

## **Bettercoal Code | Version 1**

**June 27, 2013**

**(Adopted by the Members of Bettercoal on July 12, 2013)**



## I. Preface

### A. Background

1. Bettercoal is a global not-for-profit membership-based organisation set up to advance continuous improvement of corporate social responsibility, including social, environmental, and ethical practices, in the coal supply chain.<sup>1</sup> The vision of Bettercoal is a coal supply chain that protects the environment, respects the rights of the people, and contributes to the livelihoods of workers and communities.
2. Bettercoal has been set up by a number of leading European energy utilities (Dong Energy, EDF, Enel, E.ON, GDF Suez, RWE, and Vattenfall) with a view to making it a global initiative that contributes to continuous performance improvement in the global coal supply chain. It has been developed in response to the absence of international, commonly accepted principles and standards for coal mining and other activities of the coal supply chain, and a need for greater assurance that ethical, social, and environmental risks and impacts are well managed throughout the coal supply chain. It is also the aspiration of its members that Bettercoal will become a mechanism for facilitating greater performance disclosure, as well as sharing of good practices for sustainability management including guidelines, tools, training, and capacity building throughout the industry.

### B. Purpose

1. The Bettercoal Code (the Code) sets out the ethical, social, and environmental principles and provisions that Bettercoal expects companies in the coal supply chain to align with. They will do so on the basis of a commitment to take measures to embrace, support, and enact those principles and provisions within their sphere of influence with a view to advance continuous improvement. Bettercoal believes that adhering to these principles and provisions is critical to the fulfilment of its vision.
2. The Code aims to become a globally accepted benchmark for ethically, socially, and environmentally responsible practices in the coal supply chain that can be assessed by independent, third-party Assessors qualified by Bettercoal. The Code will be made available publicly in four languages.<sup>2</sup>
3. The current version of the Code has been developed with a specific focus on operating conditions relevant to coal mining sites. Companies in the downstream coal supply chain are also expected to align with all the elements of the Code relevant to their operating conditions, but these companies will not initially be requested to complete Assessments, including to be assessed by independent, third-party assessors. Over time Bettercoal will consider whether and how to extend the application of the Code to companies in the downstream coal supply chain, including adapting and updating the Code as appropriate to reflect operating conditions relevant to those companies in other parts of the coal supply chain.
4. Members of Bettercoal will embrace the principles of the Code for their business operations in the coal supply chain. Members will do so on the basis of a commitment to take measures to embrace and support those principles within their sphere of influence with a view to advance continuous improvement.

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<sup>1</sup> Coal supply chain refers to business activities in the coal supply chain from extraction to cleaning, warehousing, trading, and transportation.

<sup>2</sup> English, Spanish, Russian, and Bahasa Indonesia. In the case of inconsistency between versions, reference shall default to the official language version.

## C. Scope and Application

1. The Code covers ethical, social, and environmental principles and provisions that are relevant to coal mining companies, including:
  - general performance requirements, including management systems;
  - business ethics performance, including disclosure;
  - human and labour rights and social performance, including health and safety; and
  - environmental performance.
2. The Code shall apply to the coal mining site level.
3. The Code will form the basis for assessments of coal mining sites. Bettercoal will request that coal mining sites complete self-assessments using the Bettercoal Code Self-Assessment. In addition, selected coal mining sites' alignment with the Code will be assessed by an independent, third-party assessor during on-site assessments through the use of the Bettercoal Code Assessment Guidelines. The selection of coal mining sites for Site-Assessment will take into account a number of criteria, including performance against the Bettercoal Code Self-Assessment, location of the mining site, and the nature of mining operation. Bettercoal will approve qualified assessors through a formal process, as well as determine the qualification criteria in consultation with the Bettercoal Stakeholder Advisory Group.<sup>3</sup> While Bettercoal will seek to assess coal mining sites' performance against the Code with a view to identify areas of performance improvement, the coal mining sites cannot be certified against the Code.<sup>4</sup> Coal mining sites' performance will be quantitatively and qualitatively assessed against the Bettercoal Code.
4. The results of self- and site-assessments will be made available to Bettercoal and individual Bettercoal members through the Bettercoal Assessment Database with due regard for competition law and business confidentiality.

## D. Use of Assessment Results

1. Bettercoal will use the assessment results as a basis for developing guidelines, tools, and methodologies to improve ethical, social, and environmental practices at the coal mining site level. Such guidelines, tools, and methodologies will be developed in consultation with stakeholders through Bettercoal Working Groups and will seek, *inter alia*, to identify good practices, for e.g., management and reporting on a particular issue. Over time, the database will allow Bettercoal to identify, e.g., areas of performance that coal mining sites find particularly difficult to manage—and that may be addressed using the good practices identified in collaboration with stakeholders.
2. Bettercoal will publicly report on the performance of Bettercoal at least annually, including reporting on the consolidated performance of all assessed coal mining sites.
3. Bettercoal members will learn more about the performance of their suppliers, and will inform their due diligence processes in the coal supply chain, on the basis of the assessment results.
4. Coal mining sites will be able to publicly acknowledge their commitment to align with the Code. Coal mining sites that have undergone a Bettercoal third-party site-assessment may disclose their results.<sup>5</sup>

<sup>3</sup> For a list and description of the Stakeholder Advisory Group, please visit: <http://bettercoal.org/stakeholder-advisory-group.aspx>.

<sup>4</sup> Site-assessments will be planned and executed taking into account existing internal and external sustainability assurance mechanisms, such as ISO 14001 and SA 8000 certifications.

<sup>5</sup> The guidance document for reporting is under development.

## E. The Obligations of Bettercoal Members

1. Members of Bettercoal undertake certain obligations relevant to their coal operations in the coal supply chain. The full set of obligations is listed in the [Bettercoal Articles of Association](#). In addition to paying annual dues; publicly endorsing Bettercoal, including its vision, mission, and Code; providing information to its annual report; and participating and contributing to the collective action of the initiative, each member has the following obligations:
  - Implement the Bettercoal Code in its coal supply chain through engagement and collaboration with coal suppliers and the use of Bettercoal tools.
  - Implement the Bettercoal Code and Bettercoal tools in its due diligence processes in the coal supply chain.
  - Recognise and promote the Bettercoal Code as a standard for ethical, social, and environmental performance in the coal supply chain.

Members who own or control coal mines themselves have additional obligations.
2. Bettercoal is committed to developing a member obligations' assurance mechanism.

## F. Support Documents

1. Implementation of the Bettercoal Code will be supported by the following guidance documents:<sup>6</sup>
  - The Bettercoal Code Assessment Guidelines
  - The Bettercoal Code Self-Assessment
  - The Bettercoal Code Assessment Procedures
2. The Bettercoal Assessment Guidelines have undergone a public consultation process such that the Code and the Guidelines were completed in parallel. The other documents are developed in collaboration with the Bettercoal Stakeholder Advisory Group; other external feedback will be sought as appropriate. Future revisions and updates will take place in consultation with the Stakeholder Advisory Group or such other multi-stakeholder advisory group in place.

## G. Review

1. Bettercoal will undertake a formal review of the Principles and Provisions of the Code and associated assessment tools at least every three years. Updates to the Code will be formally reissued after approval by the Bettercoal Board and following a public consultation process.
2. Bettercoal is committed to the ISEAL Code of Good Practice for Setting Social and Environmental Standards (ISEAL Standard-Setting Code).
3. Bettercoal will continue to work with stakeholders to ensure that these standards are relevant and achievable, and that they address key ethical, social, and environmental challenges with due regard to the objectives of Bettercoal.

<sup>6</sup> This list is not exhaustive; other documents may be developed at a later stage.

## II. Principles

### General Implementation Expectations

**Principle 1.** Companies shall comply with national applicable laws and regulations, and widely accepted international laws and strive to meet generally accepted international standards for ethical, social, and environmental performance where those exceed national standards.

**Principle 2.** Companies shall adopt and implement appropriate policies, systems, procedures, and controls, including ensuring organisational capacity and competency. Companies shall integrate these social and environmental elements into decision making, as well as support Continuous Improvement throughout the operational life cycle, and ensure companies are respecting Human Rights and contributing to sustainable development.

### Business Ethics

**Principle 3.** Companies shall commit to ethical, social, and environmental performance disclosure and transparency.

**Principle 4.** Companies shall work against Corruption in all its forms, including extortion and Bribery, and prohibit bribery in any direct or indirect form.

### Human Rights and Social Performance

**Principle 5.** Companies shall respect and promote Human Rights understood at a minimum as those in the International Bill of Human Rights<sup>7</sup> and international humanitarian law.

**Principle 6.** Companies shall respect and recognise the rights of Workers, in particular the rights included in the International Labour Organization's (ILO) Declaration on Fundamental Principles and Rights at Work, as they derive from the ILO's eight fundamental conventions.<sup>8</sup>

**Principle 7.** Companies shall contribute to the long-term social, cultural, environmental, economic, and institutional development of communities in which they operate.

### Environment

**Principle 8.** Companies shall implement practices that promote the Sustainable and efficient use of Natural Resources in their Operations.

**Principle 9.** Companies shall commit to pollution prevention in their operations by avoidance, abatement, and emission controls and the Rehabilitation of polluted sites.

**Principle 10.** Companies shall integrate practices that protect and support Biodiversity and Ecosystem Services impacted by their operations, throughout the life cycle of the mine.

<sup>7</sup> The International Bill of Human Rights consists of the UDHR (adopted in 1948); the International Covenant on Civil and Political Rights (1966) with its two Optional Protocols; and the International Covenant on Economic, Social, and Cultural Rights (1966).

<sup>8</sup> Eight ILO Conventions have been identified by the ILO's Governing Body as being fundamental to the rights of human beings at work, irrespective of levels of development of individual member states. These rights are a precondition for all the others in that they provide for the necessary implements to strive freely for the improvement of individual and collective conditions of work: 29: Forced Labour, 87: Freedom of Association and Protection of the Right to Organize, 98: Right to Organize and Collective Bargaining, 100: Equal Remuneration, 105: Abolition of Forced Labour, 111: Discrimination (Employment and Occupation), 138: Minimum Age Convention, and 182: Elimination of the Worst Forms of Child Labour (1999).

## III. Provisions

### General Implementation Expectations

1. **Principle 1. Companies shall comply with national applicable laws and regulations and widely accepted international laws and strive to meet generally accepted international standards for ethical, social, and environmental performance where those exceed national standards.**
  - 1.1. **General**
    - 1.1.1. Companies will put in place appropriate procedures for identifying their legal obligations in respect to ethical, social, and environmental performance, and international Human Rights laws and principles, as well as for identifying relevant international standards pertaining to the same issues that exceed national standards.
    - 1.1.2. Companies will maintain financial accounts, which properly and fairly document all business transactions where required by Applicable Law and in accordance with national or international accounting standards. These accounts must be independently certified and/or audited by a properly qualified auditor, who is appointed free of any bias or influence.
2. **Principle 2. Companies shall adopt and implement appropriate policies, systems, procedures, and controls, including ensuring organisational capacity and competency. Companies shall integrate these social and environmental elements into decision making, as well as support continuous improvement throughout the operational life cycle and ensure companies are respecting Human Rights and contributing to sustainable development.**
  - 2.1. **General**
    - 2.1.1. Companies will have a Policy or—as appropriate—multiple policies, which cover the ethical, Human Rights, social, and environmental performance expectation areas of the Bettercoal Code collectively, integrating sustainability performance throughout the operational life cycle.
    - 2.1.2. Companies will commit to prevent, minimise, mitigate, and compensate environmental and social impacts as outlined as per international good practice.
    - 2.1.3. Companies will establish and maintain a process of social, environmental, and ethical Due Diligence for identifying the social, environmental, ethical, and Human Rights risks and impacts at the operational level, including before each sizeable investment, and regularly during the life cycle of the mine, including exploration, establishing a new mining site, making significant changes to existing facilities, and closing a mine commensurate with the type, scale, and location of the operation and consistent with Good International Industry Practices.<sup>9</sup>
    - 2.1.4. This process will be undertaken in the context of the operation's area of influence including (i) activities and facilities directly owned, operated, or managed (including by Contractors) and that are a component of the operation, (ii) impacts from unplanned but predictable developments caused by the operation that may occur later or at a different location, or (iii) indirect impacts on biodiversity or on ecosystem services upon which Affected Communities' livelihoods are dependent.

<sup>9</sup> As defined by the 2012 IFC Performance Standards.

- 2.1.5. The process for identifying the social, environmental, ethical, and Human Rights risks and impacts of the operation must include:
- engagement with affected communities and other stakeholders with a view to develop a complete and comprehensive view of risks and impacts, as well as to source perspectives on effective means for addressing such risks and impacts, including through prevention, mitigation, and Remediation; and
  - consideration of risks and impacts associated with Business Partners' operations that may have the potential to impact the companies' own practices and the liability arising from such business relationships.
- 2.1.6. Companies will take appropriate action to avoid and minimise negative impacts and will prioritise those impacts that are, or would be, most severe or where a delayed response would render them irredeemable.
- 2.1.7. Companies will develop and implement documented Management Systems, including procedures, controls, monitoring, training and education, internal communication, and organisational capacity. Such management systems will contain clearly defined roles, responsibilities, and competency to prevent, mitigate, and remediate identified ethical, social, and environmental risks and impacts.
- 2.1.8. Companies will favour avoidance of impacts over minimisation, and, where residual impacts remain, companies will implement or consider compensation/offsets, wherever Technically and Financially Feasible.
- 2.1.9. Contracted workers at the site level will be required to comply with the company's management and operating systems relevant to the Bettercoal Code. Companies will communicate the expectations outlined in the Code to contracted workers at the site level.
- 2.1.10. Companies will use their best endeavours to promote responsible business practices among their significant business partners.
- 2.1.11. Companies will establish procedures to monitor and measure the effectiveness of their management systems.
- 2.1.12. Companies will identify the range of stakeholders who may be potentially affected and stakeholders who may be interested in their actions and consider how communicating about the operation might facilitate mutual understanding. Companies will develop and implement a stakeholder engagement plan that is scaled to the operation's risks and impacts and development stage, and is tailored to the characteristics and interests of the various stakeholders, including host governments, civil society, the private sector, and the affected communities. Where applicable, the stakeholder engagement plan will include differentiated measures recommended by interested parties to allow the effective participation of those identified as disadvantaged or vulnerable. Companies will use monitoring tools to provide early warning of potential challenges in the relationships among companies, communities, and other stakeholders.

## **2.2. Whistle-blowing and Grievance Mechanisms**

- 2.2.1. Companies will provide a protected internal disclosure (whistle-blowing) mechanism that encourages Employees and stakeholders to report any activity that is contrary to the company's principles and ensures the protection of the whistle-blower.

- 2.2.2. Companies will have an operational grievance mechanism and fully support and cooperate with all, judicial and non-judicial, local and international, traditional or national grievance and remedy mechanisms, where they already exist.
- 2.2.3. Companies will provide a grievance mechanism for employees (and their organisations where they exist) to raise workplace concerns related to any standard covered by this Code. It will, whether in parallel or integrated, ensure a grievance mechanism for other stakeholders, with special emphasis on the most vulnerable persons, groups, and organisations. The grievance mechanism shall be legitimate, accessible, predictable, equitable, transparent, Rights-Compatible, and a source of continuous learning as defined by the UN Guiding Principles on Business and Human Rights. The mechanism shall allow for anonymous complaints to be raised in a safe environment, addressed independently, and 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 Bargaining agreements.
- 2.2.4. As appropriate, the grievance mechanism will be developed in consultation with the stakeholder groups for whose use it is intended, and will focus on dialogue as the means to address and resolve grievances.
- 2.2.5. Companies will communicate to their employees that no employee shall suffer demotion, penalty, or other adverse consequences for voicing a concern, including refusing to pay a bribe or facilitation payment, even if this action may result in the enterprise losing business. Both employee-focused and Community-focused mechanisms should allow for possible anonymity.

### **2.3. Mine Closure**

- 2.3.1. Companies will prepare and regularly review a conceptual social and environmental mine closure plan in relation to each mining operation, and provide adequate resources, including financial and human resources, to meet closure and rehabilitation requirements as defined by national law and prevailing industry standards, such as the IFC performance standards. New facilities will have a conceptual closure plan from start-up, and existing facilities will put in place a conceptual plan as early as possible.
- 2.3.2. Companies will engage periodically with local stakeholders at their site, including (but not limited to) Indigenous Peoples and Tribal Peoples, subsistence farmers, artisanal and small-scale miners, employees, and regulators, regarding mine closure and rehabilitation plans in order to establish a socially acceptable and operational mine closure plan.

## Business Ethics

### **3. Principle 3. Companies shall commit to ethical, social, and environmental performance disclosure and transparency.**

#### **3.1. General**

- 3.1.1. Companies will report on their material impacts and disclose their ethical, social, and environmental performance to their stakeholders in ways that are appropriate and meaningful to their needs, including the use of good practice international reporting guidelines for ethical, social, and environmental performance.<sup>10</sup>
- 3.1.2. Companies will commit to and support implementation of the principles of the most recent version of the Extractives Industry Transparency Initiative.<sup>11</sup>

### **4. Principle 4. Companies shall work against corruption in all its forms, including extortion and bribery, and prohibit bribery in any direct or indirect form.**

#### **4.1. General**

- 4.1.1. Companies will follow the UN's Convention against Corruption. Companies will not, directly or indirectly, offer, promise, give, or demand a bribe or other undue advantage to obtain or retain business or other improper advantage. Further, companies will prohibit the use of Facilitation Payments. This provision also applies to business partners operating on their behalf.
- 4.1.2. Companies will enhance the transparency of their activities in the fight against bribery, bribe solicitation, and extortion, including by making public commitments against bribery, bribe solicitation, and extortion and publicly disclosing measures undertaken to honour these commitments.

## Human Rights and Social Performance

### **5. Principle 5. Companies shall respect and promote Human Rights understood at a minimum as those in the International Bill of Human Rights<sup>12</sup> and international humanitarian law.**

#### **5.1. General**

- 5.1.1. Companies will follow the Guiding Principles on Business and Human Rights, which set out base expectations for all domestic and international businesses worldwide with regard to identifying and managing impacts of their business activities on Human Rights.

This includes but is not limited to:

- a policy commitment to meet their responsibility to respect Human Rights;
- a Human Rights due diligence process to identify, prevent, mitigate, and account for how they address their impacts on Human Rights; and
- provision or cooperation in provision of effective remedy to those affected by adverse Human Rights impacts through legitimate processes.

<sup>10</sup> The Global Reporting Initiative is a standard reference for good practices.

<sup>11</sup> This can be found on the Extractive Industry Transparency Initiative website: <http://eiti.org/>

<sup>12</sup> The International Bill of Human Rights consists of the UDHR (adopted in 1948); the International Covenant on Civil and Political Rights (1966) with its two Optional Protocols; and the International Covenant on Economic, Social, and Cultural Rights (1966).

In addition, companies will:

- not profit or seem to be profiting from Human Rights violations by others;
- not condone or seem to condone Human Rights violations by others;
- effectively communicate their policy to business partners and governments;
- have people responsible for implementing Human Rights policies with the appropriate skills and expertise; and
- identify opportunities to support and advance Human Rights.

- 5.1.2. Companies will take all reasonably achievable measures to avoid complicity in Human Rights violations by government actors and private goods and services providers.
- 5.1.3. Where adverse Human Rights impacts cannot be reasonably addressed at once, companies will first seek to prevent and mitigate those that are most severe or where a delayed response would make them irremediable.
- 5.1.4. Where adverse Human Rights impacts have been found, companies will commit to a time bound remediation plan.
- 5.1.5. Companies will engage openly with diverse stakeholders and participate in multi-sectoral initiatives if possible to address common issues around Human Rights, and report on progress in a systematic and credible manner that underscores public trust.

## 5.2. Indigenous and Tribal Peoples

- 5.2.1. Companies will respect the rights of indigenous and tribal peoples and their social, cultural, environmental, and economic interests, including their connection with lands and waters as articulated and defined in the ILO's Convention 169, the UN's Declaration on the Rights of Indigenous and Tribal Peoples, and IFC's Performance Standard 7.
- 5.2.2. Companies will seek to obtain broad-based consent of affected indigenous and tribal peoples and will have this support, including partnerships and/or programmes to provide benefits and mitigate impacts, formally documented.
- 5.2.3. Companies will follow with the principles of Free, Prior, and Informed Consent when a operation involves (i) significant, direct impacts to ancestral territories of indigenous and tribal peoples and natural resources contained therein, irrespective of recognition by the state; (ii) the involuntary relocation of indigenous communities; and (iii) the destruction of places of indigenous culture and spiritual significance.<sup>13</sup>

## 5.3. Use of Security Personnel

- 5.3.1. In areas of heightened risk or with significant presence of public and private security forces, companies will follow the Voluntary Principles on Security and Human Rights (VPs). Companies will communicate expectations on the respect and protection of Human Rights by public security forces to host governments at the highest level

<sup>13</sup> "Free" means that the company will not engage in, or facilitate coercion when dealing with communities and partners. "Prior" means that the company will always endeavour to engage in a timely, honest, and culturally appropriate way with Communities before undertaking significant activities and at appropriate stages throughout the life of a project. "Informed" means that the company will work to build trust and understanding through an open exchange of information that enables knowledgeable decision making by Communities; and "Consent" means that the company will endeavour to obtain and maintain the support and agreement of Communities for its activities, in ways that are respectful and sensitive to local cultural and consultative processes and to the interests of the Community and the Company.

possible, according to the company's access and influence, and will show their expectations by example.

- 5.3.2. Companies will conduct screening of the Human Rights record of public and private security forces in areas of operation.
- 5.3.3. Companies will incorporate the VPs into investment agreements with host governments, where possible.
- 5.3.4. Companies will develop a Memorandum of Understanding with the national government to establish joint criteria for security arrangements for high-risk zones or in areas where public security arrangements are identified as needed.
- 5.3.5. Companies will communicate security arrangements, as well as the company's commitment to the VPs, to host communities.
- 5.3.6. Companies will use armed security personnel only when there is no acceptable alternative to manage risk or to avoid real threat to life of employees, contracted workers, and Visitors to the operation.
- 5.3.7. Companies will ensure that all security personnel respect the Human Rights and dignity of all people and use the minimum force proportionate to the threat.
- 5.3.8. Companies will conduct security risk assessments and ensure that security personnel receive regular training and operate in accordance with the VPs.<sup>14</sup>
- 5.3.9. Companies will develop agreements with public security providers to provide security measures that are appropriate given existing security risks.<sup>15</sup>
- 5.3.10. Companies will regularly monitor, record, and report any credible allegations of Human Rights abuses by public and private security and seek outcomes and resolutions.

#### **5.4. Conflict-Affected and High-Risk Areas**

- 5.4.1. Companies will conduct an assessment to define whether the site is located in a Conflict-Affected and/or High-Risk Area.
- 5.4.2. Companies will adapt existing due diligence measures to the specific needs of conflict-affected and high-risk contexts in accordance with the UN's Global Compact Guidance on Responsible Business in Conflict-Affected and High-Risk Areas.
- 5.4.3. In a conflict-affected and/or high-risk area, companies will take steps to monitor their business relations, transactions, flows of funds and resources to ensure that they are not providing funding or support to armed actors, who may benefit from revenues generated by the sale of such goods and resources.

### **6. Principle 6. Companies shall respect and recognise the rights of workers, in particular the rights included in the International Labour Organization's (ILO) Declaration on Fundamental Principles and Rights at Work, as they derive from the ILO's eight fundamental conventions.**

#### **6.1. General Employment Terms**

<sup>14</sup> In the absence of in-house tools, companies will use internationally recognised tools such as ICMM's Implementation Guidance Tool to conduct their security and Human Rights due diligence.

<sup>15</sup> The measures are neither excessive nor insufficient.

- 6.1.1. Companies will provide employees with documented information that is clear and understandable, regarding their rights under national labour and employment law and any applicable collective agreements, including their rights related to hours of work, wages, Overtime, compensation, and benefits upon beginning the working relationship and when any material changes occur.
- 6.1.2. Companies will maintain appropriate employee records, and companies will favour the use of Regular Employment Relationships. Obligations to employees related to labour and social security arising from the regular employment relationship will not be avoided through the use of labour-only contracting, subcontracting arrangements, piecework contracts, or through the excessive use of fixed-term contracts of employment.<sup>16</sup>

## 6.2. Child Labour

- 6.2.1. Companies will ensure they comply with minimum age standards, including that no Child less than 15 years old (or the age of 14 years when the law of the country allows) is employed in conformity with ILO Convention 138.
- 6.2.2. Companies will ensure that they do not hire children (defined as less than 18 years of age) to perform work that is hazardous or harmful to their Health, Safety, or morals in conformity with ILO Convention 182.<sup>17</sup> Underground work by children under 18 years of age is strictly prohibited.
- 6.2.3. Companies will promote education for children who are working at their sites as covered under ILO Recommendation 146 and who are subject to local compulsory education laws or attending school.<sup>18</sup>

## 6.3. Forced Labour and Freedom of Movement

- 6.3.1. Companies will not participate in, or benefit from, any form of Forced Labour, including bonded labour, forced prison labour, slavery, servitude, work performed under the menace of a penalty, or Human Trafficking. Workers will have freedom of movement during the course of their employment, and any limitation on workers' freedom of movement will need to be limited and duly justified by imperious reasons.

## 6.4. Freedom of Association and Collective Bargaining

- 6.4.1. Companies will respect the right to Freedom of Association and will not prevent or discourage workers from electing worker employee representatives, forming or joining workers' organisations of their choosing, or from bargaining collectively. Companies will not discriminate against or retaliate against workers who participate, or seek to participate, in such organisations and Collective Bargaining. Companies will engage with their workers' representatives and workers' organisations and provide them with the information needed for meaningful negotiation in a timely manner. Workers' organisations are expected to fairly represent the workers in the workforce.
- 6.4.2. Companies will respect and support the right to collective bargaining and adhere to collective bargaining agreements where such agreement exists. Where the right to

<sup>16</sup> Records will include records of piece rate and wage payments, as well as working hours, for all staff employed, whether they work on a full-time, part-time, or seasonal basis.

<sup>17</sup> ILO 182 refers to Worst Forms of Child Labour.

<sup>18</sup> Where any children are found to be in employment in violation of this Code, immediate corrective and preventive action will be taken. All measures to prevent child labour and corrective actions will be implemented, taking into account the best interest of the child, including his or her family and social situation.

freedom of association and collective bargaining is restricted under law, companies will support parallel means for independent, free association and bargaining.

## 6.5. Discrimination

- 6.5.1. Companies will promote equal opportunities for all people and will not practise or condone any form of Discrimination on the basis of factors unrelated to people's ability to perform their job. Discrimination in the workplace is prohibited in decisions related to hiring, Remuneration, overtime, access to training, promotion, termination, or retirement as outlined in ILO Convention 111. Companies will also ensure that migrant workers are engaged on substantially equivalent terms and conditions to non-migrant workers carrying out similar work.

## 6.6. Discipline

- 6.6.1. Companies will not use corporal punishment under any circumstances and will ensure that employees are not subjected to harsh or degrading treatment, sexual or physical harassment, mental, physical or verbal abuse, coercion, or intimidation in any circumstance.
- 6.6.2. Companies should ensure that on-site security measures, including body searches, are gender specific and nonintrusive so that the dignity of the worker concerned is respected.

## 6.7. Working Hours

- 6.7.1. Companies will apply normal working hours that comply with applicable law. 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 ILO Convention 1.
- 6.7.2. If overtime is required for business needs, where no specific laws and regulations exist, overtime will be voluntary, and, except in special circumstances (for example, on fly-in, fly-out sites), be limited to a maximum of 12 hours in a week.
- 6.7.3. Companies will provide employees with all legally mandated leave, including maternity and paternity, compassionate, and paid annual leave. Where no applicable law exists, paid annual leave will be provided in accordance with ILO Convention 132.<sup>19</sup>
- 6.7.4. Companies will provide all employees with at least one rest day in seven consecutive working days in accordance with ILO Convention 14 unless regulated otherwise by applicable laws.<sup>20</sup> Where these limits are required to be exceeded in special circumstances (for example, on fly-in, fly-out sites), the prevailing international industry standards will serve as a minimum. All situations where these limits are required to be exceeded should be planned so as to provide safe and humane working conditions with appropriate compensatory days off.

<sup>19</sup> ILO 132 refers to holidays with pay, entitling all employed persons (except seafarers) to an annual paid holiday of a specified minimum length. The holiday shall in no case be less than three working weeks for one year of service. This convention is ratified by 36 countries. [www.ilo.org/ilolex/cgi-lex/convde.pl?C132](http://www.ilo.org/ilolex/cgi-lex/convde.pl?C132).

<sup>20</sup> Convention 14 concerning the Application of the Weekly Rest in Industrial Undertakings (including mineral extraction) calls for employees to enjoy in every period of seven days a period of rest comprising at least twenty-four consecutive hours, except as otherwise provided in the convention articles. [www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:1985394497865711::NO:12100:P12100\\_ILO\\_CODE:C014:NO](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:1985394497865711::NO:12100:P12100_ILO_CODE:C014:NO).

## 6.8. Remuneration<sup>21</sup>

- 6.8.1. Companies will pay all employees at least a wage based on the higher of either the applicable legal minimum wage (plus associated statutory benefits) or the prevailing industry standard. Companies that are party to collective agreements that specify higher rates must respect the agreed-upon rates. In addition, companies shall strive to determine the level of a living wage in their country of operation with a view to ensure that wages paid to workers are enough to cover their basic needs and allow for some discretionary income.<sup>22</sup>
- 6.8.2. Companies will provide equal pay for work of equal value.<sup>23</sup>
- 6.8.3. Companies will pay employees a premium rate in accordance with applicable laws for work performed beyond the standard established hours. Activities requiring overtime work will be accepted voluntarily and will be infrequent in nature.
- 6.8.4. Companies will ensure that employees are not forced to buy goods and services from the company's own shops and facilities. Companies should ensure that these goods and services are not offered above market price.

## 6.9. Health and Safety

- 6.9.1. Companies will provide safe and healthy working conditions for employees and contracted workers, in accordance with ILO's occupational Health and Safety standards including health and safety conventions, recommendations, guidelines, and codes of practice; ILO Convention 176; and its associated Recommendation 183, along with the ILO Code of Practice on Safety and Health in Underground Coalmines. These conditions include but are not limited to:
- the minimisation, so far as reasonably practicable, of the causes of workplace Hazards;
  - appropriate safeguards between employees and all machinery, including mobile equipment;
  - appropriate monitoring systems for methane emissions inside mines;
  - adequate and appropriate labelling and storage of all chemicals and cleaning materials;
  - methods to protect employees and contracted workers from exposure to airborne particles and chemical fumes;
  - the identification and provision of appropriate Personal Protective Equipment (PPE) free of charge and the verification that it is current, worn, and used correctly;
  - workstations that are designed as appropriate to the task performed and to minimise occupational health risks, such as the need to exert excessive physical force, maintain an awkward posture for extended periods of time, or repetitively strain muscles, tendons, ligaments, or joints;

<sup>21</sup> Companies will make payment to the employee on a regular and predetermined basis via bank transfer or in cash or cheque form, in a manner and location convenient to the employees. All payments will be accompanied by a wage slip that clearly details wage rates, benefits, and deductions, where applicable.

<sup>22</sup> Although there is no internationally accepted instrument, the ILO recommends the following source: "[Estimating a Living Wage: A Methodological Review.](#)" The approach is also included in other responsible supply chain management codes, such as the [Ethical Trading Initiative Base Code](#), and related organised events to develop a commonly accepted approach, such as a paper from the 2008 Ethical Trade Initiative conference, "Living Wage: Making It a Reality."

<sup>23</sup> In addition, compensation should preferentially be based on hours worked and not on production or piecework, as production rates are frequently beyond an individual worker's control, and these systems of compensation encourage the bypassing of safety procedures.

- adequate lighting, ventilation, air quality, and temperatures (where safe noise levels cannot be guaranteed, protection should be provided);
  - adequate workplace hygiene at all times by conducting regular routine cleaning; safe and accessible potable drinking water and sanitary facilities for food storage; and clean and hygienic washing and toilet facilities commensurate with the number and gender of staff employed;
  - adequately constructed and maintained workplaces that meet local building regulations; and
  - if employees are provided with on-site housing by companies, such housing will be maintained to a reasonable standard of safety, repair, and hygiene; and provided with sufficient and proper sanitation facilities, potable water, and access to an adequate power supply.
- 6.9.2. Companies will appoint a senior management representative to be responsible for ensuring a safe and healthy workplace environment for all personnel, and for implementing the health and safety elements of this Code.
- 6.9.3. Companies will provide education and training so that employees and contracted workers are aware of (i) specific role-related health and safety risks and hazards and (ii) methods for appropriate protection from such hazards, including proper use of PPE and appropriate action to take in the event of an accident or Emergency.<sup>24</sup>
- 6.9.4. Appropriate procedures must be in place to prevent accidents and injury to health arising from, or linked to, the course of work-related activities and operations at the facilities.
- 6.9.5. Companies will provide employees and contracted workers with a mechanism, such as a joint health and safety committee, by which they can raise and discuss health and safety issues with management.
- 6.9.6. Companies will make information about health and safety available to employees and contracted workers in an understandable form and in an appropriate language.<sup>25</sup>
- 6.9.7. Companies will provide access to adequate on-site health and medical facilities, including clearly marked first-aid provisions, and develop procedures for transportation of workers with more serious health concerns to local hospitals or medical facilities.
- 6.9.8. Companies will establish systems to detect, avoid, or respond to potential threats to the health and safety of personnel. Companies shall maintain written records of all accidents that occur in the workplace and in company-controlled residences and property.
- 6.9.9. Companies will install appropriate alarms, warning devices, and fire safety mechanisms, including fire fighting equipment; clearly marked, unlocked, and unblocked emergency exits and escape routes; and emergency lighting in all facilities.
- 6.9.10. Companies will establish emergency procedures and evacuation plans for all reasonably foreseeable emergencies. Companies will ensure that the procedures and plans are accessible or clearly displayed throughout their facilities, are maintained and regularly tested (including evacuation drills), and are updated periodically.

<sup>24</sup> Education and training undertaken must be recorded and repeated for new, current, and reassigned employees and must be renewed periodically. RJC, Principles and Code of Practices, section 2.6, paragraph 9, p.13.

<sup>25</sup> Material Safety Data Sheets (or equivalent necessary information) must be accessible where any hazardous substances are in use, and the associated risks and required control measures must be clearly communicated to all employees who work with them.

Companies will develop and maintain emergency response plans, in collaboration with all relevant actors.<sup>26</sup>

- 6.9.11. Companies will ensure that all health and safety incidents, as well as the business's response to and outcome from such incidents, are formally documented and investigated with the results of the investigation feeding into regular health and safety reviews and improvement plans. Employees and/or their representatives must have a role in these investigations.
- 6.9.12. Companies will ensure that employees and contracted workers understand that they have the right and responsibility to stop work or refuse to work in situations that have Uncontrolled Hazards, and to immediately bring these situations to the attention of those at imminent risk and to management. Employees or contracted workers must not face reprisals (Discipline, discharge, or other negative consequences) for attempting to exercise these rights in good faith.
- 6.9.13. Companies will prevent unsafe exposure of pregnant and breast-feeding women and minors to hazards, including, but not limited to, hazardous chemicals, radiation, and radioactive substances. Companies will ensure that pregnant women and new mothers are protected within the workplace through such measures as prohibiting night work and allowing for adjustments to working hours during and after pregnancy.
- 6.9.14. Companies will ensure that every worker will have periodic medical examinations and medical coverage in case of an accident and/or health problems.

## **7. Principle 7. Companies shall contribute to the long-term social, cultural, environmental, economic, and institutional development of communities in which they operate.**

### **7.1. Community Engagement and Development**

- 7.1.1. Companies will not replace the state and shall endeavour to strengthen local institutional capacity.
- 7.1.2. Companies will have appropriate skills, resources, and systems in place for early and on-going engagement with affected communities and stakeholders throughout the project's life cycle, from earliest exploration activities, construction prior to commencement of production, during mine operations, through to closure and post-closure monitoring. Companies will employ the same rigour in developing stakeholder engagement strategies as in other aspects of business operations.
- 7.1.3. The rights, interests, and development aspirations of affected communities must be considered in major mining decisions in the project's life cycle, and broad community support for proposals should be sought and supported. This engagement must be carried out in an inclusive, equitable, culturally appropriate, gender-sensitive, and rights-compatible manner.
- 7.1.4. Companies will commit to promoting local employment and providing training to access such employment opportunities.
- 7.1.5. Wherever practical, gender considerations will be integrated into existing processes for social baselines and impact and Risk Assessments. However, if gender issues were not adequately considered in early studies, a standalone process for improved gender knowledge and understanding will be conducted.

<sup>26</sup> Including: potentially affected communities, workers and their representatives, and relevant agencies, pursuant to guidance provided by UNEP on Awareness and Preparedness for Emergencies at the Local Level (APELL) for Mining.

- 7.1.6. Companies will strive to avoid resettlement. Where resettlement is unavoidable, it should be minimised, and appropriate measures to mitigate adverse impacts on displaced persons and host communities should be carefully planned, implemented, and compensated with community participation.<sup>27</sup>
- 7.1.7. Companies will invest in a thorough search for alternative project designs and locations, consult in early stage when choices can still be made, and choose the plans with the lowest negative impact on the affected communities.
- 7.1.8. Companies will develop a livelihood Restoration plan<sup>28</sup> when the exact nature or magnitude of the land acquisition or restrictions on land use related to a site's operations with potential to cause physical and/or economic displacement is unknown due to the stage of project development.
- 7.1.9. Companies will strive to avoid conditions that could lead to the development of Uncontrolled Settlements in the vicinity of the operation.
- 7.1.10. Companies will promote community health, including monitoring indicators of community health, such as early indicators of potentially negative impacts caused by the operation, and indicators of overall health conditions of the community.
- 7.1.11. Companies will establish measures to prevent and control noise sources and other negative factors based on the prevailing land use and proximity of noise and other negative factor receptors.
- 7.1.12. Companies will recognise that the capacity of governments and host societies to deliver the expected benefits from resource extraction may be limited, at least initially, as will be their ability to monitor social and environmental protection. Companies should support local and institutional capacity.
- 7.1.13. Where artisanal and small-scale miners (ASM) operate on or around a mining operation, companies will engage directly with them as part of their social and environmental impact assessment programs and Community Engagement processes.
- 7.1.14. Companies will, as appropriate, participate in initiatives that enable the professionalization and formalisation of artisanal and small-scale mining, where it occurs within their areas of operation.

## Environment

### 8. Principle 8. Companies shall implement practices that promote the sustainable and efficient use of natural resources in their operations.

#### 8.1. General

- 8.1.1. Companies will assess natural resources usage<sup>29</sup> to understand how their usage impacts the current and future sustainability of the resources, as well as other local stakeholders<sup>30</sup> access to and use of the resources. As part of the assessment, companies will consider the cumulative impacts that their operation and other land uses have on natural resources in the area.

<sup>27</sup> Companies will have a resettlement action plan in place that they will make public.

<sup>28</sup> As defined by the IFC PS 5.

<sup>29</sup> Includes water, fuel, land, and other resources.

<sup>30</sup> Includes other companies as local stakeholders.

- 8.1.2. Companies will implement technically and financially feasible, cost-effective<sup>31</sup> measures for improving efficiency in its consumption of energy, water, land, and other resources and material inputs, with a focus on areas that are considered core business activities. Where benchmarking data are available, companies will make a comparison to establish the relative level of efficiency.
- 8.1.3. Specifically, companies will adopt measures that avoid or reduce water and energy usage and will seek to find ways to reuse and recycle so that the company's water and energy consumption does not have significant adverse impacts on affected communities.
- 8.1.4. Companies will set targets related to reducing the consumption of water and energy, as well as improvement targets for efficiency and conservation efforts.

**9. Principle 9. Companies shall commit to pollution prevention in their operations by avoidance, abatement, and emission controls and the rehabilitation of polluted sites.**<sup>32</sup>

**9.1. General**

- 9.1.1. Companies will consider ambient conditions and apply technically and financially feasible pollution prevention principles and techniques that are best suited to avoid, or where avoidance is not possible, minimise and control the intensity and mass flow release of pollution to reduce the adverse impacts on human health and the built or natural environment.
- 9.1.2. This applies to the release of coal-mining-related Pollutants to air, water, and land due to routine, non-routine, and accidental circumstances with the potential for local, regional, and trans-boundary impacts.<sup>33</sup>
- 9.1.3. Companies' efforts to minimise coal mining related emissions to air, water, and land will be measured in absolute emissions reductions and normalised relative to coal production quantities.
- 9.1.4. In addition to applying the pollution control measures referenced above, if companies' operations have the potential to constitute a significant source of emissions in an already degraded area, they will consider additional strategies and adopt technically and financially feasible measures that avoid or reduce negative effects.
- 9.1.5. Companies will not manufacture, trade, and/or use chemicals and Hazardous Substances subject to international bans due to their high toxicity to living organisms, environmental persistence, potential for bioaccumulation, or potential for depletion of the ozone layer.
- 9.1.6. Companies will employ alternatives to hazardous substances used in production processes wherever technically and economically viable; additionally companies will strive to utilise the most environmentally sound products available.
- 9.1.7. Where historically accumulated pollution, such as land or groundwater contamination, exists, companies will seek to determine whether it is responsible for mitigation measures, including rehabilitation. If it is determined that the company is legally

<sup>31</sup> Cost-effectiveness is determined according to the capital and operational cost and financial benefits of the measure considered over the life of the measure. For the purpose of the standard, a resource efficiency or GHG emissions reduction measure is considered cost-effective if it is expected to provide a risk-rated return on investment at least comparable to the project itself.

<sup>32</sup> "Principles of pollution prevention" is a generally accepted term in environmental management that refers to a hierarchy of activities to manage pollution.

<sup>33</sup> Transboundary pollutants include those covered under the Convention on Long-Range Transboundary Air Pollution.

responsible, then these liabilities will be resolved in accordance with national law, or where this is absent, with good international industry practice.<sup>34</sup>

- 9.1.8. Companies will prepare procedures to respond to emergency situations, abnormal emission and dispersion conditions, and exceedences of air quality criteria, including immediate measures to protect community health and the built or natural environment.

## 9.2. Waste and Effluents

- 9.2.1. Companies will avoid the generation of hazardous and non-hazardous Waste substances. Where waste generation cannot be avoided, companies will take steps to minimise the quantity of waste produced from their operations through the principles of reduce, recover, reuse, and recycle.
- 9.2.2. Companies will recover and reuse waste in a manner that is safe for human health and the environment. Where waste cannot be recovered or reused, companies will treat, destroy, or dispose of it in an environmentally sound manner that includes the appropriate control of emissions, effluents, and residues resulting from the handling and processing of the waste material.
- 9.2.3. Companies will accumulate, store, depot, transport, utilise, accommodate, and dispose of industrial waste substances and garbage in compliance with applicable law. Where applicable law does not exist, international standards such as IFC's Performance Standards and the ILO's Convention 176 on Safety and Health in Mines will prevail.
- 9.2.4. When third parties conduct hazardous waste storage, transportation, accommodation, and disposal, companies will use contractors that are reputable, legitimate enterprises licensed by the relevant government regulatory agencies, and companies will obtain chain of custody and ownership documentation to the final destination.
- 9.2.5. Companies will ensure that structures, such as waste dumps, tailing impoundments/dams, and containment facilities,<sup>35</sup> are planned, designed, and operated such that geotechnical risks and environmental, safety, and health impacts are appropriately assessed and managed throughout the entire mine cycle and after mine closure.
- 9.2.6. Companies will not use riverine and other unsanctioned sites for Tailings disposal.
- 9.2.7. During operation and decommissioning, companies should utilise a combination of surface-management systems, seepage collection, and active or passive treatment systems to ensure post-closure water-resource quality is maintained. For those companies with acid rock drainage (ARD) risks, they will adopt practices to ensure that collection and treatment of ARD leachate continues such that the water quality is as close to the background or baseline values as the limits of water treatment technology and practicality permit.<sup>36</sup> At a minimum, treatment must continue until the final effluent criteria are consistent with guideline values as indicated in the IFC EHS mining guidelines.<sup>37</sup>

## 9.3. Emissions to Air

<sup>34</sup> This may require coordination with national and local government, communities, and the contributors to the contamination, and that any assessment follows a risk-based approach consistent with good international industry practice as reflected in the EHS Guidelines.

<sup>35</sup> Waste dumps for overburden from surface mines and rubble material from underground mines, for example.

<sup>36</sup> For the Assessment Guidelines, this should apply to not only heavy metals, but also to dissolved species, as well as soluble or organic reagents that could be added in the treatment process.

<sup>37</sup> The IFC EHS Guidelines for mining provide a minimum set of water quality effluent or discharge water quality standards that should be adopted in the absence of local or national guidelines and are intended to protect existing water quality. This is where operations/projects need to determine up front what their water discharge and treatment design criteria should entail.

- 9.3.1. Companies will, as defined by the IFC PS 2 Guidelines, quantify significant direct emissions from the facilities and mobile sources owned or controlled within the physical operational boundary (point source and fugitive), as well as indirect emissions associated with the off-site production of energy used by the company,<sup>38</sup> to an acceptable degree of accuracy. Companies will conduct quantification of Greenhouse Gas emissions in accordance with national standards, internationally recognised methodologies, and good practice.<sup>39</sup>
- 9.3.2. Companies will develop and implement operating procedures related to minimising fugitive emissions from tailings facilities, waste dumps, stockpiles, and other exposed areas; and dust control associated with blasting, through the best available processes.
- 9.3.3. Companies will fully integrate dust control into operating procedures, particularly associated with blasting, drilling, and material transport and dumping.
- 9.3.4. Companies will implement adequate operating procedures and plans to prevent, detect, and in a timely manner, combat the outbreak and spreading of fires in operating and abandoned mines.

**10. Principle 10. Companies shall integrate practices that protect and support biodiversity and ecosystem services impacted by their operations, throughout the life cycle of the mine.**

**10.1. General**

- 10.1.1. Companies will undertake a comprehensive assessment of direct and indirect operational impacts and dependencies on biodiversity and ecosystem services and identify any significant residual impacts. This process will consider relevant threats to biodiversity and ecosystem services, especially focusing on habitat loss, degradation, and fragmentation; invasive alien species; overexploitation; hydrological changes; nutrient loading; and pollution. This process will also take into account the differing values attached to biodiversity and ecosystem services by affected communities and, where appropriate, other stakeholders.
- 10.1.2. Companies will seek to avoid impacts on biodiversity and ecosystem services. When avoidance of impacts is not possible, measures to minimise and mitigate impacts, restore biodiversity and ecosystem services, and offset biodiversity should be implemented.
- 10.1.3. Companies will adopt a practice of adaptive management in which the implementation of identification, avoidance, mitigation, and offset measures are responsive to the secondary and cumulative effects on biodiversity, as well as the broader structure and function of Ecosystems in which companies operate, in such a way as to factor in changing conditions and the results of monitoring throughout the project's life cycle.
- 10.1.4. Companies will conduct systemic reviews to identify priority ecosystem services which its operations depend upon and impact. When affected communities are likely to be impacted, they should participate in the determination of priority ecosystem services in accordance with the stakeholder engagement process defined in the IFC Performance Standard 1.

<sup>38</sup> Project-induced changes in soil carbon content or aboveground biomass and project-induced decay of organic matter may contribute to direct emissions sources and shall be included in this emissions quantification where such emissions are expected to be significant.

<sup>39</sup> Estimation methodologies are provided by the Intergovernmental Panel on Climate Change, various international organisations, and relevant host country agencies.

10.1.5. Companies will seek to avoid impacts on priority ecosystem services of relevance to affected communities. If these impacts are unavoidable, companies will minimise them and implement mitigation measures that aim to maintain the value and functionality of priority services and increase resource efficiency of the operations.

## 10.2. Protection and Conservation of Biodiversity

10.2.1. Companies will not convert or degrade Natural Habitats (particularly high-conservation value areas [HCVAs]), unless all of the following are demonstrated:

- No other viable alternatives within the region exist for development of the project on modified habitat.
- Consultation has established the views of stakeholders, including affected communities, with respect to the extent of conversion and degradation.
- Any conversion or degradation is mitigated according to the IFC Performance Standards mitigation hierarchy.

10.2.2. In natural areas affected by their operations, companies will do all of the following:

- Consider the impacts on biodiversity from a landscape perspective, i.e., assess the impacts and opportunities on biodiversity both within and beyond the boundaries of areas owned or managed by the operation.
- Identify Key Biodiversity Areas.
- Identify the number of IUCN Red List species and national conservation list species with habitats in areas affected by operations, by level of extinction risk.
- Identify potential corridors and patches within the landscape that allow the mine to implement action plans to conserve biodiversity and deliver measurable biodiversity benefits proportionate to the level of biodiversity impacts.

10.2.3. In areas of natural habitat, companies will implement mitigation measures designed to achieve no net loss of biodiversity. Appropriate actions include:

- avoiding impacts on biodiversity for the full duration of the mine project cycle, particularly taking risks of impacts into account during the planning and design phase of any activities;
- identifying and protecting set-asides<sup>40</sup> for the full duration of the mine project cycle;
- implementing measures to minimise habitat fragmentation, such as biological corridors;
- restoring habitats during operations and/or after operations; and
- implementing Biodiversity Offsets or other compensation mechanisms.<sup>41</sup>

## 10.3. World Heritage Sites, IUCN Protected Areas, and Protected Species

<sup>40</sup> Set-asides are land areas within the project site or areas over which the company has management control that are excluded from development and are targeted for the implementation of conservation enhancement measures. Set-asides will likely contain significant biodiversity values and/or provide ecosystem services of significance at the local, national, and/or regional level. Set-asides should be defined using internationally recognised approaches or methodologies (e.g., high conservation value or systemic conservation planning).

<sup>41</sup> IFC's newly revised PS 6, Paragraph 15: "In areas of natural habitat, mitigation measures will be designed to achieve no net loss of biodiversity where feasible." No net loss is further defined to include avoidance, minimisation, restoration, and offsetting. In this way, "no net loss" is not applied broadly, but rather only to natural habitat. Additional guidance is provided in the Business and Biodiversity Offset Programme (BBOP), "[Standard on Biodiversity Offsets](#)," March 2012.

10.3.1. Companies will not explore or mine in World Heritage Sites and will work to ensure that their activities do not negatively impact directly (or indirectly) adjacent World Heritage Sites. The same will apply to World Heritage Site buffer zones and IUCN Protected Areas Categories Ia and Ib.

10.3.2. Companies will not undertake an activity that will lead, or is likely to lead, to the extinction of a species listed by the IUCN or relevant national data lists, as threatened with extinction.

#### **10.4. Legally Protected Areas**

10.4.1. Companies operating in nationally and internationally recognised protected areas that are not IUCN-designated Protected Areas Categories Ia and Ib<sup>42</sup> will do all of the following:

- Confirm that operations are legally permitted.
- Act in a manner consistent with any government-recognised management plans for the area.
- Consult protected area sponsors and managers, affected communities, indigenous peoples and tribal peoples, and other stakeholders throughout the life of the mine as appropriate.
- Implement additional programmes, as appropriate, to promote and enhance the conservation aims and effective management of the area.
- Develop mine closure plans in conjunction with protected area sponsors, managers, and other relevant stakeholders.

#### **10.5. Invasive Alien Species: Flora and Fauna**

10.5.1. Companies will not intentionally introduce any new alien species,<sup>43</sup> unless this is carried out in accordance with the existing regulatory framework for such introduction. Companies will ensure that all introductions of alien species will be subject to a risk assessment<sup>44</sup> to determine the potential for invasive behaviour.

10.5.2. Companies will implement measures to avoid the potential for accidental or unintended introductions, including the transportation of substrates and vectors (such as soil, ballast, and plant materials) that may harbour alien species. Where alien species are already established in the country or region of the company operations, companies will exercise diligence in not spreading them into areas in which they have not already been established. As practicable, the company should take measures to eradicate such species from the natural habitats over which they have management control or, if applicable, in accordance with a regional alien invasive control programme.

#### **10.6. Integrated Land Management**

10.6.1. Companies will minimise the effect of subsidence from underground coal mining on inhabited areas and/or Environmentally Sensitive Areas. Where companies fail to do so, damage will be compensated.

10.6.2. Companies will adopt good practice techniques to rehabilitate land and aim to restore that has been disturbed or occupied. The rehabilitation objective should be to

<sup>42</sup> For an explanation of IUCN Protected Areas Categories Ia and Ib.  
[http://iucn.org/about/work/programmes/gpap\\_home/gpap\\_quality/gpap\\_pacategories/](http://iucn.org/about/work/programmes/gpap_home/gpap_quality/gpap_pacategories/)

<sup>43</sup> Not currently established in the country or region of the company's operations.

<sup>44</sup> As part of the company's environmental and social risks and impacts identification process.

establish a sustainable native ecosystem or other post-mining land use developed and agreed upon through engagement with key stakeholders in the mine closure planning process. This process will be initiated as early in the life of mine (LOM) cycle as possible—during the planning phase for greenfield projects and during the operational phase for brownfield projects.

## **10.7. Cultural Heritage**

- 10.7.1. 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 will identify and protect cultural heritage by ensuring that all internationally recognised practices for the protection, field-based study, and documentation of cultural heritage are implemented.
- 10.7.2. Where the risk and identification process determines that there is a chance of impacts to cultural heritage, companies will retain competent professionals to assist in the identification and protection of cultural heritage.

## IV. Glossary

<b>Affected Communities</b>	Any people or communities located in a mining operation's near geographical proximity, particularly those contiguous to the existing or proposed operations facilities who are subject to actual or potential direct project-related risks and/or adverse impacts on their physical environment, health, or livelihoods.
<b>Applicable Law</b>	The relevant national and/or state and/or local laws of the country or countries in which the mining company operates.
<b>Assessment</b>	Confirmation by an accredited assessor, through the assessment of objective evidence, that the provisions of the Bettercoal Code of Practice have been fulfilled.
<b>Assessor</b>	Qualified, independent, third-party person or organisation meeting the Bettercoal objective selection criteria that is accredited to conduct a site-assessment. Assessors are commissioned by Bettercoal to conduct site-assessments against the Bettercoal Code.
<b>Biodiversity</b>	The variability 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.
<b>Biodiversity Offset</b>	A way to demonstrate that a project can be implemented in a manner that results in no net loss or a net gain of biodiversity. The Business and Biodiversity Offsets Programme (BBOP) defines biodiversity offsets as "measurable conservation outcomes of actions designed to compensate for significant residual adverse biodiversity impacts arising from project development 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 on the ground with respect to species composition, habitat structure, ecosystem function, and people's use and cultural values associated with biodiversity."
<b>Bribery</b>	The offering, promising or giving, as well as demanding or accepting of any undue advantage, whether directly or indirectly, to or from: <ul style="list-style-type: none"> <li>• a public official;</li> <li>• a political candidate, party, or official; or</li> <li>• any private sector Employee (including a person who directs or works for a private sector enterprise in any capacity).</li> </ul>
<b>Business Ethics</b>	Ethical rights and duties existing between businesses and society.
<b>Business Partner</b>	Individual, organisation or business entity with which a coal mining company has direct business relations (excluding end consumers, but including contractors, customers, suppliers, and joint venture partners) and that buys and/or sells a product or service that directly contributes to the extraction of coal.
<b>Child</b>	A person under 18 years old.
<b>Collective Bargaining</b>	A process through which employers (or their organisations) and workers' associations (or in their absence, freely designated workers'

	representatives) negotiate terms and conditions of work.
<b>Community</b>	Term generally applied to a group of people or families who live in a particular locality, sometimes share a common interest (water users associations, fishers, herders, grazers, and the like), often have common cultural and historical heritage, and have different degrees of cohesiveness.
<b>Community Development</b>	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.
<b>Community Engagement</b>	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.
<b>Company (Companies)</b>	A coal mining company with respect to its mining activities.
<b>Conflict-Affected and High-Risk Areas</b>	<p>While there is no single definition for the terms "conflict-affected" or "high-risk" areas, this term may be understood as countries, areas, or regions:</p> <ul style="list-style-type: none"> <li>• not currently experiencing high levels of armed violence, but where political and social instability prevails, and a number of factors are present that make a future outbreak of violence more likely (these factors are explained further throughout the document);</li> <li>• in which there are serious concerns about abuses of Human Rights and political and civil liberties, but where violent conflict is not currently present;</li> <li>• currently experiencing violent conflict, including civil wars, armed insurrections, interstate wars, and other types of organized violence;</li> <li>• currently in transition from violent conflict to peace (these are sometimes referred to as "post-conflict"; however, transitional contexts remain highly volatile and at risk of falling back into violent conflict).</li> </ul>
<b>Continuous Improvement</b>	An ongoing process of enhancing performance and management systems against the Bettercoal Code.
<b>Contractor</b>	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.
<b>Contracted workers</b>	Workers engaged through third party contractors to perform work related to the operations at the mine.
<b>Control (Management)</b>	<p>Control by a coal mining company is defined as:</p> <ul style="list-style-type: none"> <li>• 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 the controlled business or</li> </ul>

	<p>operation; and/or,</p> <ul style="list-style-type: none"> <li>• day-to-day or executive management of the controlled business or operation; or</li> <li>• any legally recognised concept of “Control” analogous to those described above in a relevant jurisdiction.</li> </ul>
<b>Corrective Action</b>	An action implemented by a company to significantly mitigate or eliminate the cause of a non-conformance in order to prevent a recurrence.
<b>Corruption</b>	The misuse of entrusted power for private gain.
<b>Discipline</b>	A means to correct or improve job-related behaviour or performance.
<b>Discrimination</b>	Where people are treated differently because of certain characteristics—such as race, colour, sex, religion, political opinion, national extraction, or social origin—that results in the impairment of equality of opportunity and treatment.
<b>Due Diligence (General)</b>	Refers to the process a company’s executives go through when evaluating a company it wishes to merge with or acquire.
<b>Due Diligence (Human Rights)</b>	In the context of the Guiding Principles for Business and Human Rights, 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.
<b>Ecosystem</b>	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 nonliving components of the system.
<b>Ecosystem Services</b>	The benefits beings obtain from ecosystems, 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.
<b>Emergency</b>	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.
<b>Employee</b>	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.
<b>Environmentally Sensitive Areas</b>	Type of designation for an area (usually of natural habitat), which needs special protection because of its landscape, wildlife, or historical value.
<b>Facilitation Payments</b>	Small unofficial payments made to secure or expedite the performance of a routine or necessary action to which the payer has legal or other entitlement.
<b>Facility(ies)</b>	Premises that are owned by or under the control of a coal mining company

	for the purposes of extracting coal.
<b>Financially Feasible</b>	Financial feasibility is based on commercial considerations, including relative magnitude of the incremental cost of adopting such measures and actions compared to the project's investment, operating, and maintenance costs, and on whether this incremental cost could make the project nonviable to the client.
<b>Forced Labour</b>	Any work or service exacted by governments, companies, or individuals under the menace of penalty, and which a person has not offered voluntarily to do. It also refers to work or service that is demanded as a means of repayment of debt.
<b>Freedom of Association</b>	The right of workers and employers to freely form and join groups for the promotion and defence of occupational interests.
<b>Good International Industry Practices</b>	Defined as the exercise of professional skill, diligence, prudence, and foresight that are reasonably expected from skilled and experienced professionals engaged in the same type of undertaking under the same or similar circumstances globally or regionally.
<b>Greenhouse Gas Emissions (GHGs)</b> <b>(Direct and Indirect)</b>	<p>GHGs are the six gases covered by the UNFCCC: carbon dioxide (CO<sub>2</sub>); methane (CH<sub>4</sub>); nitrous oxide (N<sub>2</sub>O); hydrofluorocarbons (HFCs); perfluorocarbons (PFCs); and sulphur hexafluoride (SF<sub>6</sub>).</p> <p>As defined by the GHG Protocol:</p> <ul style="list-style-type: none"> <li>• Direct GHG emissions are emissions from sources that are owned or controlled by the reporting entity.</li> <li>• Indirect GHG emissions are emissions that are a consequence of the activities of the reporting entity, but which occur at sources owned or controlled by another entity.</li> </ul> <p>The GHG Protocol further categorizes these direct and indirect emissions into three broad scopes:</p> <ul style="list-style-type: none"> <li>• <b>Scope 1:</b> All direct GHG emissions from operations that are owned or controlled by the company.</li> <li>• <b>Scope 2:</b> Indirect GHG emissions from consumption of purchased electricity, heat, or steam.</li> <li>• <b>Scope 3:</b> All other indirect emissions, such as the extraction and production of purchased materials and fuels, transport-related activities in vehicles not owned or controlled by the reporting entity, electricity-related activities not covered in Scope 2, outsourced activities, waste disposal, etc., including both upstream and downstream emissions</li> </ul>
<b>Hazard</b>	A source of potential harm, injury, or detriment.
<b>Hazardous Substance</b>	Any material that poses a threat to human health and/or the environment.
<b>Health</b>	A state of physical, mental, and social well-being and not merely the absence of disease or infirmity.
<b>Human Rights</b>	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 principles concerning fundamental rights set out in the International Labour Organization's Declaration of Fundamental Principles and Rights at Work.
<b>Human Trafficking</b>	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. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, or the removal of organs. <sup>45</sup>
<b>Indigenous Peoples and Tribal Peoples</b>	There is no universally accepted definition of indigenous peoples and tribal peoples. However, the term here refers to the following peoples as covered by ILO Convention 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.
<b>Key Biodiversity Areas</b>	Key Biodiversity Areas (KBAs) is an IUCN term to define 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.
<b>Management System</b>	Management processes and documentation that collectively prove 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.
<b>Natural Habitat</b>	Natural habitats are 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.
<b>Natural Resources</b>	Materials or substances such as minerals, forests, water, and fertile land that occur in nature and can be used for economic gain.
<b>Operation(s)</b>	Premises owned by or under the management control of a coal mining company.

<sup>45</sup> As defined by the UN Office on Drugs and Crime.

<b>Overtime</b>	Hours worked in addition to those of a regular schedule.
<b>Personal Protective Equipment (PPE)</b>	Protective clothing and other garments, such as gloves, protective footwear, helmets, goggles, and earplugs, all designed to protect the wearer from exposure to job-related occupational hazards.
<b>Policy</b>	A statement of principles and intentions.
<b>Pollutants</b>	Waste matter that contaminates the water, air, or soil.
<b>Pollution</b>	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.
<b>Procedure</b>	A specified manner to conduct an activity or a process. Procedures can be documented or not.
<b>Regular Employment Relationships</b>	Full-time, continuous employment where the employee works on his employer's premises or under the employer's supervision.
<b>Rehabilitation</b>	The process of returning a disturbed ecosystem on a trajectory back to recovery (i.e., to being restored); it implies that, while the ecosystem has not fully recovered its structure and function, it is moving in that direction.
<b>Remediation</b>	Putting in place a systemic change or solution to correct an identified problem or non-conformance.
<b>Remuneration</b>	Includes wages or salaries and any other benefits (in cash or in kind) paid by employers to workers.
<b>Restoration</b>	Restoration refers to reinstatement of the original (pre-mining) ecosystem in all its structural and functional aspects; rehabilitation is the term used for the progression towards the reinstatement of the original ecosystem. <sup>46</sup>
<b>Rights-Compatible</b>	Ensuring that outcomes and remedies accord with internationally recognised Human Rights.
<b>Risk</b>	Exposure to the consequences of uncertainty. It has two dimensions: the likelihood of something happening and the consequences if it were to happen.
<b>Risk Assessment</b>	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.
<b>Safety</b>	The condition of being safe and free from danger, risks, or injury.
<b>Self Assessment</b>	The assessment carried out by companies describing their mine and evaluating their own performance against the requirements of the Bettercoal Code of Practice. Companies can use the self-assessment to gauge their preparedness for a site-assessment, improve practices, and identify objective evidence required during a Site-Assessment.

<sup>46</sup> Global Restoration Network.

<b>Site-Assessment</b>	<p>A site-assessment comprises the following:</p> <ul style="list-style-type: none"> <li>• a preliminary desktop review of the company's self-assessment questionnaire and other related information;</li> <li>• selection of a representative set of the coal mining company's Facilities and business practices to visit and assess; and</li> <li>• assessment of the coal mining company's self-assessment through on-site review at the selected sample of facilities.</li> </ul>
<b>Stakeholder</b>	Those who have an interest in a particular decision, either as individuals or representatives of a group, including people who influence a decision, or can influence it, as well as those affected by it. Stakeholders include NGOs, governments, shareholders, and workers, as well as local community members.
<b>Supplier</b>	A business entity that provides goods and/or services integral to and utilised in or for coal extraction.
<b>Sustainable (Use)</b>	Of, relating to, or being a method of harvesting or using a resource so that the resource is not depleted or permanently damaged.
<b>Tailings</b>	Ground rock and effluents that are generated during processing of the ore.
<b>Technical Feasibility</b>	Technical feasibility is 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.
<b>Uncontrolled Hazard</b>	An identified source of potential harm, injury, or detriment (i.e., a Hazard) that lacks recognised and/or approved management, operational, or technical controls.
<b>Uncontrolled Settlements</b>	Areas where housing is not in compliance with current planning and building regulations (unauthorized housing). These structures usually do not meet any type of health and safety codes as they are usually built from scrap materials without a requested permit.
<b>Visitor</b>	A person visiting a coal mining operation who is not an employee or contractor at that operation.
<b>Waste</b>	Solid, liquid, or gaseous material that is discarded or no longer needed. Waste can cause pollution and impact on the environment if not properly managed. In the coal supply chain, the main forms of waste include hazardous substances, air and water emissions, and general operational waste.
<b>Workers</b>	Employees or contracted workers engaged at the mine to perform a particular task or activity.
<b>World Heritage Sites</b>	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. <sup>47</sup>

<sup>47</sup> UNESCO World Heritage.

## V. List of Acronyms

EHS	Environment, health, and safety
GRI	Global Reporting Initiative
HSE	Health, safety, and environment
ICMM	International Council on Mining and Metals
IFC	International Finance Corporation
ILO	International Labour Organization
ISO	International Organization for Standardization
IUCN	International Union for Conservation of Nature
OECD MNE	Organization for Economic Co-operation and Development Guidelines for Multinational Enterprises
PS	Performance Standard (by IFC)
RJC	Responsible Jewellery Council
SAG	Stakeholder Advisory Group
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific, and Cultural Organization
UNGC	United Nations Global Compact
UN GPBHR	United Nations Guiding Principles on Business and Human Rights
VPs	Voluntary Principles on Security and Human Rights
WHO	World Health Organization