

**April 2013**

**Submission to UN Working Group on the issue of human rights and transnational corporations and other business enterprises:**

***Preparation of the second annual United Nations Forum on Business and Human Rights: Call for input from stakeholders***

**1. Introduction**

ICMM welcomes the call for input of stakeholders around suggestions for the 2013 UN Forum on Business and Human Rights. Two representatives from the ICMM attended the 2012 Annual Forum and were encouraged by the significant interest which remains around the business and human rights agenda. Taking into account the particular areas where the working group would like input, this submission will focus on:

- Suggested topics for consideration
- Areas where ICMM's participation would be most valuable
- Modalities that may be conducive to engaging key stakeholders and promoting multi-stakeholder dialogue

ICMM is a CEO-led collaborative of 22 of the largest mining, minerals and metals companies in the world. Our companies employ some 800,000 people at over 800 sites in 62 countries on every continent. In addition we serve to link 34 mining and commodity associations through which we have reach to another 1,500 companies in the sector. All ICMM members are committed to improve sustainable development performance in the industry.

**2. Suggested Topics for Consideration**

There are a significant number of topics that the Forum could potentially address, though we would recommend that careful consideration is given to the format to ensure the discussions are as substantive as possible (see our comments on suggested modalities below). There are two specific areas that we think could usefully be included on the Forum's agenda.

**Indigenous Peoples**

While we recognize the importance of the first Forum's focus on taking stock of the implementation of the UN Guiding Principles on Business and Human Rights (the Guiding Principles), we would suggest that discussions during the second Forum place more of an emphasis on overcoming implementation challenges. One such challenge which could be considered is around the issue of Free, Prior and Informed Consent (FPIC) for Indigenous Peoples. As ICMM noted in its February 2013 submission to the Working Group, the Working Group could usefully play a role in exploring some of the challenges of operationalizing FPIC.<sup>1</sup>

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<sup>1</sup> These challenges could include exploring the difficulties of applying FPIC where: (i) consent is not legally mandated (ii) consent involves customary decision-making processes (for instance, if these

ICMM would welcome the opportunity of participating in a conversation convened by the Working Group which includes Indigenous Peoples, States, business enterprises and civil society organizations around the practical challenges associated with applying FPIC.

### **Human Rights reporting**

The example of transparency measures such as reporting requirements was cited by the Working Group in their call for topics. ICMM supports inclusion of human rights reporting on the Forum's agenda. This is currently an area where greater discussion is required (for example around how organizations balance the calls for transparency around reporting on the outcomes of grievance procedures with the need to protect complainants). The Global Reporting Initiative (<https://www.globalreporting.org/Pages/default.aspx>) has been grappling with this area in the update of its reporting Guidelines (to be published in May 2013) and might be able to provide insights into how they will be addressing human rights in their updated Guidelines. In addition, the International Integrated Reporting Committee (<http://www.theiirc.org/the-iirc/>) whose framework is also under development, may have valuable lessons to share around how they are addressing human rights.

### **3. Areas where ICMM participation would be most valuable**

In addition to participating in conversations around Indigenous Peoples and the extractives sector (as suggested above), an area where ICMM has been deeply involved since 2004<sup>2</sup>, ICMM will have valuable lessons to share around implementing the Guiding Principles. In addition to the sector specific guidance ICMM has produced around grievance mechanisms and around due diligence, in 2013 we will be holding a series of regional workshops with our members and external stakeholders to explore implementation progress around human rights. A component of these workshops will explore challenges with implementing the UN Framework and ICMM is likely to have helpful lessons to contribute to discussions at the Forum on the topic.

### **4. Modalities that may be conducive to engaging key stakeholders and promoting multi-stakeholder dialogue**

The format for the first Annual Forum allowed for a significant number of presentations across a range of business and human rights topics. While this was useful in flagging some of the main issues, the panels included a large amount of individuals and presentations often exceeded their allotted time allocation which considerably reduced the time available for questions and answers. In order to make the sessions more interactive, ICMM suggests that elements of the agenda are structured outside of the main agenda as 'roundtables' which will allow for more substantive interactive sessions. The suggestion around a session on FPIC above could lend itself to this format. We would also suggest that traffic light timers or the equivalent are considered to ensure presenters do not overrun. In addition, structuring the overall agenda around a particular theme should bring a sense of consistency across the event.

### **5. Conclusion**

We thank the Working Group for considering inputs from a wide range of stakeholder as it develops the agenda for the second Forum and welcome on-going engagement with the

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require unanimity or exclude a significant proportion of the community, such as women) and; (iii) consent might involve coercive practise if poorly handled by traditional authorities or companies.  
<sup>2</sup> See previous submissions for further details of our work over the years

Working Group on priorities of common interest. We are willing to discuss any of our recommendations further at your convenience.

For ICMM, the key point of contact will be as follows:

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