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In summary, we think that it looks promising, though we are worried that the current draft is too focused on headquarter reporting policies and not enough testing performance on the ground. We also believe that it misses a significant opportunity in not drawing more on EITI reporting already available.

We get the impression that the human right related aspects have been worked through in greater detail than the governance aspects of the indicators.

There is of course some overlaps with what the EITI is already doing, but also complementarities with the EITI. As you know the EITI Standard is implemented by governments, but companies operating in each of our 51 implementing countries are required to participate in EITI reporting. More than 1800 oil, gas and mining companies have disclosed tax information and other contextual information on their licenses, production data, social payments to local communities employments in EITI Reports published every year. In addition, a significant number of mining companies support the EITI.

We have some initial concerns with the current draft methodology, though we have not reviewed it in detail line-by-line:

- Many of the indicators appear open-ended, in that they are easy to answer in the affirmative. One colleague remarked: "this seems designed to make companies look good." Large companies with developed CSR policies at headquarter level should be able to answer almost all in a positive manner, yet it runs the risk of saying little about actual practices.
  We assume that eg all of ICMM's members should be able to submit it with confirming on almost all indicators. It runs the risk of becoming somewhat of an extension of GRI. Given the credibility challenges GRI reporting is encountering, we wonder if greater effort could be made to develop indicators that that really seeks to capture performance.
  Given that many of the world's 30 largest mining companies already report according to GRI, RMI could surely go further. B.6.1 is a good example of the kind of sharper indicators we would have thought will make it more relevant in capturing performance, though this particular indicator would benefit from being refined, as by law this cannot be disclosed in all countries and the definitions of eg subnational payments may be necessary to include.
  Another sharper indicator could possibly be to eg establish how many fatal accidents have occurred during the last reporting period. An area that we don't know much about but where we assume RMI could do more in is the environmental impact of mining operations. Rather than simply state policy, could RMI not to a greater extent require detailed information of use of dangerous chemicals, CO_2 emissions per produced mineral unit etc, all aspects where standards are significantly different in different parts of the world.
  We would have thought that indicators should focus on the kind of operative issues that distinguishes different operations. One of our colleagues wrote: "My main criticism of their methodology is that it focuses too much on HQ mining companies reporting and very little on in country reporting". We worry that the mine-site indicators will not adequately capture key issues.

- Data collection and analysis process, page 21 – It would be interesting and important to know how RMI will resolve conflicts, if eg RMI establishes that an indicator has not been met whereas the company insists that it has.

- The EITI is referred to in the explanation of B.6.1 as "voluntary". It would be good if this could be explained. In many countries the EITI is implemented by law and EITI reporting by companies is legally sanctioned.

- It would be helpful if the hierarchy of importance of various reference standards and initiatives could be explained. The list on page 14 would benefit from being explained in how those examples are distinguished from those listed on page 15. Certain initiatives, such as the UN Guiding principles in indicator D.9.1, are referred to directly in the indicator, and GRI, OECD and others are references throughout, whereas for example the EITI Standard's relevant requirements are not referred to. Given the role the EITI has played eg on project-level reporting, the current arrangements will be considered misleading by the EITI. There are overlap in BO reporting, tax reporting, contracts, but this overlap is not recognized.

- SDGs – the SDG are obviously frequently referred to and we don't doubt that mining activities can contribute towards sustainable development. Still, extracting natural resources is by definition not sustainable. We consider it important to acknowledge this.

- On the definition of Beneficial ownership (p.2): Please note that the EITI now recommend "that implementing countries maintain a publicly available register of the beneficial owners of the corporate entity(ies) that bid for, operate or invest in extractive assets, including the identity(ies) of their beneficial owner(s), the level of ownership and details about how ownership or control is exerted". EITI Requirement 2.5 includes a short definition of beneficial ownership that you may wish to consider. "A beneficial owner in respect of a company means the natural person(s) who directly or indirectly ultimately owns or controls the corporate entity." Some EITI implementing countries are already publishing beneficial ownership information and all EITI implementing countries will be required to do so as of 1 January 2020.

- On the usefulness of the indicator (p.7): we agree that such indicators could be very useful in distinguishing between companies that adhere to high standards of good governance and make meaningful contribution to the economy and those that do not. Since EITI does not rank companies, and our quality assurance mechanism is directed to countries, the RMI could give recognitions to efforts made by mining companies and their subsidiaries in EITI reporting in countries that implement the EITI.

- On the topics covered (p.11): Evidence of mining companies contribution to economic development, business conduct, and community well-being can be found in EITI Reports, where relevant.

- On the unresolved issue of community/rights holders ownership (p.11): RMI could check companies' disclosure and adherence to mandatory and voluntary social payments that benefit local communities

(EITI requirement 6.1). The issue of beneficial ownership is important by itself, but from our experience local communities direct ownership of these assets are rare or relatively very small.

- On B.8.1 “Bribery and corruption can be prevented or greatly reduced…due diligence and compliance programmes.” The EITI would of course argue that bribery and corruption can be prevented in many other ways, including through transparency of payments to governments.

- On the methodology (p.17): In addition to companies commitments on specific issues, the RMI could consider evaluating the extent to which companies adhere to existing laws and regulations in the countries their operate. This can include compliance with tax laws, and compliance with transparency standard to help enforce such laws. The EITI Reports can provide independently verified information for whole host of issues in this regard (see comments on the indicators below). On page 6 the Report states that “the Index will be published every two years and will rank 30 of the world’s largest mining companies. Their relative performance will be scored largely at corporate level, although a limited number of indicators will focus on the performance of approximately 150 mining operations.” The focus of the score at “corporate level” which we understood to mean at companies’ headquarters, could limit the effectiveness of the index. Companies that have subsidiaries in many countries, especially in weak institutional environments will face bigger risk therefore need more robust frameworks of transparency and good governance. The RMI could consider giving individual scores to mining companies subsidiary by country, and then an aggregate score at HQ.

- On the indicators (p.25-29): Additional indicators can be considered to verify companies’ contribution to economic development. For example under A.1.1 and B.6.1 “payments to producing countries”, there are independently verifiable information on companies’ tax payments in each EITI implementing country. EITI Requirement 4 covers this issues and EITI report show which company has paid what in each implementing country. The RMI could aggregate this kind of information where applicable. Companies participation in EITI national multi-stakeholder groups and similar initiative could also be considered as part of companies engagement. On contract disclosure (B.3), see EITI Requirement 2.4, but also a recent study on the issue here. It is possible that the language in B.3.1 is too broad as contract transparency, while improving is still not a common practice in all countries where mining companies operate. On Beneficial ownership, (B.4) this EITI guidance note and our evaluation of what has been published so far could help inform more targeted indicators that can be independently verified. Finally, there is obviously an overlap between indicator B.5 tax transparency and the EITI that could be recognized to avoid duplication of efforts.