daf/inv/mne/OECD-Due-Diligence-Guidance-Minerals-Edition3.pdf>>.

261. OHCHR, *Guiding Principles for Business and Human Rights*, 2011, Page 33, Accessed online: 21 December 2020, <https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf>.

262. IFC, *Performance Standard 5*, 2012, Page 1, Accessed online: 21 December 2020, <https://www.ifc.org/wps/wcm/connect/75de96d4ed364bdb8050400be02bf2d9/PS5_English_2012.pdf?MOD=AJPERES&CVID=jqex59b>.

263. GRI, *GRI Standard Glossary 2020*, 2020, Page 8, Accessed online: 21 December 2020, <<https://www.globalreporting.org/how-to-use-the-gri-standards/gri-standards-english-language/>>.

Emissions

Substances that are released or emitted from mining operations.

Employee

An individual who has entered into or works under a contract of employment or a contract of service or apprenticeship, whether express or implied, and (if it is express) whether oral or in writing, or as defined by applicable law, with a company.

Employment Terms

The responsibilities and benefits of a job as agreed upon by an employer and employee at the time of hiring.²⁶⁴

Environmentally Sensitive Areas

An area, usually a natural habitat, which needs special protection because of its landscape, wildlife or historical value.

Equitable

In the context of grievance mechanisms, being equitable means seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms.²⁶⁵

Extortion

The act of utilising, either directly or indirectly, one's access to a position of power or knowledge to demand unmerited cooperation or compensation as a result of coercive threats.²⁶⁶

Facilitation Payments

Incentives or unofficial payments made to secure or expedite the performance of a routine or necessary action to which the payer has legal or other entitlement.²⁶⁷

Facility (of Facilities)

In the context of the Bettercoal Code, premises that are owned by or under the control of a coal mining company for the purposes of extracting coal.

Final Closure

The last phase of the mine closure process, which includes the implementation of the mine closure

264. Investopedia, *Terms of Employment*, Accessed online: 13 December 2020, <<https://www.investopedia.com/terms/t/terms-of-employment.asp>>.

265. OHCHR, *Guiding Principles on Business and Human Rights*, 2011, Page 33.

266. Transparency International, *Corruptionary A-Z*, Website, Accessed 10 November 2020, <<https://www.transparency.org/en/corruptionary>>.

267. *Ibid.*

plan and post-closure monitoring, maintenance and management.²⁶⁸

Financial Feasibility

The viability of a mining operation based on commercial considerations, including the relative magnitude of the incremental cost of adopting a set of measures and actions compared to the mining operation's investment, operating and maintenance costs.

Forced Labour or Compulsory Labour

Any work or service exacted by governments, companies or individuals from any person under the menace of any penalty, and for which the said person has not offered voluntarily to do.²⁶⁹ Forms of forced labour include prison labour, indentured labour and bonded labour.

Free, Prior and Informed Consent (FPIC)

The inherent right Indigenous communities have to approve activities that would affect their lands, territories and natural resources, particularly in connection with the development, utilisation or exploitation of mineral, water or other resources:²⁷⁰

› Free: consent given voluntarily and without coercion, intimidation, manipulation, or undue influence or pressure.

› Prior: consent is to be sought in advance of any authorisation or commencement of activities and before any impacts occur.

› Informed: information is provided that covers a range of aspects, including the nature, size, pace, reversibility and scope of any proposed activity; the purpose of the activity as well as its duration; locality and areas affected; and a preliminary assessment of the likely economic, social, cultural and environmental impacts.

› Consent: agreement to a mining operation or activity after a company has engaged in a good faith consultation with the affected Indigenous communities.

268. The International Council on Mining and Metals (ICMM), *Integrated Mine Closure Good Practice Guide*, 2nd Edition, 2019, Accessed online: 21 December 2020, <https://www.icmm.com/website/publications/pdfs/closure/190107_good_practice_guide_web.pdf>.

269. ILO, *ILO Forced Labour Convention, 1930 (No. 29)*, Adopted 28 June 1930, Entered into force 1 May 1932, Accessed online: 21 December 2020, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312174:NO>.

270. Adapted from United Nations Global Compact, *A Business Reference Guide: UN Declaration on the Rights of Indigenous Peoples*, 2014, Accessed online: 24 August 2020, <<https://www.unglobalcompact.org/library/541>>.

Freedom of Association

The right of workers and employers to freely form and join groups for the promotion and defence of occupational interests without prior authorisation or interference by the state or any other entity.

Gender

The characteristics of women, men, girls and boys that are socially constructed. This includes norms, behaviours and roles associated with being a woman, man, girl or boy, as well as relationships with each other. As a social construct, gender varies from society to society and can change over time. Gender interacts with but is different from sex, which refers to the different biological and physiological characteristics of females, males and intersex persons, such as chromosomes, hormones and reproductive organs. Gender and sex are related to but different from gender identity.²⁷¹ Gender considerations should recognise individuals' freedom to make choices about their gender identity without the limitations set by stereotypes, rigid gender roles and prejudices.

Gender-Based Violence and Harassment

Violence and harassment directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately. It includes sexual harassment.²⁷²

Gender Identity

A person's deeply felt, internal and individual experience of gender, which may or may not correspond to the person's physiology or designated sex at birth.²⁷³

Gender-Sensitive

The quality of a study or assessment aiming at understanding and taking account of the societal and cultural factors involved in gender-based exclusion and discrimination in the most diverse spheres of public and private life.²⁷⁴

Good International Industry Practices

The exercise of professional skill, diligence, prudence and foresight that are reasonably expected from skilled and experienced

271. World Health Organisation (WHO), *Gender and Health*, Accessed online: 14 December 2020, <https://www.who.int/health-topics/gender#tab=tab_1>.

272. ILO, *Violence and Harassment Convention, 2019 (No. 190)*, Accessed online: 14 December 2020, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190>.

273. WHO, *Gender and Health*. Accessed online: 14 December 2020, <https://www.who.int/health-topics/gender#tab=tab_1>.

274. Adapted from The European Institute for Gender Equality, *Gender Sensitivity*, Accessed online: 14 December 2020, <<https://eige.europa.eu/thesaurus/terms/1218>>.

professionals engaged in the same type of undertaking under the same or similar circumstances globally or regionally.

Governance

The norms, institutions and processes that determine how power and responsibilities are exercised and how decisions are taken. It includes a political, an economic and an institutional dimension.

Greenhouse Gas Emissions (GHGs) (Direct and Indirect)

GHGs are six gases covered by the United Nations Framework Convention on Climate Change (UNFCCC) with the property of absorbing infrared radiation (net heat energy) emitted from Earth's surface and reradiating it back to the Earth's surface, thus creating the greenhouse effect: carbon dioxide (CO₂); methane (CH₄); nitrous oxide (N₂O); hydrofluorocarbons (HFCs); perfluorocarbons (PFCs); and sulphur hexafluoride (SF₆).

Grievance Mechanism

A formal complaint process put in place for receiving complaints, normally on workplace-related conditions and concerns of labour and/or human rights violations, and for providing remedy. Grievance mechanisms can be State-based or non-State based, judicial or non-judicial. They can be put in place for employees, other workers, and their representatives (Worker Grievance Mechanism) or for external stakeholders (Operational-Level Grievance Mechanism). Effective grievance mechanisms are expected to be legitimate, accessible, predictable, equitable, transparent, rights-compatible and a source of continuous learning.

Habitat

A terrestrial, freshwater or marine geographical unit or airway that supports assemblages of living organisms and their interactions with the non-living environment.²⁷⁵

Hazard

A source of potential harm, injury or damage.

Hazardous Child Labour

Work that, by its nature or the circumstances in which it is carried out, is likely to jeopardise the health, safety or morals of children.²⁷⁶ Hazardous

275. IFC, *Performance Standard 6*, 2012, Page 2, Accessed online: 21 December 2020, <https://www.ifc.org/wps/wcm/connect/3baf2a6a2bc5417496c5eec8085c455f/PS6_English_2012.pdf?MOD=AJPERES&CVID=jxNbLCO>.

276. ILO, *Worst Forms of Child Labour Convention, 1999 (No. 182)*, Adopted 17 June 1999, Entered into force 19 November 2000, Accessed online: 21 December 2020, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182>.

child labour constitutes one of the Worst Forms of Child Labour.

Hazardous Substance

Any material that poses a threat to human health and/or the environment.

Health

A state of physical, mental and social well-being, and not merely the absence of disease or infirmity.

High Conservation Value Areas

Natural habitats that are of outstanding significance or critical importance due to their high biological, ecological, social or cultural value. The High Conservation Value approach consists of six Values: species diversity, landscape-level ecosystems and mosaics, ecosystems and habitats, ecosystem services, community needs and cultural values.²⁷⁷

Human Rights

Universal rights and freedoms regarded as belonging to all people, above the laws of any individual nation. Human rights in the Bettercoal Code specifically include those articulated in the International Bill of Human Rights and the International Labour Organisation's Declaration of Fundamental Principles and Rights at Work.

Human Rights Defenders

Individuals or groups that, in their personal or professional capacity and in a peaceful manner, strive to protect and promote human rights.²⁷⁸

Human Trafficking

The recruitment, transportation, transfer, harbouring, or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power, or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.²⁷⁹

277. Forest Stewardship Council (FSC), *High Conservation Values*, Accessed online: 13 March 2020, <<https://fsc.org/en/details-page/high-conservation-values>>.

278. Adapted from OHCHR, *United Nations Special Rapporteur on the Situation of Human Rights Defenders: Who is a Defender*, Accessed online: 18 August 2020, <<https://www.ohchr.org/en/issues/srhrdefenders/pages/defender.aspx>>.

279. OHCHR, *Protocol to Prevent, Suppress and Punish Trafficking In Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime and Protocol against the Smuggling of Migrants by Land, Air and Sea*, 2000, Accessed online: 14 Dec 2020, <<https://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx>>.

Impact

The effect an organisation has on the economy, the environment, and/or society. Impacts can be positive or adverse; actual or potential; direct or indirect; short-term or long-term; intended or unintended. In particular, environmental and social impacts refer to any change to (i) the physical, natural, or cultural environment, and (ii) the surrounding community and workers.²⁸⁰

Incident

Occurrence arising out of or in the course of work that could or does result in injury or ill health.²⁸¹

Inclusive

In the context of stakeholder engagement, this term refers to processes that include all types of stakeholders, such as men, women, the elderly, youth, displaced persons, vulnerable and disadvantaged persons or groups, without discrimination.

Indentured Labour

Work offered by a third party, often a parent or guardian, in exchange for money.

Indigenous and Tribal Peoples

Peoples as covered by the ILO's Indigenous and Tribal Peoples Convention, 1989 (No.169): (a) tribal peoples in independent countries whose social, cultural, and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations; (b) peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural, and political institutions. Self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of ILO Convention 169 apply.

280. IFC, *IFC Performance Standards on Environmental and Social Sustainability, Performance Standard 1: Assessment and Management of Environmental and Social Risks and Impacts*, 2012, Page 1, Accessed online: 21 December 2020, <https://www.ifc.org/wps/wcm/connect/c02c2e86e6cd4b5595a2b3395d204279/IFC_Performance_Standards.pdf?MOD=AJPERES&CVID=kTjHBzk>.

281. GRI, *GRI Standards Glossary 2020*, 2020, Page 26, Accessed online: 21 December 2020, <<https://www.globalreporting.org/how-to-use-the-gri-standards/gri-standards-english-language/>>.

Indirect (Energy) (Scope 2) GHG emissions

GHG emissions that result from the generation of purchased or acquired electricity, heating, cooling, and steam consumed by an organisation.

Indirect (Other) (Scope 3) GHG emissions

Indirect GHG emissions not included in energy indirect (Scope 2) GHG emissions that occur outside of the organisation, including both upstream and downstream emissions.

Industry Wage

The average rate of pay for workforce members of a specific profession in a particular industrial sector (e.g. mining) within a given geographical area, such as a country or province.

Informed Consultation and Participation (ICP) Process

A process of consultation that results in the Affected Communities' informed participation. Compared to other forms of consultation, ICP involves a more in-depth exchange of views and information, and an organised and iterative consultation, leading to the company's incorporation into the decision-making process the views of the Affected Communities on matters that affect them directly, such as the proposed mitigation measures, the sharing of development benefits and opportunities, and implementation issues.²⁸²

Integrated Mine Closure

A dynamic and iterative process that takes into account environmental, social, and economic considerations at an early stage of mine development.²⁸³

Integrity

Acting consistently with one's own values and moral compass.

Intensity

In reference to ratios such as emission intensity or energy intensity, intensity ratios determine the emission rate of a given pollutant, or energy use rate, in the context of an organisation-specific metric, for example, relative to a unit of activity, output, or any other organisation-specific metric (e.g. unit of product or production volume).

282. IFC, *IFC Performance Standards on Environmental and Social Sustainability*, 2012, Page 14, Accessed online: 21 December 2020, <https://www.ifc.org/wps/wcm/connect/c02c2e86e6cd4b5595a2b3395d204279/IFC_Performance_Standards.pdf?MOD=AJPERES&CVID=kTjHBzk>.

283. ICMM, *Integrated Mine Closure Good Practice Guide*, 2nd Edition, Page 67, Accessed online: 21 December 2020, <https://www.icmm.com/website/publications/pdfs/closure/190107_good_practice_guide_web.pdf>.

Invasive Alien Species

Invasive species are alien species that lead to changes in the structure and composition of ecosystems, detrimentally affecting ecosystem services, human economy and well-being.²⁸⁴

Just Transition

A range of social interventions needed to secure workers' rights and livelihoods during the transition towards a low carbon and climate resilient economy that maximises the benefits of climate action while minimising hardships for workers in industries that may be impacted by efforts to limit greenhouse gases or by the introduction of new technologies.²⁸⁵

Key Biodiversity Areas

Places of international importance for the conservation of biodiversity through protected areas and other governance mechanisms. They are identified nationally, based on their importance in maintaining species populations.²⁸⁶

Know Your Counterparty (KYC)

A process to collect, verify and monitor the identity and risks associated with a counterparty, meaning, an individual or entity such as a customer, a supplier, a contractor, or other business partners with whom a company exchanges financial transaction.

Labour Rights

Rights relating to labour relations between employers and employees. Also referred to as workers' rights.

Legitimate

In the context of grievance mechanisms, the term indicates the quality of enabling trust from the stakeholder groups for whose use they are intended and being accountable for the fair conduct of grievance processes.²⁸⁷

284. Adapted from International Union for Conservation of Nature (IUCN), *Invasive Species*, Accessed online: 14 December 2020, <<https://www.iucn.org/theme/species/our-work/invasive-species>>.

285. ILO, *Guidelines for a Just Transition Towards Environmentally Sustainable Economies and Societies for All*, 2015, Page 3, Accessed online: 21 December 2020, <https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/documents/publication/wcms_432859.pdf> and IndustriAll, *A Trade Union Guide to Just Transition*, Accessed online: 14 December 2020, <<http://www.industriall-union.org/a-just-transition-for-workers>>.

286. IUCN, *Invasive Species*, Accessed online: 14 December 2020, <<https://www.iucn.org/theme/species/our-work/invasive-species>>.

287. OHCHR, *Guiding Principles on Business and Human Rights*, 2011, Page 33, Accessed online: 21 December 2020, <https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf>.

Lifecycle

The journey of a product, service or operation, from its conception to its end use. In the context of a mining operation, the lifecycle is the full period of the mining process, typically including exploration, development, mining, closure and post-closure.²⁸⁸

Livelihood

The full range of means that individuals, families, and communities utilise to make a living, such as wage-based income, agriculture, fishing, foraging, other natural resource-based livelihoods, petty trade, and bartering.²⁸⁹

Living Wage

Remuneration received for a standard work week by a worker in a particular place sufficient to afford a decent standard of living for the worker and their family. Elements of a decent standard of living include food, water, housing, education, health care, transport, clothing, and other essential needs including provision for unexpected events.²⁹⁰

Long-term Water Treatment

Water treatment that needs to remain active after the closure of the mine, until it can be demonstrated that it is no longer needed.

Management System

A set of documented policies, processes, and procedures that collectively provide a systematic framework for ensuring that tasks are performed correctly, consistently, and effectively to achieve the desired outcomes and to drive continual improvement in performance.

Material Payment

Important or relevant revenue streams. A stream is material if its omission or misstatement could materially affect the veracity of the information disclosed, or substantively influences the assessments and decisions of stakeholders.

Material Topic

Topics that reflect a reporting organisation's significant economic, environmental and social

288. Adapted from ICMM, *Integrated Mine Closure Good Practice Guide*, 2nd Edition, Page 67, Accessed online: 21 December 2020, <https://www.icmm.com/website/publications/pdfs/closure/190107_good_practice_guide_web.pdf>.

289. IFC, *Performance Standard 5*, 2012, Page 1, Accessed online: 21 December 2020, <https://www.ifc.org/wps/wcm/connect/75de96d4ed364bdb-8050400be02bf2d9/PS5_English_2012.pdf?MOD=AJPERES&CVID=jqex59b>.

290. Social Accountability International, *SA8000 Standard, SA8000:2014*, 2014, Accessed online: 14 December 2020, <<https://sa-intl.org/wp-content/uploads/2020/02/SA8000Standard2014.pdf>>.

impacts; or that substantively influence the assessments and decisions of stakeholders.²⁹¹

Mine Closure

The period of time when the ore-extracting and processing activities of a mine have ceased, and final decommissioning and mine reclamation are occurring. It typically includes pre-closure (detailed closure design and planning), closure (actual activities of closure of mine workings and construction/decommissioning) and post-closure (mainly long-term reclamation, monitoring, and treatment) periods, each with its own specific activities.²⁹²

Minimum Wage

The lowest amount of remuneration that an employer can legally pay wage earners for the work performed during a given period, which cannot be reduced by collective agreement or an individual contract.²⁹³

Mining-related Activities

Physical activities (e.g. land disturbance and clearing, road building, sampling, airborne surveys, facility construction, ore removal, ore processing, waste management, reclamation, etc.) carried out during any phase of the mine's life cycle (planning, impact assessment, exploration, mine construction, mining, mine closure, and post-closure).²⁹⁴

Mining Operations

Any set of activities undertaken for the purpose of extracting mineral resources, and the infrastructure required to support these activities. Mining operations may include exploration, mine construction, mining, mine closure, post-closure and related activities either as separately or in combination.²⁹⁵

291. GRI, *GRI Standards Glossary 2020*, 2020, Page 14, Accessed online: 21 December 2020, <<https://www.globalreporting.org/how-to-use-the-gri-standards/gri-standards-english-language/>>.

292. IRMA, *IRMA Standard for Responsible Mining*, 1st Edition, 2018, Page 193, Accessed online: 21 December 2020, <https://responsiblemining.net/wp-content/uploads/2018/07/IRMA_STANDARD_v.1.0_FINAL_2018.pdf>.

293. ILO, *What is a Minimum Wage?*, Accessed online: 14 December 2020, <https://www.ilo.org/global/topics/wages/minimum-wages/definition/WCMS_439072/lang-en/index.htm>.

294. IRMA, *IRMA Standard for Responsible Mining*, 1st Edition, 2018, Page 194, Accessed online: 21 December 2020, <https://responsiblemining.net/wp-content/uploads/2018/07/IRMA_STANDARD_v.1.0_FINAL_2018.pdf>.

295. *Ibid.*

Mitigation Hierarchy

A set of prioritised steps that a business can use to alleviate harm to the environment as far as possible by prioritising options in a sequential way: through avoidance, minimisation or mitigation, restoration or rehabilitation, and compensation or offsetting of adverse impacts. The mitigation hierarchy involves prioritising options in a sequential way, as follows:

Modern Slavery

A non-legal umbrella term comprising multiple forms of exploitation, including slavery, practices similar to slavery (debt bondage, serfdom, children working in slavery or slavery-like conditions, domestic servitude, sexual slavery and servile forms of marriage)²⁹⁶, forced labour (also referred to as compulsory labour), the Worst Forms of Child Labour and human trafficking. The term modern slavery is however sometimes used as a synonym for forced labour.

Money Laundering

The illegal process of concealing the origins of money, generated by criminal activity by passing it through a complex sequence of bank transfers or commercial transactions to hide the origin of the funds.

Natural Habitat

Areas composed of viable assemblages of plant and/or animal species of largely native origin, and/or where human activity has not essentially modified an area's primary ecological functions and species composition.²⁹⁷

Natural Resources

Materials or substances such as minerals, forests, water, and fertile land that occur in nature and can be exploited for economic gain.

New Mine (or New Mining Operations)

A mine that is yet to become operational and/or undergoes Bettercoal assessment for the first time.

Non-State Armed Groups

Illegal or rebel armed groups, who fight the armed forces of a government or against each other, posing a threat to the peace and security of local

populations, rather than serving the interests of a state.²⁹⁸

Occupational or Work-related Injury or Ill Health

Adverse impacts on health arising from exposure to hazards at work. 'Ill health' indicates damage to health and includes diseases, illnesses, and disorders.²⁹⁹

Occupational Health and Safety

See *Occupational or Work-related Injury or Ill Health*.

Occupational Health and Safety Risk

The combination of the likelihood of occurrence of a work-related hazardous situation or exposure, and the severity of injury or ill health that can be caused by the situation or exposure.

Operation(s)

In the context of the Bettercoal Code, premises owned by or under the management control of a coal mining company.

Overtime

Hours worked in addition to those of a regular schedule.

Personal Protective Equipment (PPE)

Protective clothing and other garments, such as gloves, protective footwear, helmets, goggles, and earplugs, all designed to protect the wearer from exposure to work-related hazards.

Physical Displacement

Relocation or loss of shelter.

Policy

A statement of principles and intentions.

Politically Exposed Person (PEP)

A natural person who is or who has been entrusted with prominent public functions.

Pollutants

Waste substances that contaminates the water, air or soil.

296. OHCHR, *1956 Supplementary Convention on the Abolition of Slavery*, Article 1, Accessed online: 14 December 2020, <<https://www.ohchr.org/EN/ProfessionalInterest/Pages/SupplementaryConventionAbolitionOfSlavery.aspx>>.

297. IFC, *Performance Standard 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources*, 2012, Page 3, Accessed online: 21 December 2020, <https://www.ifc.org/wps/wcm/connect/3baf2a6a2bc5417496c5eec8085c455f/PS6_English_2012.pdf?MOD=AJPERES&CVID=jxNbLCO>.

298. OHCHR, *The Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)*, Adopted on 8 June 1977, Entered into force 7 December 1978, Accessed online: 21 December 2020, <<https://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolII.aspx>>.

299. GRI, *GRI Standards Glossary 2020*, 2020, Page 26, Accessed online: 21 December 2020, <<https://www.globalreporting.org/how-to-use-the-gri-standards/gri-standards-english-language/>>.

Pollution

The presence of a substance in the environment that, because of its chemical composition or quantity, prevents the functioning of natural processes and produces undesirable environmental and health effects.

Post Closure

General term referring to the period after the completion of all works needed to implement the closure of the site. Sometimes used to refer only to a period of monitoring and maintenance leading up to relinquishment, but may include a period in which ongoing activity (such as the operation of a water treatment plant) is needed.³⁰⁰

Post Closure (Land Use)

The use of mined lands after the completion of extractive mining and closure activities.³⁰¹

Premium Rate of Pay

Pay rate that is higher than the normal working week pay rate.

Prison Labour or Penal Labour

Work carried out by prisoners. It amounts to forced labour when carried out involuntarily by prisoners who have not been convicted in a court of law and whose work is not supervised by a public authority. It also includes involuntary work done by a prisoner for the benefit of a private undertaking.

Procedure

A specified manner to conduct an activity or a process. Procedures can be documented or not.

Progressive Closure

Broad term that encompasses ongoing efforts throughout the mine operations that seek to advance closure activities during construction and operation. Examples of progressive closure activities include disturbed land rehabilitation and revegetation, decommissioning and demolition of unused infrastructure.³⁰²

Protected Area

A geographic area that is designated, regulated, or managed to achieve specific conservation objectives.

300. ICMM, *Integrated Mine Closure Good Practice Guide*, 2nd Edition, 2019, Page 68, Accessed online: 21 December 2020, <https://www.icmm.com/website/publications/pdfs/closure/190107_good_practice_guide_web.pdf>.

301. *Ibid.*

302. ICMM, *Integrated Mine Closure Good Practice Guide*, 2nd Edition, 2019, Page 68, Accessed online: 21 December 2020, <https://www.icmm.com/website/publications/pdfs/closure/190107_good_practice_guide_web.pdf>.

Ramsar Site

A wetland site designated to be of international importance under the Convention on Wetlands, known as the Ramsar Convention.

Regular Employment Relationship

Full-time, continuous employment where the employee works on his or her employer's premises or under the employer's supervision.

Rehabilitation

The return of land to a stable productive and self-sustaining condition, after taking into account beneficial uses of the site and surrounding land. Reinstatement of degrees of ecosystems and function where restoration is not the objective.³⁰³

Remediation

The processes of providing remedy for an adverse human rights impact and to the substantive outcomes that can counteract, or make good, the adverse impact.

Remuneration

Includes wages or salaries and any other benefits (in cash or in kind) paid by employers to workers.

Reproductive Hazard

A 'reproductive' hazard is an agent that can adversely affect the reproductive health of women and men and/or that can adversely impact the growth and development of a fetus.

Resettlement (See also Displacement)

Refers both to physical displacement and to economic displacement as a result of the operation-related land acquisition and/or restrictions on land use. Resettlement is considered involuntary when affected persons or communities do not have the right to refuse land acquisition or restrictions on land use that result in physical or economic displacement. This occurs in cases of (i) lawful expropriation or temporary or permanent restrictions on land use and (ii) negotiated settlements in which the buyer can resort to expropriation or impose legal restrictions on land use if negotiations with the seller fail.³⁰⁴

Restoration

The progressive reinstatement of an original (pre-mining) ecosystem in all its structural and functional aspects.³⁰⁵

303. *Ibid.*

304. IFC, *Performance Standard 5*, 2012, Page 1, Accessed online: 21 December 2020, <https://www.ifc.org/wps/wcm/connect/75de96d4ed364bdb8050400be02bf2d9/PS5_English_2012.pdf?MOD=AJPERES&CVID=jqex59b>.

305. IUCN, *Ecosystem Restoration*, Accessed online: 14 December 2020 <<https://www.iucn.org/commissions/commission-ecosystem-management/our-work/cems-thematic-groups/ecosystem-restoration>>.

Retrenchment

The process of cutting down or cutting off resources as a result of economic or technical adverse circumstances, or as a result of a company re-organisation or restructuring. In the context of mine closure, this refers to the process of downscaling the workforce in anticipation of the cessation of mining operations. Also referred to as redundancy, downsizing or lay-offs.

Rights-Compatible

In the context of grievance mechanisms, the term indicates that outcomes and remedies are in accordance with internationally recognised Human Rights.³⁰⁶

Risk

A combination of the probability of certain hazard occurrences and the severity of impacts resulting from such an occurrence, and of their impacts, both positive and adverse.³⁰⁷

Risk Assessment

The systematic evaluation of the degree of risk posed by an activity or operation. The process of using the results of risk analysis to rank and/or compare them with acceptable risk criteria or goals.

Safety

The condition of being free from danger, risks, or injury.

Scope of GHG emissions

Classification of the operational boundaries within which GHG emissions occur. 'Scope' classifies whether GHG emissions are created by an organisation itself, or are created by other related organisations, for example electricity suppliers or logistics companies. There are three classifications of Scope: Scope 1, Scope 2 and Scope 3.

Security Personnel

Individuals employed for the purposes of guarding the property of an organisation, crowd control, loss prevention and escorting persons, goods, and valuables.³⁰⁸

306. OHCHR, *Guiding Principles on Business and Human Rights*, 2011, Page 33, Accessed online: 21 December 2020, <https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf>.

307. IFC, *IFC Performance Standards on Environmental and Social Sustainability. Guidance Note 1: Assessment and Management of Environmental and Social Risks and Impacts*, 2012, Page 1, Accessed online: 21 December 2020, <https://www.ifc.org/wps/wcm/connect/c02c2e86e6cd4b5595a2b3395d204279/IFC_Performance_Standards.pdf?MOD=AJPERES&CVID=kTjHBzk>.

308. GRI, *GRI Standards Glossary 2020*, 2020, Page 19, Accessed online: 21 December 2020, <<https://www.globalreporting.org/how-to-use-the-gri-standards/gri-standards-english-language/>>.

Self-Assessment

In the context of the Bettercoal Code, the assessment carried out by Suppliers describing their mine sites and facilities and evaluating their own performance against the requirements of the Code. Suppliers can use the Self-Assessment to gauge their preparedness for a Site-Assessment, to improve practices and to identify Objective Evidence required during the Site Assessment.

Sexual Harassment

A form of gender-based violence and harassment. It includes a range of behaviour and practices of a sexual nature, including physical, verbal or non-verbal conduct, which is unwelcome, unreasonable, and offensive to the recipient and creates an intimidating, hostile or humiliating working environment for the recipient.³⁰⁹

Significant Changes (to Existing Mining Operations)

Changes to the scale or scope of an operation (e.g. production increases, new or expanded activities or facilities, etc.) that may pose new adverse environmental, social and/or human rights impacts, or significantly change the nature or degree of an existing impact.³¹⁰

Site-Assessment

In the context of the Bettercoal Code, Step 3 of the Assessment Process, which includes a site visit. The site-specific, methodical, observational and documented process for obtaining assessment evidence and evaluating it objectively to determine the extent to which the Code is fulfilled.

Social Transition (See also Just Transition)

In the context of mine closure, the undertaking of activities to facilitate or ease the transition from the operational to the post-closure phase, such as support for livelihood diversification programmes, training, skills transfers, etc.³¹¹

Stakeholder

An individual, a group of individuals, a company, an organisation or institution that can be reasonably expected to be affected by the company's activities, products and/or services, or whose actions can

309. ILO, *Sexual Harassment in the World of Work*, Accessed online: 10 November 2020, <https://www.ilo.org/wcmsp5/groups/public/---dgreports/-gender/documents/briefingnote/wcms_738115.pdf>.

310. IRMA, *IRMA Standard for Responsible Mining*, 1st Edition, 2018, Page 200, Accessed online: 21 December 2020, <https://responsiblemining.net/wp-content/uploads/2018/07/IRMA_STANDARD_v.1.0_FINAL_2018.pdf>.

311. ICMM, *Integrated Mine Closure Good Practice Guide*, 2nd Edition, 2019, Accessed online: 21 December 2020, <https://www.icmm.com/website/publications/pdfs/closure/190107_good_practice_guide_web.pdf>.

reasonably be expected to affect the ability of the company to implement its strategies and achieve its objectives.³¹² These include, and are not limited to employees, other workers such as contractors, suppliers, local communities, governments, and civil society organisations.

Stakeholder Engagement

An umbrella term encompassing a range of activities and interactions over the life cycle of a mining operation. These include: information disclosure, stakeholder consultation, negotiation and partnerships, grievance management, stakeholder involvement in mining operation monitoring, reporting to stakeholders.³¹³

Standard

A set of rules or principles that are used as the basis for judgment.

Strategic Community Investment

Voluntary contributions or actions by companies to help communities in their areas of operation address their development priorities, and take advantage of opportunities created by private investment, in ways that are sustainable and support business objectives.³¹⁴

Subsidence

Lateral or vertical ground movement caused by a failure initiated at the mine workings of man-made underground mines that directly damages residences or commercial buildings. Mine subsidence does not include lateral or vertical ground movement caused by earthquake, landslide, volcanic eruption, soil conditions, soil erosion, soil freezing and thawing, improperly compacted soil, construction defects, roots of trees and shrubs or collapse of storm and sewer drains and rapid transit tunnels.

Supplier

In the context of the Bettercoal Code, an entity with a single coal mining site, or multiple coal

312. GRI, *GRI Sustainability Reporting Standards Glossary 2020*, 2020, Page 20, Accessed online: 21 December 2020, <<https://www.globalreporting.org/how-to-use-the-gri-standards/gri-standards-english-language/>>.

313. IFC, *Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets*, 2017, Accessed online: 21 December 2020, <https://www.ifc.org/wps/wcm/connect/affbc005-2569-4e58-9962-280c483baa12/IFC_StakeholderEngagement.pdf?MOD=AJPERES&CVID=jkD13-p>.

314. IFC, *Strategic Community Investment - A Good Practice Handbook for Companies Doing Business in Emerging Markets*, 2010, Accessed online: 21 December 2020, <<https://www.ifc.org/wps/wcm/connect/95c6b4b5-2097-4f47-9518-7a21b8516c1a/12014complete-web.pdf?MOD=AJPERES&CACHEID=ROOTWORKSPACE-95c6b4b5-2097-4f47-9518-7a21b8516c1a-jkD15-5>>.

mining sites, that has signed the Bettercoal Letter of Commitment.

Sustainable (Use)

Of, relating to, or being, a method of harvesting or using a resource so that the resource is not depleted or permanently damaged.

Sustainable Development

Development that meets the needs of the present without compromising the ability of future generations to meet their own needs.

Sustainability Reporting

The process of collecting, measuring, analysing, and communicating qualitative and quantitative information related to a company's governance, environmental and social performance. Also referred to as non-financial reporting, corporate social responsibility (CSR) reporting, or integrated reporting.

Tailings

Ground rock and effluents that are generated during processing of the ore.

Threatened (or Endangered) Species

Species that meet the IUCN criteria for Vulnerable (VU), Endangered (EN) or Critically Endangered (CR) species, and are facing a high, very high or extremely high risk of extinction in the wild.

Technical Feasibility

The viability of a mining operation based on whether the proposed measures and actions can be implemented with commercially available skills, equipment, and materials, taking into consideration prevailing local factors such as climate, geography, demography, infrastructure, security, governance, capacity, and operational reliability.

Uncontrolled Hazard

An identified source of potential harm, injury or detriment (i.e. a Hazard) that lacks recognised and/or approved management, operational or technical controls.

Violence and Harassment

In the world of work, a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment³¹⁵ as well as bullying.

315. ILO, *Violence and Harassment Convention 2019 (No. 190)*, 2019, Accessed online: 14 December 2020, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190>.

Waste

Solid, liquid, or gaseous material that is discarded or no longer needed. Waste can cause pollution and adverse impacts on the environment if not properly managed. In the coal supply chain, the main forms of waste include hazardous substances, air emissions and water discharges, and general operational waste.

Waste Management

The activities and actions required to manage waste from its inception to its final disposal. This includes the collection, transportation, treatment and disposal of waste, together with monitoring and regulation of the waste management process, as well as activities for the prevention of waste production through in-process modification, re-use and recycling.

Water Consumption

Sum of all water that has been withdrawn and incorporated into products, used in the production of crops or generated as waste, has evaporated, transpired, or been consumed by humans or livestock, or is polluted to the point of being unusable by other users, and is therefore not released back to surface water, groundwater, seawater, or a third party over the course of the reporting period.³¹⁶

Water Management

The activities and actions required to plan, develop, and manage the optimum use and distribution of water resources.

Watershed

An area of land that drains all the streams and rainfall to a common outlet, such as the outflow of a reservoir, mouth of a bay, or any point along a stream channel. A watershed is often referred to as a water catchment or drainage basin.

Water Stewardship

The use of water that is socially equitable, environmentally sustainable and economically beneficial, achieved through a stakeholder-inclusive process that involves site and catchment-based actions.³¹⁷ For companies, water stewardship covers the activities and actions required to improve the efficiency and cleanliness of business operations, while also facilitating the sustainable management of shared water resources. Water stewardship covers both

316. Carbon Disclosure Project (CDP), *Water Security Reporting Guidance 2019*, 2019, Accessed online: 21 December 2020, <<https://guidance.cdp.net/en/guidance?cid=1822&ctype=record&idtype=RecordID&inc-child=1µsite=0&otype=Guidance>>.

317. Alliance for Water Stewardship (AWS), *AWS International Water Stewardship Standard, Version 2.0*, 2019, Pag. 4, Accessed online: 22 December 2020, <<https://a4ws.org/download-standard-2/>>.

managing the quantity of water withdrawn by a mining operation, as well as how that water is used and discharged.

Water Withdrawal

Sum of all water drawn from surface water, groundwater, seawater, or a third party for any use over the course of the reporting period.³¹⁸

Whistle-blower

A person who exposes information or activities that are deemed illegal, unethical, or reflecting malpractice, wrongdoing, or improper behaviour within a private or public organisation.

Whistleblowing Mechanism

A system designed to collect, retain, and treat reports received by a whistle-blower and to guarantee the confidential, anonymous submission of reports by the whistle-blower.

Workers

Employees or contracted workers engaged at the mine to perform a particular task or activity.

World Heritage Sites

A place (such as a forest, mountain, lake, desert, monument, building, complex, or city) that is listed by the UNESCO as of special cultural or physical significance.³¹⁹

Worst Forms of Child Labour

The following forms of child labour:³²⁰

- › all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- › the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- › the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; and
- › work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

318. GRI, *GRI Standards Glossary 2020*, 2020, Page 24, Accessed online: 21 December 2020, <<https://www.globalreporting.org/how-to-use-the-gri-standards/gri-standards-english-language/>>.

319. UNESCO, *World Heritage*, Accessed online: 14 December 2020 <<https://whc.unesco.org/en/about/>>.

320. ILO, *Convention No. 138*, Adopted 17 June 1999, Entered into force 19 Nov 2000, Accessed online: 21 December 2020, <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138>.



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