MINING AND BIODIVERSITY

TERMS OF REFERENCE FOR THE DIALOGUE BETWEEN IUCN/ICMM

1. INTRODUCTION

1.1. Background

Economic development, social equity and environmental protection are the essential elements of sustainable development. The nexus between economic development and the conservation of natural resources has been, in particular, a subject of recurrent debate. One of the most visible and controversial issues has been the impact of the mining industry, whose products are essential for society’s development needs, but whose activities also have impacts on the environment and thus biodiversity. Reconciling economic and social development opportunities with the need for biodiversity conservation and environmental protection requires the development of more strategic and integrated approaches to land use planning and management to assist societies in negotiating appropriate responses.

At the World Summit on Sustainable Development (Johannesburg, August 2002), IUCN and the International Council on Mining and Metals (ICMM) launched a joint dialogue on mining and biodiversity. The purpose of this initiative is to provide a platform for communities, corporations, NGOs and governments to engage in a dialogue to seek the best balance between the protection of important ecosystems and the social and economic importance of mining. IUCN and ICMM are committed to discussing a full range of issues with the objective of enhancing the contribution of the mining industry to biodiversity conservation.

IUCN, along with other international environmental NGOs, has a history of dialogue with the mining sector aiming to improve environmental practices within the industry. The World Commission on Protected Areas (WCPA) has focused discussion with the industry on the relationship between mining and protected areas. The development and circulation of a WCPA Position Statement on mining and protected areas in 1999 created considerable interest within IUCN and the mining industry. Subsequently, a recommendation on ‘Protection and Conservation of Biological Diversity of Protected Areas from the Negative Impacts of Mining and Exploration Mining’ was adopted at the IUCN 2nd World Conservation Congress in Amman, October 2000 (see Annex A). IUCN also sees the need to consider mining and biodiversity in the broader landscape context.

ICMM is committed to dialogue with the conservation community on mining and biodiversity. Its predecessor organization, the International Council on Metals and the Environment (ICME), organized a workshop on mining and biodiversity at Kew Gardens in March 2000. A technical workshop on World Heritage and Mining was jointly organized by IUCN and ICME, in cooperation with the UNESCO World Heritage Centre in September 2000. The results of these meetings served as inputs into the independent stakeholder-based report of the Mining Minerals and Sustainable Development (MMSD) Project, which was published in August 2002 by the International Institute for Environment and Development (IIED). IUCN and ICMM have agreed to use the recommendations of the MMSD report on mining and biodiversity in taking the dialogue forward.
The ICMM interest in the dialogue is also inspired by the ICMM Toronto Declaration which was adopted by ICMM Council following the Global Mining Initiative conference in May 2002 (Annex B). Further demonstration of the commitment of ICMM members to addressing mining and biodiversity issues is reflected in the following ICMM Council resolution amended in March 2003:

ICMM members agree to:

- improve performance/contribute to biodiversity conservation and to report progress in implementing best practice principles in this area; and,

- work in partnership with IUCN and others to develop integrated and transparent approaches to land-use planning, biodiversity conservation, protected areas and mining, including ‘no-go’ areas, based upon the principles of sound science.

The Vth IUCN World Parks Congress to be held in Durban, South Africa in September 2003 represents an important milestone to review the initial results of the dialogue and to advise on the direction of the future programme of work. Looking forward, IUCN and ICMM will extend the dialogue to other organisations that can make a contribution to this initiative.

The IUCN Council Meeting in Gland, Switzerland on 9-11 December 2002 discussed the dialogue between the mining sector and IUCN and passed a resolution which noted, inter alia, that the dialogue should continue but that it should: (a) recognize that IUCN is bound to respect and uphold resolutions and recommendations of its members as agreed at the IUCN World Conservation Congress; (b) take full account of the implications of the dialogue on all IUCN members and those communities most impacted by mining, in particular indigenous peoples; and (c) ensure effective and transparent communication of the dialogue.

This document outlines a Terms of Reference (ToR) to guide the dialogue in 2003 and potentially beyond. The progress in the dialogue will be assessed soon after the IUCN World Parks Congress, and if agreed by both parties, a Memorandum of Understanding will be jointly developed, to guide future activities.

1.2. Governance

To take this commitment forward, ICMM has established a Task Force on Mining and Biodiversity, comprised of representatives of ICMM member companies and associations. IUCN will also form a Task Force to guide its involvement in this area, which will include representatives from key stakeholder groups involved with and affected by mining, including indigenous peoples. Secretariat staff of IUCN and ICMM will support activities associated with this dialogue.

1.3. Funding

Activities associated with this dialogue will be jointly but independently resourced by IUCN and ICMM. IUCN will contribute support through the engagement of an IUCN Advisor on Extractive Industries and Biodiversity and provide access to the IUCN network of expertise.
However, IUCN will not accept any funds directly from ICMM or its members and will cover all of the costs of its participation in this dialogue from non-industry sources. IUCN’s current commitment extends to one year, with future involvement to be assessed after the World Parks Congress. ICMM will contribute its own financial and human resources to support the program of work.

2. THE DIALOGUE PROGRAMME

2.1 Long Term – Now and Later

During 2003, the focus of the dialogue will be on products to be developed for the 2003 World Parks Congress. However, during 2003, work will also be undertaken on developing a longer term and broader programme of work focused on land use planning, biodiversity conservation and mining. Whether this longer term program of work continues will depend on an assessment by both organizations as soon as possible after the World Parks Congress. Efforts will be made to bring in other organizations to ensure broader stakeholder commitment and sustainable financing of possible future activities, including capacity building.

Elements of the proposed longer term programme of work may include:

1. Develop greater understanding of the potential biodiversity risks/impacts of the different types of exploration and mining activities (e.g., hard-rock mining, industrial minerals), and related economic and social considerations.

   **Expected result:** A synthesis of existing information on the different types of exploration and mining activities and related biodiversity risks/impacts

2. Review, assess and synthesise current IUCN perspectives on mining and biodiversity, drawing from (among others) on: (a) activities carried out by the global and regional component programmes of IUCN, its commissions and members (governments and NGOs) in relation to mining and biodiversity conservation, including in particular those related to IUCN protected areas (b) IUCN’s Resolutions and Recommendations related to mining and biodiversity conservation; (c) directions from the IUCN Council; (d) Recommendations from the UNESCO/World Heritage Committee on mining and WH sites (e) Position statements from the mining industry on biodiversity conservation, including industry perspectives on protected area classification and management; (f) recommendations of the Mining, Minerals and Sustainable Development (MMSD) project and (g) the Energy and Biodiversity Initiative (EBI); (h) position statements of IUCN members (both government and NGO), and (i) position statements of other key relevant international organisations.

   **Expected result:** An inventory of issues and positions of common interest as the basis for preparing a joint policy statement on mining and biodiversity. This will also assist in the feasibility assessment of a long-term strategic working relationship between IUCN and the mining sector.

3. Identify, gather and assess case studies/examples of good and bad practice as well as best practice guidelines targeted at minimising the impacts of mining activities on biodiversity (including in and around protected areas) and enhancing industry’s contribution to biodiversity conservation.
Expected result: A library of peer-reviewed documents that will provide the basis for developing best practice guidelines in priority areas in subsequent years.

4. Compile and analyse the experience of existing decision-making processes/criteria/tools related to land-use planning, biodiversity conservation and mining, including ‘no-go’ areas. Tools to identify the threats/opportunities presented by mining activities to important biodiversity sites, including protected areas, will be examined. Priority will be given to assessing the experiences of the Man and Biosphere approach as well as examining current approaches for incorporating resource potential in land-use planning decisions, including those related to protected areas.

Expected result: A discussion paper aimed at developing integrated and transparent approaches to land-use planning, biodiversity conservation and mining, including ‘no-go’ areas, with due regard to the precautionary principle, participation of local communities, indigenous groups and other key constituencies and the principle of science-based decision making.

5. Assess the existing capacity and interest of IUCN regional offices, members, commissions and networks, the mining industry and key international organizations regarding mining, biodiversity conservation and landscape planning and management.

Expected result: An inventory of interests and capacities is available as a basis for further collaboration and capacity building in the future.

2.2 Short-term: Leading up to the 2003 World Parks Congress.

Within the context of the above broader programme of work, it is proposed that products in the following three areas will be delivered in time for World Parks Congress (September 2003):

2.2.1 Improving the Information Base for Decision Making

Aim: to review and synthesise relevant information relating to mining and protected areas.

Products

- A contribution to the ongoing project - Speaking a Common Language - being led by Cardiff University, IUCN and others to review of the level of application of the IUCN protected area management category system.
- Review of national legislation relating to mining and protected areas.
- A contribution to UN List of Protected Areas and the State of the World Parks Report (2002)

2.2.2. Best Practice Principles/Reporting Criteria based on Case Studies and Lessons Learnt

Aim: to enhance the mining sector’s contribution to biodiversity conservation and protected areas.

Products
• A joint workshop on best practice principles/reporting criteria in May 2003, building on the lessons arising from various case studies, the MMSD report, and the recommendations of the World Heritage and Mining Workshop held in September 2000.
• Case studies publication on best practice principles (September 2003).
• Draft reporting criteria to enable ICMM members to report on progress in implementing best practice principles ¹ (September 2003).

2.2.3. Participation at the WPC

**Aim:** Ensure active industry participation and review the initial results of the IUCN/ICMM dialogue at the WPC.

**Products**

• A joint workshop on mining, biodiversity conservation and protected areas during the WPC and participation in various other plenary sessions and poster presentations at the Congress;
• A possible recommendation from the Congress on the relationship between mining, biodiversity conservation and protected areas (possibly based on Best Practice Principles developed at the May 2003 workshop).
• Adequate participation from industry representatives at the WPC noting that an aim for the Congress is to have 10% participation from the private sector.
• Mine tour program for interested WPC delegates (possibility and interest to be determined).

2.3 2003 Budget

A detailed budget will be prepared to support implementation of activities outlined in section 2.2 and 2.1.

3. REVIEW AND ASSESSMENT

The initial results of the dialogue and programme for the future as mentioned above will be reviewed at the World Parks Congress in September 2003, A broad range of actors will have the opportunity to advise on the direction for the future.

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¹ This work would input into a larger initiative to be launched in 2003 between ICMM and the Global Reporting Initiative to develop a harmonised reporting system for the mining and metal industries.

25 March 2003
**ANNEX A**

**Resolution adopted at the Second World Conservation Congress on the Protection and Conservation of Biological Diversity of Protected Areas from the Negative Impacts of Mining and Exploration, October 2000**

CONSIDERING that protected areas of various definitions and categories are home to a substantial portion of the earth’s biological diversity, threatened species, indigenous communities, lifestyles, and cultures;

NOTING that protected areas act as an important natural system for the regulation of the world’s climate balance;

RECALLING that a large majority of State members of IUCN are signatories to the Convention on Biological Diversity;

ACKNOWLEDGING that many of IUCN’s State members have established national systems of protected areas to guarantee the conservation of biological diversity;

CONCERNED by the negative social and environmental impacts associated with the rapid growth of mining and mineral exploration activities worldwide with particular reference to the risks posed to the preservation of biological diversity in protected areas;

RECOGNISING that the positive endeavours of States, environmental groups, and threatened communities require strong legislative instruments to strengthen their efforts for nature conservation;

The World Conservation Congress at its 2nd Session in Amman, Jordan, 4-11 October 2000:

1. INVITES all governments and corporations to promote and implement best practice in all aspects of mining and mineral extraction, from first exploration through to decommissioning and subsequent land use;

2. CALLS on all IUCN’s State members to prohibit by law, all exploration and extraction of mineral resources in protected areas corresponding to IUCN Protected Areas Management Categories I to IV;

3. RECOMMENDS that:
   (a) in categories V and VI, exploration and localised extraction would be accepted only where the nature and extent of the proposed activities of the mining project indicates the compatibility of the project activities with the objectives of the protected area;
   (b) authorization for localised exploration and mining require an environmental impact assessment (EIA) of the project and approval by the relevant competent authority and stakeholder groups after public disclosure of the EIA draft document; and
   (c) authorized exploration and mining projects be subject to strict planning, operating, monitoring, and post-use restoration conditions;

4. URGES that proposed changes to the boundaries of protected areas, or to their categorization, to allow for the exploration or localized extraction of mineral resources,
should be subject to procedures at least as rigorous as those involved in the establishment of the protected area in the first place;

5. **RECOMMENDS** that exploration and extraction of mineral resources and allied infrastructure development work, which is outside of a protected area, but which may negatively affect the values for which the protected areas were established, should be subject to:

   (a) EIA preparation and approval from relevant competent authority and stakeholder groups after public disclosure of the EIA draft document; and

   (b) strict planning, operating, monitoring, and post-use restoration conditions.

This Recommendation was adopted by a show of hands. The delegation of the State member United States made a formal Statement for the Record indicating that it had opposed and voted against the Recommendation, noting that mining policy is an internal matter for sovereign states, and reiterating that, “in the US, management of parks and requirements for environmental assessments are based on domestic laws and regulations, not a global framework. In this context, the US Government has acted strongly to limit mining where it is not appropriate”. The full Statement is reproduced in the Congress Proceedings.
ANNEX B:

ICMM Toronto Declaration

On 15 May 2002 the ICMM Council adopted the ICMM Toronto Declaration that appears below. Following this decision, the Council directed its Secretary General, in conjunction with its Members and through consultation with its key constituencies, to develop a work program to implement this Declaration.

The Spirit of Toronto An ICMM Perspective

During the Global Mining Initiative Conference held May 12-15, we participated in a dialogue, driven by a shared desire to enhance the contribution that mining and metals can make to social and economic development. Participants have, in our belief, discovered many shared values including the realizations:

- that successful mining and metals processing operations require the support of the communities in which they operate;

- that respect for these communities and a serious engagement with them is required to ensure that mining and metals processing are seen as beneficial for the community and the company;

- that successful companies will respect fundamental human rights, including workplace rights, and the need for a healthy and safe workplace; and

- that successful companies will accept their environmental stewardship responsibilities for their facility locations.

To give expression to these values will take dedicated and focused action on our part. We cannot achieve this alone. Progress towards sustainable development will be the product of continuing engagement with government and civil society. This engagement, which will have to occur at all levels of our industry, will at times involve trade-offs and difficult choices. These three days in Toronto provided a context of partnership in which continuing engagement can realise a future for the mining, metals and minerals sector that offers clear and important benefits for all.
ICMM recognizes that:

- The MMSD Report and the process on which it was based, including the regional programs, have elevated and informed the debate leading to a way forward for the sector.
- Decisive and principled leadership is required at this critical time.
- Accountability, transparency, and credible reporting is essential.
- Its Members, in satisfying their obligations to shareholders, must do business in a manner that merits the trust and respect of key constituencies, including the communities in which they operate.
- Constructive and value-adding engagement among constituencies at the local, national, and global levels is essential.
- Its Members must move beyond a regulatory-compliance-based mindset to effectively manage the complex trade-offs of economic, environmental, and social issues.
- The industry requires additional capacity to be effective in advancing sustainable development.
- The roles and responsibilities of the diverse parties comprising governments, civil society, and business are different and must be respected.
- Artisanal, small-scale mining and orphan site legacy issues are important and complex. However, they are beyond the capacity of ICMM to resolve. Governments and international agencies should assume the lead role in addressing them.

ICMM will:

- Expand the current ICMM Sustainable Development Charter to include appropriate areas recommended in the MMSD Report.
- Develop best-practice protocols that encourage third-party verification and public reporting.
- Engage in constructive dialogue with key constituencies.
- Assist Members in understanding the concepts and application of sustainable development.
- Together with the World Bank and others, seek to enhance effective community development management tools and systems.
- Promote the concept of integrated materials management throughout the minerals value chain wherever relevant.
- Promote sound science-based regulatory and material-choice decisions that encourage market access and the safe use, reuse and recycling of metals and minerals.
- Create an emergency response regional register for the global mining, metals and minerals industry.
- In partnership with IUCN-The World Conservation Union and others, seek to resolve the questions associated with protected areas and mining.