Comments on the Responsible Mining Index Methodology from members of the Cambridge Group

31st March 2017

Please find comments below on behalf of:

Fauna & Flora International (FFI)

The Biodiversity Consultancy (TBC)

Wildlife Conservation Society (WCS)

Zoological Society London (ZSL)

Estelle Levin Limited (ELL)

General comments (TBC, FFI)

1. The RMI seeks to "encourage continuous improvement in responsible mining". The draft methodology states that the RMI "will measure company performance against what society expects from mining companies on economic, environmental, social and governance issues, based on a range of internationally agreed practices and principles".

However, the RMI uses a ranking approach **without any reference to a benchmark**. This may thus give a misleading picture if high-ranked companies are still performing poorly in absolute terms against societal expectations (and vice versa, if low-ranked companies are still performing well). Is there any scope for marking where an accepted level of 'best practice' lies?

It may be that low-ranked companies will take steps to improve their future rankings, thus creating a process of continuous improvement across the sector. However, alongside establishing the rankings it will be important to tie these to performance of the sector against societal expectations in particular areas. Although the RMI emphasises "leading practice and learning", it is not clear what mechanisms will be put in place to encourage learning. Is there any plan for comparisons between index assessments to spot general trends in improvement / falling standards?

2. We see a potential limitation of the RMI system in that it **focuses only on the largest companies**, where performance has been improving in recent years, while ignoring medium-sized companies at a time when smaller mining companies and investments are on the rise. The RMI may serve to focus public attention only on a small fraction of all mining companies and create a false impression that mining as a whole is performing well.

Thematic comments regarding the identified 'unresolved issues' (TBC, ZSL, ELL)

1. Land-use, p.11

- We recommend that the intention to look at "the extent to which companies are supporting productive land use *in and around their mine sites*" is extended to looking

at what they are doing to support productive land use *in land under their control that is not mined.* This is a key approach by which companies may move towards demonstrating 'no net loss' or a 'net gain' for biodiversity (as a stock of natural capital) at individual operations and/or at corporate level.

- Companies may also make use of land under their control to maintain ecosystem services or for the purposes of community investments (such as sustainable agriculture) as part of their CSR programs.
- Regarding the transparency of spatial data on concessions, there should be an indicator requiring companies to make the spatial location of their concessions, and activities public, so it is clear where there may be potential overlaps with things like protected area or KBA boundaries or areas of importance for ecosystem services or socio-economic or cultural value. This could be included perhaps under indicator A1 Subnational, National and Regional Socio-Economic Development Planning, B3 Contracts Disclosure, B9 Responsible Contracting and Sourcing or C2 Project Approval Process (or as a separate indicator in one of these sections).

2. Mine-site indicators, p.11 and p.24

- These indicators focus very strongly on social issues and local community engagement, so they are rather limiting. There could be an addition of environmental performance indicators, such as the implementation of an appropriate Environmental Impact Assessment. Local communities are not the only stakeholders that should be of concern for a mine site. MS1 focuses on assessment of impacts (via community engagement) but not on effective impact mitigation following the mitigation hierarchy. Biodiversity is a key issue that frequently concerns national and international stakeholders as well as local communities, and it would be good to see an indicator focused on effective mitigation of biodiversity impacts, and achievement of net positive outcomes for important biodiversity features.

Scope of the RMI (FFI)

1. Inclusion of coal, p.12

- We support the inclusion of coal for the reasons given

2. Selection of mining companies and mine sites, p. 12-13

- We appreciate why it is just 30 companies, but would strongly like to see this expanded. To what extent does the selection of companies by production value cover different commodities? Given the swings in commodity prices does it not risk being dominated by the companies in one sector one year and another sector another year? Is there any intention to stratify by commodity (top 30 gold miners, top 30 coal miners etc.)?
- The company selection method is unclear. It says it is driven by value of production, but will also take into account geographic location with a preference for companies operating in sensitive areas. One is a repeatable, objective approach, the other could be subjective. It would be useful to describe specifically how these two approaches are balanced.
- Same applies to the mine site selection. This should be random, although it could be stratified to force geographic coverage. But the method does not make this clear – saying it will take into account the mined commodity, country etc. makes it sound like a random process that is then adjusted subjectively.

Complementarity to other initiatives, p.14 (FFI)

- Could include the Aluminium Stewardship Initiative and BetterCoal standards. Both have gone through public consultation processes and are further ahead than some of the other standards referenced here.

Specific methodological comments (TBC, FFI, ELL)

1. Assessing performance at the mine site level, p.13

- "In addition to ranking companies' corporate-level performance, RMI will to a limited extent assess company performance at a mine-site level." This is a welcome approach, as it will focus attention on practical implementation on the ground. However, it is our experience that company performance can vary substantially from site to site, for a range of reasons. It may be difficult to select five sites that fairly represent company performance as a whole, so the findings of this assessment need to be carefully reported.

2. Analytical framework of the draft methodology, p. 16

- The Issue Areas make sense but given the increasing focus on Sustainable Development Goals as a framework for what society wants, including from business, was there any thought of using those as the framework? Companies increasingly appear to be coalescing around these as a guiding framework for responsible behaviour and it would also enhance comparability with similar indices for other sectors, and the mining sector is no exception as indicated by the WEF 'Mapping mining to the SDGs' report referred to on p17. If nothing else, retrospectively mapping the Issue Areas back to the SDGs here might be useful?
- The approach to consider commitment, action and effectiveness together is welcome. Most related initiatives so far have focused on commitment and action, as effectiveness has proved much more challenging to assess. The RMI methodology explicitly notes this challenge. Developing practical measures for effectiveness would be a valuable contribution made by the RMI. For biodiversity (topic F.6), efforts to develop similar kinds of measures are ongoing in the context of natural capital assessment. It would be good if the RMI was able to engage with, inform and learn from these other efforts for biodiversity-related metrics. This also implies that the RMI should evolve in line with best practice developments.

3. Measurement Areas, p. 17

- Are there any red lines? How would a company that scored highly in most Issue Areas but was shown to be responsible for one major failing (evidence of bribery, employment of child labour etc) be scored?

4. Metric types, p. 19

- The metric types to be used cover maturity, scope, consistency and transparency. These clearly apply to commitment and action, but not to effectiveness.

5. Scoring, weighting and aggregation, p. 20

- Will scores and justification of scoring for individual indicators be made public? If so it would be good to make this clear here.

- I would like to see more explanation of weighting. The report refers to 'a wide range of factors' influencing weighting and three examples are given, but given the potential power of weighting to completely transform a ranking the way this will be done needs to be made explicitly clear from the outset.
- Accounting for exceptions is sensible but, again, needs clearer explanation on the method used. Simply saying these will be taken into account is not sufficiently transparent.

6. Data collection and analysis, p. 21

- Given the concern over reporting fatigue and replication, to what extent will existing audits (e.g. from certification bodies) be able to be used to populate the questionnaire?

Indicator F1: Environmental Stewardship, p.60 (ZSL)

1. It is good to see the note that "Tackling such issues requires, instead, a comprehensive, cyclical approach to environmental management." but this section should also include reference to the employment of a landscape-scale approach with respect to risk assessment and management, incorporating direct, indirect and cumulative impacts. A link should also be made in this section to the indicators on water, noise and pollution and biodiversity, which should also be covered in the SEA/EIA assessments.

General comments on indicators (FFI)

- The indicators are all very open to interpretation. It is essential guidance be provided for every indicator to show what would constitute a high or low score and where 'commonly accepted best practice' lies.
- Related to this, there is no information on how the metrics referred to on p.19 feed into this. Each indicator should have several metrics covering maturity, scope, consistency and transparency. Where are these? This may help answer the point above.
- The indicators are all positive. Sometimes companies not only do not do the positive action but may do the opposite, e.g. not only not having anti-bribery systems but actively making bribery payments. Can companies be scored negatively for doing badly or doing the opposite of the requirement in any of these areas?
- P.30: The structure to this section would make more sense to me if the topic description came straight after the topic title, followed by the indicators. Each indicator should then have accompanying explanation/guidance and this would be the opportunity to detail the metrics for each, together with guidance on how to score, what constitutes good/bad performance etc.
- The references to equivalent criteria in other standards are a good feature.

Indicator A3: Institutional Capacity Building p. 32 (FFI)

- A 3.1: "The company supports institutional capacity building at subnational, national and regional levels". What counts as institutional capacity building? How to score one company that does a bit at all levels with one that does an outstanding job at just the subnational level? What about a company that takes actions that actively work against institutional capacity building? There could be numerous benefits to a company to keep host government capacity low.

Indicator B6: Payments to Producing Countries p. 37 (FFI)

- What if a company has been shown to actively hide payments? Is it scored the same as a company that cannot prove it reports all payments? And how is variation across geographies taken into account, given that legislation on this varies?

Indicator B8: Bribery and Corruption p. 39 (FFI)

- Does a company that has been shown to engage in bribery score the same as a company that fails to have sufficient prevention systems in place but has no evidence of illegal payments?

Indicators D: Community Wellbeing p.44 (FFI)

- The community and environment sections should both refer to the requirement for transparent management systems for assessing and responding to social and environmental impacts along the lines of IFC PS1. F1 partially deals with this for environment but it appears to be largely missing for section D, although it refers to PS1, and where it is mentioned it is dealt with differently from section F1 (e.g. F1 demands disclosure of the management system, D1 makes no mention of disclosure). It could be best to combine into a single indicator requiring PS1-style environmental and social management systems and a general approach to the mitigation hierarchy as a framework for response?

Indicator D6: Free, Prior and Informed Consent p.49 (FFI)

- D6.1: The company 'supports the principle of FPIC' is potentially weak. How would the 3 measurement approach be applied here? Would 'action' or 'effectiveness' measure use and impact of FPIC? If so, why not make the indicator clearer that this refers to more than supporting a principle and actually applying?

Indicator D8: Artisanal and Small-Scale Mining p.51 (ELL)

- We welcome the decision to evaluate companies on their interactions with ASM, which is a growing global issue. We agree that engagement with ASM and related communities is the primary criterion on this indicator, adding 'in bilateral or multilateral arrangements as appropriate'.
- However, we are concerned that providing alternative livelihoods for the miners themselves may not always be appropriate and may be too limiting; we therefore recommend that criterion D.8.2 should refer to 'alternative livelihoods for ASM communities'. We also suggesting adding 'collaboration with ASM communities' as an additional option.
- D8.2 (paragraph 2): Before the words 'environmental pollution' should be added 'loss of biodiversity or ecosystem services'. In paragraph 6, as well as LSM companies, exploration companies are beginning to engage strategically with ASM in the recognition that concessions may be difficult to sell on with an ASM problem unresolved. In such cases, LSM companies should maintain and improve the engagement processes initiated by their predecessors.
- D8.2: Besides reputational risks, ASM can be a risk that is factored into investment decisions. This should be included in the text.

- D8.2: Another solution to LSM-ASM conflicts that could be mentioned is establishing the LSM company as the sole buyer of the ASM-mined minerals being mined within the concession.
- We recommend including a recommendation for companies to provide policy advice and support to the relevant government authorities, after consultation with the ASM sector, so that mining companies help the ASM sector gain more visibility in policies that may regulate how LSM engages with ASM.

Indicators F: Environmental Responsibility p. 59 (FFI)

- Pollution is another major direct impact on the environment not mentioned here. But the environmental impacts of mining are not restricted to the footprint of the mine site itself. Often more destructive can be the secondary impacts – the impacts of people displaced on nearby habitats, the impact of people coming in as a result of the mine, the impacts of the associated infrastructure for the mine on wildlife trade and crime etc. Any paragraph summarising the environmental impacts of mining should refer to this broader picture.
- The last sentence refers to responsible mining requires impacts 'be minimised to the greatest extent possible'. Minimisation is only one step of the mitigation hierarchy. If the mitigation hierarchy is being used as guidance for responsible mining (as it should be) the language should be consistent and refer to impacts being 'avoided, minimised, mitigated and compensated' rather than just minimised.

Indicator F1: Environmental Stewardship p.60 (FFI)

- Same comment as for section D applies here
- F1 really refers specifically to environmental management systems, not stewardship as a whole.
- F1.1 and F1.2 could be a yes/no answer that hides a wide spectrum of responses. Presumably a 'no' would score 0? What are the range of scores if yes?
- Reference to the mitigation hierarchy should be made here – it is not enough to assess and monitor impacts – they need to be avoided, minimised and mitigated too.
- I would also like to see reference to landscape level thinking, either by the company itself, in engagement with other companies or with government. This is essential for dealing with some of the cumulative and more dispersed/secondary impacts.

Indicator F2: Tailings Management, p.61 (FFI)

- How would a failure of these systems, as happened at Samarco, influence scoring here?

Indicators F3-F8: p.62 – 66 (FFI)

- Don't management of impacts require the same indicators – an indication that there are systems in place to manage and monitor, that the data are publically available and that there is evidence of use of the mitigation hierarchy to address any issues identified? Evidence of continual improvement (as mentioned in F7.2) would also be good for each of these topics

- The mitigation hierarchy is also an appropriate framework for any negative impacts, not just those affecting biodiversity. F.6.1 should not be the only place this approach is mentioned
- Guidance on what constitutes a good store for F.6. is essential. Application of a mitigation hierarchy can be applied in many different ways, some very poor.
- Is there any scope for a score to recognise positive actions taken? For example, investments in community schemes, biodiversity conservation, water protection not directly related to the direct impacts the company is having.

Indicator F6: Biodiversity p. 64 (TBC, ZSL, WCS, FFI, ELL)

1. An additional point could be added, presumably before the current F.6.1, requiring that the company identifies clear objectives for biodiversity outcomes in relation to direct, indirect and cumulative impacts of mining activities throughout the life of the mine project. This is missing, so the current statement of F.6.1 regarding application of the mitigation hierarchy is fairly meaningless unless clear targets for its application listed. In addition, it is important that any biodiversity management plan includes an **auditable** biodiversity quality management system which ensures that performance is not only auditable but resilient to successional changes. Such auditable tools should be welcomed by institutional lenders seeking greater assurance of positive biodiversity outcomes.

2. Mining may impact biodiversity in numerous ways. Some of those are listed here but are just examples, and this should be made clear. Indirect impacts (e.g. through in-migration and induced access to resources) may often be equally or more significant as direct impacts from the mine footprint and operations, but these are not mentioned in the text. Good practice application of the mitigation hierarchy involves several important elements that should also be mentioned here:

· It emphasises the pre-emptive steps of avoidance and minimisation

· It is iterative, with application repeated until residual impacts are reduced as low as feasibly possible, and can be realistically compensated via restoration and, if necessary, offsets

· It is applied at the landscape (or seascape) scale, taking into account larger-scale ecological processes and connections

· It considers direct, indirect and cumulative impacts

· It is applied as early as possible in project planning and continues to be applied through project operations and closure

· Implementation of mitigation measures requires effective monitoring and an adaptive management approach

· Implementation and monitoring of mitigation measures should be fully integrated with an operation's Environmental and Social Management System.

Practically, a first step should also be to identify the key biodiversity features that might potentially be impacted, e.g. those that are particularly vulnerable or irreplaceable, or of

particular significance to local, national or international stakeholders. IFC's concept of Critical Habitat represents one approach to this that is widely adopted.

3. It would be useful to recognise the existence of firm targets on biodiversity such as no net loss or net gain. These should be part of the adoption of the mitigation hierarchy but it would be useful to make this clear. Application of the mitigation hierarchy without a clear objective is much less powerful.

4. An assessment of biodiversity performance should also consider the ecosystem services generated and the people that rely on them.

5. It is good to see this inclusion: "For example, several major mining companies have made commitments to forego exploration and mining in areas of outstanding global biodiversity value, such as World Heritage sites." However, could add to the end: "...and further public commitments are encouraged." In relation to the above point, it would also be good to flag up Key Biodiversity Areas (KBAs) and primary forests as other examples of other areas of outstanding global biodiversity value.

6. The last para states: "The business case for responsible biodiversity management is strong" and goes on to give arguments based on competitive advantage and social licence to operate etc. However, there is a clear link between biodiversity and the delivery of ecosystem services, so there is also a direct case for conserving biodiversity in terms of increasing resilience and stability of the ecosystem and thus its ability to recover from any impacts of the mining activity – and also the obligation to therefore minimise impacts of biodiversity for the sake of local people and wider society. It should also be indicated that, not only is the business case strong, but responsible biodiversity management is increasingly an external legal obligation and an imperative policy commitment for mining companies wishing to be seen as responsible.

7. It is noted that increasingly "companies are commissioning independent external audits or oversight to verify whether their biodiversity management strategies are being effectively implemented". It should be recommended that these audits assess and monitor actual impacts of the operation on biodiversity – i.e. via indicators or not just management/process, but the state and trends of biodiversity itself. As noted above, the adoption of biodiversity management systems specifically designed for their auditability is to be encouraged.

8. Companies should be encouraged to publish their EIAs and biodiversity surveys/monitoring results, and submit non-confidential biodiversity data to an appropriate national or other recognised data management system where it exists, to support the development/improvement of biodiversity indicators such as the IUCN Red List Index and the Living Planet Index and business/development support tools such as IBAT and National Red Lists.

Indicator F7: GHG Emissions and Energy Efficiency, p.65 (ZSL)

F7.1 The company monitors and minimises GHG emissions generated by its activities

1. Reference to impacts on forests and other critical habitats should be made with respect to GHG emissions, and the need to avoid primary forests wherever possible (employing the mitigation hierarchy as for biodiversity). The wider values of primary forests beyond GHG emissions should also be highlighted – i.e. their particularly high value in terms of biodiversity, livelihoods, carbon, water, local climate regulation and other ecosystem services. Again, direct, indirect and cumulative impacts should be covered, taking a landscape approach.