

ANNEX: Canadian comments on the Secretary-General's Report on Mining (E/CN.17/2011/7) for the Intergovernmental Preparatory Meeting for the CSD19

Canada is pleased to provide the Secretary-General and CSD Participants with the following detailed comments on specific paragraphs of the mining report where we believe that improvements can be made, in order to assist development of draft decisions for consideration at CSD19.

NOTE: Where there are suggested revisions to text in the left column: for deletions: ~~strike through~~; for additions: underline

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II. Controlling the Need for Metals and Minerals Extraction	
<p>6. At the same time, the extraction and processing of minerals imposes environmental and social costs. Several economic factors contribute to the environmental and social impacts of mining. With regards to the extraction of industrial minerals and metals, the first one is the "size" of mining as an economic activity, which relates to the demand for minerals and metals as inputs in the production system. The second one is the environmental impacts of specific extraction techniques, and more broadly the way extractive projects are managed on the ground.</p>	<p>The context of this paragraph ignores the economic and social benefits that the mining sector has been demonstrated to contribute to society in many jurisdictions -for example as needed inputs for agriculture, telecommunications, infrastructure. The fact that in OECD countries material intensities has decreased such that greater economic value is now achieved with less material inputs--is something to strive to replicate as developing countries move from agriculture to manufacturing and infrastructure development. To exclude the positive economic and social benefits of mining, at the beginning of the document which sets the context for the paper, diminished the extent to which the underlying policies are given due consideration as best practices for the benefit of developing countries. Canada would like to see a new paragraph inserted to also address the economic and social benefits of mining--or language that presents a more balanced consideration in paragraph 6.</p>
<p>7. Regarding the former, the link between industrial metals and minerals extraction and the demand for industrial metals and minerals as inputs to the production process is affected by: (a) the extent of recycling that takes place; (b) material efficiency, i.e., the quantity of metals needed to produce one unit of product; and (c) material substitutions in the production process, where metals are replaced by other components. Efforts to reduce adverse impacts of mining should contemplate actions on these three fronts, in particular within the context of actions towards more sustainable production and consumption patterns should contemplate efforts on these three fronts. The promotion of recycling activities can also create or sustain employment, as these activities are labor-intensive, especially in developing countries.</p>	<ul style="list-style-type: none"> • The issues of resource efficiency and recycling are best addressed within the dialogue on sustainable consumption and production. • If this text remains, this paragraph does not take into consideration (a) whether there are industrial and post-consumer recycling facilities and infrastructure available within the host country; (b) that the material substitutions may or may not have their own related environmental and/or social impacts; and (c) that there are existing examples of good practices and approaches which could be cited as policy examples here.

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<p>8. By contrast, the demand for diamond and gemstones, and to some extent gold, is largely determined by individual consumers. Given this link and the large environmental and social impacts of artisanal gold and diamond mining overall, a number of proposals have been made by non-governmental organizations and other stakeholders to:</p> <p>(i) Limit the end demand for these mineral products, by directly addressing consumers and alerting them on the impacts of mining;</p> <p>(ii) Rationalize the use of existing stocks above ground by discouraging stockpiling and encouraging recycling;</p> <p>(iii) Promote third-party certification schemes that address environmental and social issues associated with the mining of gold and precious stones.</p>	<p>This paragraph attempts to tie industrial practices (increasing material efficiency by reducing the amount of inputs extracted) to consumer behaviour--over which the industry has no control.</p> <p>(i) "alerting consumers of impacts of mining" often manifests in anti-mining campaigns, which are socially divisive and can promote conflict in local communities;</p> <p>(ii) there is no consideration for the direct and indirect employment, infrastructure, training, education, etc. that is created by mining;</p> <p>(iii) third-party certification schemes cannot be a substitute for government governance capacity to address environmental and social impacts and to maximize social and economic benefits. Strengthening government governance capacity, as mentioned earlier, is addressed in other parts of this document. The underlying issue is ensuring that industry is socially and environmentally responsible. This is best achieved through strengthening government governance--at local and national levels, using both legislative and voluntary tools--regardless of the mineral or metal being extracted.</p> <p>Canada recommends revisiting this issue and policy options, from a governance perspective, to ensure that policy options take into consideration the social</p>
<p>9. At the macroeconomic level, prices of minerals and metals do not fully reflect the life-cycle environmental and social costs of mining activities. This results in socially inefficiently high use of metals and minerals in the production system, high environmental and social impacts, as well as low incentives for mining companies to adopt cleaner production systems. The fact that some environmental and social costs are not incurred by producing firms also affects the incentives to recycle, through the relative costs of production of recycled and virgin raw materials.</p>	<ul style="list-style-type: none"> • The document gives greater emphasis to the negative social and environmental impacts of mining activity than due consideration of economic and social benefits. The underlying issue is to ensure that industry is socially and environmentally responsible. This is best achieved through strengthening government governance--at local and national levels, using both legislative and voluntary tools. Performance and compliance can then be monitored, measured and corrective action taken where appropriate. • The argument that "prices" do not fully reflect life cycle environmental and social costs and results in "socially inefficiently high use of metals and minerals in the production system", is difficult to measure, does not address weak or lacking governance over environment and social issues, ignores offsetting economic and social benefits from mining activity, as well as other variables that may effect pricing. • Canada recommends deleting this paragraph. Implementation policies/activities to strengthen governments' institutional capacity and governance capacity to mitigate environmental and social impacts are proposed throughout the document.

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<p>10. A first area for consideration is whether the component of mineral prices that relates to royalties and other taxes paid by extracting companies reflects a fair compensation to the countries where minerals are extracted for the loss of their natural assets. If this loss is not adequately compensated, prices are "too low" and minerals extraction effectively becomes a transfer of wealth from producing countries to users of the extracted minerals. A second areas of consideration is to examine direct and implicit subsidies to mining resulting from the tax and investment regimes applying to the industry, with a view of ensuring that those subsidies effectively contribute to sustainable development goals.</p>	<ul style="list-style-type: none"> • Royalties and taxes are not the only economic benefit that local communities and national governments may realize as a result of mining activity, e.g. indirect employment, upstream/downstream economic links, infrastructure development, and government equity positions in mining projects. Thus the determination of tax and royalty rates is complex and based on a country's overall economic development goals. The underlying issue is that governments ensure that they are i) transparent and accountable for their revenue management; ii) have a legal and regulatory framework to support decision-making; iii) and mining activity is integrated into the national development plans. These governance issues are addressed in other parts of the document, such as the section on improving governance in the mining sector. • Incentives ("subsidies") used by national governments to attract foreign direct investment are best addressed in the context of a broader discussion on national governance over revenues generated from mining activity and national development goals.
<p>11. Options to better reflect externalities created by mining activities in the production costs faced by firms can be grouped into three broad areas: enacting and enforcing environmental and social regulations; devising legal and financial provisions for mine closure and rehabilitation; and devising measures to cover the environmental and social costs of accidents such as leakages, overspill of containment ponds and breaking of tailings dams. Clear liability provisions and mandatory mine closure and monitoring plans help ensure tha the cost of peration more fully reflects the impacts of mining activities. One option for funding rehabilitation activities on abandoned sites is the imposition of levies on the mining industry. For instance, in the United States, the Surface Miing Control and REclamation Act of 1977 (SMCRA) established an Abandoned Mine Land fund, financed by levies on coal extraction, which is used to pay for the cleanup of abandoned surface coal mines.</p>	<ul style="list-style-type: none"> • The three broad areas raised in this paragraph are addressed appropriately in the national governance section of this paper. • Canada suggests moving the undeleted text to paragraph 39, which discusses funding options for abandoned and orphaned mine sites.

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III. Strengthening the Contributin of Mining to National Economies	
A. Large-scale mining	
<p>16. In many countries, substantial mineral reserves remain underexplored or underexploited. Reasons for this include lack of data and information, lack of investment in the sector, and lack of infrastructure needed for the development of major projects. <u>There may also be a lack of governance capacity (e.g. political instability, a lacking legal framework), a poor investment climate, or societal objections which influence the decision-making of companies to undertake exploration.</u> Developing adequate knowledge bases for different types of mineral resources that countries may have through surveying and mapping is a necessary first step.</p>	
<p>17. At the stage of allocation of exploration and exploitation rights, the country's seeking to maximize benefits from interest is to get the best possible price for the mineral wealth that will be extracted. As demonstrated in several countries, it is possible to clearly separate exploration rights from exploitation rights, with the objective of ensuring competition for exploitation rights among several companies. The asymmetry of information that often exists between authorities in charge of allocating mining rights and companies, with the latter being much better informed about the real amount and value of mineral deposits may be overcome by using open bidding since companies compete for deposits based on similar technical capacities. Open bidding has been chosen as the process for re-allocating expired concession rights in several African countries recently.</p>	<ul style="list-style-type: none"> • A challenge of open bidding not expressed here, is that countries may lack the geological information on potential mineral deposits that could sufficiently inform an exploration auction. • Policy options could seek to improve countries' development information on geological resources through capacity building.

18. The share of the extracted wealth accrued to the State depends on factors such as the legal and regulatory framework applying to mining (e.g. mining codes); the flexibility mechanisms built in investment contracts to deal with fluctuations in mineral prices; taxation and royalty regime; provisions for royalty calculation and collection; and local economic content provisions such as shared equity or targets for local employment content within and around the mining project; all play a role. Countries have applied a range of tax and royalty schemes for the mining industry. In practice the actual collection of revenues is affected by a number of factors. In a number of cases governments are shareholders in mining ventures, e.g. diamond miner Debswana (50 per cent owned by the Government of Botswana) and Williamson Diamonds (25 per cent owned by the Government of Tanzania).

Footnote: It is estimated that between 1990-2001 the Chilean state-owned miner Codelco paid US\$10,659 million in taxes, while the private companies paid US\$1,638 million, despite their share of production being 25 per cent greater. Source: Elva Bova, The implications of mine ownership for the management of the boom: a comparative analysis of Zambia and Chile, Working Paper No 2009/13, Swiss National Centre for Competence in Research.

With specific reference to the footnote of paragraph 18:

The Chilean example is misleading in its lack of specifics. Codelco is required by law to pay 10% of its profits to the government of Chile, with its revenue not spent on re-investment in the sector, exploration, and new plants/mines--and the local economy. The notation also does not refer to the fact that the royalties/taxes scheme--as contained in the Stability Agreements with the government of Chile--are but one tool that governments avail themselves of determining an overall economic development plan for the mining sector.

Figures for 2002-2009 should be quoted to see a more up to date picture of what the industry's contribution is to Chile's economy.

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<p>19. Beyond employment and other direct economic impacts of mining operations, creating linkages between mining and the rest of the economies is critical for development. Without an integrated approach, there are real risks that mining operations operate as enclaves, with very few spillovers to the rest of the economy. An approach used in Mozambique, Liberia and other countries is that of growth corridors or development corridors, where planned mining development are integrated within broader spatial planning that aims to develop locally suited economic activities (such as agriculture, forestry, small-scale mining) by taking full advantage of the infrastructure created specifically for the needs of mining projects. For example, roads, railway lines, electricity generation facilities, and port facilities can be built with additional capacity to allow other activities to use them or communities to benefit from them. Lessons from experience show that the best way to configure such links is before mining contract are signed. Provisions relating to over-dimensioning of infrastructure can be added in concess with companies competing on this dimension. <u>A balance should be struck between governments and industry, to ensure companies are not held to an unreasonable burden for infrastructure development in growth corridors.</u> <u>Governments could offer incentives to encourage this type of development.</u></p>	
<p>20. Managing the revenues from mining for maximal development impact is the next critical step. Countries endowed with natural resources have an interest in devising sound macro-economic and institutional frameworks to manage the rents and other revenues from these resources. In the domain of mining activities, relevant areas of concern relate to: (i) avoiding the "Dutch disease"; (ii) Using revenues to stabilize the economy; (iii) using the revenues for maximum development impact; <u>(iv) capturing a share of the country's economic activity.</u></p>	

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<p>21. Risks of Dutch disease are now well understood and a number of countries have taken measures to prevent it. In some countries such as Norway, Chile, and Botswana, the totality or a portion of the revenues from minerals is set aside in special funds, whose uses are defined by law. <u>Earmarking mining revenue within a national budget needs to assume a greater prominence in the debate, especially with respect to the challenge of accountability and efficacy of government spending.</u> Depending on a country's priorities and economy, the following strategies may be effective, alone or in combination with one another: investments in education and infrastructure to increase the long-term competitiveness of the manufacture sector; isolate a part of the revenues from mining from the rest of the economy, and use them for investment abroad; set aside some part of the revenues for future generations. Revenues from minerals (or the windfall part of them) can also provide reserves that can be used in counter-cyclical ways to limit the impacts of external shocks on national economies.</p>	
<p>23. Better addressing the environmental and social costs <u>and benefits of extractive activities in host communities remains a critical challenge.</u> Experts agree that in many countries the compensations to host communities are insufficient to address local depletion of environmental assets and other social impacts of projects. In order to make a difference to development outcomes, revenues from natural resources need to be able to generate additional and sustainable incomes, beginning with replacing income sources or opportunities that have been destroyed by the mining activities such as farming and fishing. Projects which create links between mineral extraction and the local economy are very important in that context. <u>The national and local contexts must be taken into account in determining the best approach for State distribution of revenues from mining activity.</u></p>	
<p><i>B. Artisanal and small-scale mining</i></p>	

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<p>24. It is widely recognized that the development of artisanal and small-scale mining is largely a product of poverty and lack of viable alternative livelihoods. Many issues related to ASM directly relate to its lack of status as a legitimate economic activity. ASM often operates at the margin of or outside legality, with legal and regulatory framework for mining focusing largely on large-scale mining. ASM activities are often not integrated into national development plans and recognized as a source of livelihoods for local populations who rely on them. When they exist, official zonings of land allowed for ASM activities do not always correspond to where activities already take place or where they make economic sense. As a result, several issues are commonly related to ASM across the world, linked respectively with land rights disputes, adverse social and environmental impacts; and illegal markets. <u>Any direct reference in mining codes needs government will and capacity to enforce such regulations.</u></p>	

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<p>26. Efforts to formalize the artisanal mining sector and integrating it into the formal economy should be based on lessons learned during the past decades. Actions that have been suggested by field research and policy research include:</p> <ul style="list-style-type: none"> (i) Enhancing national information and monitoring systems relating to small-scale mining, including areas affected; regular surveys of concerned populations, health, income, livelihoods and economic conditions; (ii) Integrating ASM into broader local development strategies and poverty reduction policies <u>as well as national mineral policy debate</u>, in order to maximize the contribution of ASM activities <ul style="list-style-type: none"> to livelihoods, facilitate the cohabitation of mining activities with other sources of livelihoods, and when appropriate, provide credible and viable alternative livelihoods to mining activities; (iii) Building the legal and regulatory framework for ASM in a way that recognizes both the livelihood contributions of ASM and tries to maximize the social benefits of ASM, through legal recognition of small-scale mining activities; adequate zoning of land suited for ASM activities; facilitation of registration for miners; and provision of technical support to small mining communities; (iv) Recognizing land rights of communities and clarifying whether they are allowed to mine land that they consider theirs; and to allocation exploration and production rights fairly among large-scale and small-scale mining; (v) Putting in place appropriate institutions and frameworks for consultation at the local level--<u>and at national and global levels to exchange best practices--</u> i between small-scale mining and local activities which mining can affect negatively, especially agricultural activities; (vi) Consider options for the co-existence of large-scale mining and small-scale mi 	

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<p>Among the most important environmental issues related to small-scale mining are the use of mercury for gold amalgamation, sometimes in combination with cyanide. International discussions on mercury are ongoing (with support for international institutions) provide assistance to ASM operations to improve technologies and limit the adverse impacts of mercury and cyanide use, taking account of the lessons learnt through past initiatives, including:</p> <ul style="list-style-type: none"> (i) Designing comprehensive pollution abatement strategies that explicitly address local socioeconomic capacities for improving environmental management; (ii) Proposing economic alternative techniques to traditional use of mercury; (iii) Adapting technical solutions to local values or materials and designing the implementation of technical facilities (such as centralized mercury mills for gold amalgamation) with proper consideration of local demand and local dynamics of the mining communities. (iv) <u>Providing resources to enhance education and literacy levels in communities, where needed.</u> 	
<i>IV. Addressing the Environmental and Social Impacts of Mining</i>	
<p>29. Environmental and social impacts <u>and benefits</u> associated with mining vary widely, depending on the type, scale and location of the activity. Since the World Summit on Sustainable Development, a number of good practices have been developed and shared, including on good governance and sustainable mining principles; resource efficiency in extraction; mine safety and health; management of tailings and waste rock; and rehabilitation of abandoned and orphaned mines.</p>	
<p>31. The existence and enforcement of appropriate mining and environmental laws and legislation is critical to addressing the environment impacts of mining. Regulation should be adapted to the category of the mining operation (large-scale and small-scale mining). There is broad agreement that this should include the preparation of comprehensive environmental and social impact assessments (EIAs and SIAs), with meaningful local stakeholder and community participation. <u>The EIA and SIA processes can be reinforced through access to information-type legislation and technical data being made available to local communities in the national and local languages.</u></p>	

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<p>32. As mining operations continue to expand outside traditional mining countries, a key challenge is ensuring that industry best practices are disseminated and adopted as widely as possible. In parallel to the adoption of appropriate environmental and social laws and regulations, the implementation of voluntary standards and codes of conduct will <u>can</u> potentially also raise the environmental and social performance of mining companies wherever they operate . Reporting, for instance through the adoption by firms of the Global Reporting Initiative's Mining and Metals Sector Supplement, can also contribute to an improvement.</p>	

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A. Environmental Impacts	
<p>37. Cyanide, which is acutely toxic to humans, <u>is extensively used in a range of industrial sectors, representing approximately 80% of world use. (see footnote below).</u> It is used by in the mining industry to extract gold and silver from ore. An initiative to improve the management and use of cyanide is the International Cyanide Management Code, a voluntary program for gold mining companies, cyanide producers and transporters, which focuses on the safe management of cyanide and cyanidation in vats or tanks. The Code was developed by a multi-stakeholder Steering Committee under the guidance of the UNEP and the then International Council on Metals and the Environment (ICME), now the International Council on Mining and Minerals (ICMM).</p> <p>Footnote: http://www.minerals.org.au/__data/assets/pdf_file/0004/8716/cyanide_factsheet.pdf</p>	
<p>38. The disposal of tailings from mining has been a pervasive cause of environmental damages. Riverine tailings disposal has been criticized as destroying ecosystems and polluting water sources. Submarine tailings disposal (STD) is banned under the Clean Water Act in the United States, but is used in a number of countries. Tailings dams typically represent a significant environmental liability associated with mining operations. The failure of such impoundments represents serious risks to the environment and human health, with very costly clean-up operations. Many jurisdictions have developed standards and guidelines for the operation of tailings dams and facilities, increasingly focusing on a risk management approach. The International Commission on Large Dams (ICOLD) has also developed guidelines for tailings dams. <u>The Mining Association of Canada's Developing an Operation, Maintenance and Surveillance Manual for Tailings and Water Management Facilities</u> also offers guidance.</p>	
<p>40. In many countries the legacy of abandoned or partially rehabilitated mines is a significant issue. In many cases governments are saddled with the cost of remediation and rehabilitation. A key problem is that in most countries' existing legislation does not address this issue. As a consequence, there is a lack of established procedures for remediation and potential legal liabilities <u>which discourages</u> companies that may wish to work on the site from doing so, <u>or offering technical assistance for remediation.</u> Along with clear liability provisions, mandatory mine closure and monitoring plans may help limit this risk. An essential first step is the identification, assessment and inventorying of sites, in order including prioritization in accordance to risk levels, in a transparent process with stakeholder involvement.</p>	

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<p>42. Establishing and enforcing clear rules for biodiversity protection in relation to mining, including appropriate zoning of areas where mining activities are permitted, remains elusive in many countries. Although global and national policy debates often center on “no go ” areas on land that is already subject to legal protection, mining in important ecosystems that are not adequately protected may pose an even greater threat. Non- governmental organizations (NGOs) have developed general principles and criteria for identifying areas that should be off-limits to mining, oil, and gas development. However, those are not always implemented. <u>This issue requires more focus in national mining policy discussions. More forward looking policies are need for natural resoruces management and land-use decision making, as governments seek to balance the need for protected areas with the need for economic development, industrialization, and job creation.</u></p>	
<p><i>B. Social Impacts</i></p>	
<p>43. There have been increased calls from civil society, and more recently from institutional investors, for mining companies to respect human rights instruments, the ILO Convention concerning Indigenous and Tribal Peoples in Independent Countries (No. 169) and other ILO conventions as well as other instruments such as the United Nations Declaration on the Rights of Indigenous Peoples. There has also been a focus on the need to apply the principle of free, prior and informed consent (FPIC), as absence of (or merely pro forma) consultation with local and indigenous communities on decisions to start and operate mining activities has remained a pervasive issue and has been source of conflicts. Lack of information of local populations on mining projects is also a crucial gap. Among the complaints received by IFC regarding mining projects that they finance, the most frequent cause for the complaints are: 1) absence of information on the project; 2) land issues; and 3) water issues. <u>The development of consultation mechanisms at the local and national level, with all stakeholders engaged, can disseminate info and mutual understanding, and respond to local concerns and support.</u></p>	
<p>46. <u>While ASM is largely an unregulated and informal sector, it is suggested that</u> women provide up to 50 per cent of the small-scale mining workforce, but their compensation typically lags behind that of male mine workers. Women in communities affected by mining also tend to bear most of the downsides of mining activities, <u>such as e.g....?</u> This strongly suggests that a gender-sensitive approach to mining projects should be followed in social evaluations and social projects centered on host communities. Work by the World Bank provides recommendations in this regards, as well as a list of indicators that can be used to monitor this dimension in mining projects.</p>	<p>It would help to inform the discussions surrounding legalizing and the governance of ASM, if some examples of the impacts on women specifically could be included here, based on global experiences of countries with ASM activity.</p>

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<p>48. Improving the health and safety of mine workers remains a challenge across the world. To date, 23 countries have ratified the 1995 ILO Convention No. C176 on Safety and Health in Mines. Given that this Convention provides a framework to achieve continuous and sustainable occupational safety and health improvements, its ratification could improve laws and regulations in those countries where mine safety is weak and where no coherent occupational safety and health policy exists for the sector. It is also important that countries take steps to fairly compensate the long-term health impacts on workers and nearby communities. Improving working conditions in the artisanal and small-scale mining sector will remain a challenge as it operates largely informally with minimum work safety and health standards. <u>Ratification must be supported by a governance framework, in order to ensure the implementation of the Convention.</u></p>	
<p>49. The influx of persons associated with mining operations may also give rise to, or exacerbate, indirect negative social impacts, such as alcoholism, prostitution, and sexually transmitted diseases, including HIV/AIDS. Social and health policy interventions are required by mining companies <u>and national</u> and local authorities.</p>	
<p>50. The social side has been dubbed the “weakest pillar” of sustainability assessment by some experts. SIAs are often mandated by law and regulation for all proposed mining projects. While the goal of SIAs is to identify and address potential social issues proactively, a number of weaknesses of this and related instruments have been identified. They include insufficient scope; lack of comprehensive approach addressing all relevant issues; lack of integration of social, environmental, and economic issues; an overly technocratic approach; and the static nature of these exercises. The demand for greater integration of social and environmental impact assessments is supported by the World Bank Extractive Industries Review, among others.</p>	<ul style="list-style-type: none"> • Policy options to strengthen the social pillar of sustainable development need to clarify the roles for government, industry, civil society and international institutions (particularly the donor community). • Multistakeholder partnership approaches could strengthen impact and benefit analysis.
<p><i>V. Improving Governance in the Mining Sector</i></p>	
<p>51. Mining activities generate a range of impacts <u>and benefits</u> that have been examined in the Secretary General’s report to the 18th session of the Commission. Depending on the case, preventing, managing, or mitigating those impacts, <u>as well as maximizing benefits</u>, requires adequate governance both at the national and international levels, including the rule of law as well as ethical, accountable, and transparent behavior by governments and companies, within the respect of national sovereignty on the control of national resources, as stated by Principle 21 of the Stockholm Declaration and reaffirmed in 1992 in the Rio Declaration of the United Nations Conference on Environment and Development.</p>	

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<p>52. International governance issues arise because of the globalized nature of markets and value chains involving minerals and metals. Adequate governance should aim at greater transparency and accountability at all points of such supply chains, with the aim to support interactions among all the actors in ways that are conducive to sustainable development. A comprehensive approach to governance in the sector has to consider in particular the following aspects, which can be adequately addressed by a combination of national and international efforts: (i) trade in conflict minerals; (ii) transparency of agreements between governments and the private sector; (iii) respect by the mining industry of basic human rights, including the rights of affected communities; (iv) environmental and social performance of international companies; (v) <u>free markets</u>; (vi) <u>foreign direct investment</u>.</p>	
<p><i>A. Continuing progress on international governance</i></p>	
<p>53. Mining activities in Countries suffering from conflict or where a serious risk of conflict exists have often <u>experience difficulty in realizing sustainable development goals. been detrimental to sustainable development.</u> So-called “conflict minerals” <u>from mining activity in these countries</u> have been documented to stoke conflicts, <u>and increase crime and corruption.</u> and hinder economic and social development. Under the appropriate fora, all countries should cooperate among themselves and with mining companies to <u>strengthen governance and end trade in conflict minerals</u>. Options that can be considered include:</p> <ul style="list-style-type: none"> (i) Assessing the need for further consideration of the recommendations of the World Bank’s Extractive Industry Review regarding investments by international financing institutions in mining activities in countries affected by conflict; (ii) Requiring companies to adopt appropriate international standards and follow international guidelines, such as the OECD Guidelines for Multinational Enterprises; (iii) Endorsing systems for the responsible sourcing of minerals, such as the OEC systems; (iv) Providing technical and financial support to countries willing to implement mechanisms aimed at fighting illegal trade in conflict minerals, such as the Kimberley Process Certification Scheme. 	

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<p>54. Transparency over the revenues flowing from companies to governments <u>and from national governments to local governments are</u> is believed to be a critical first steps to better accountability and better use of minerals revenues for sustainable development. Rapid change has taken place in this domain since 2002, with the development of the Extractive Industries Transparency Initiative (EITI), the Kimberley Process, and the Publish What You Pay Campaign under the influence of civil society organizations. Thirty-three countries have now signed up to the EITI. International financing institutions (IFIs) and other development partners should consider supporting countries willing to implement existing transparency schemes with adequate capacity building and training, and promote the exchange of best practices between countries at different levels of implementation</p>	

B. Fostering improved performance by the mining industry

58. Governments can directly impact the performance of mining companies by:

- (i) Adopting and enforcing environmental and social regulations for mining;
- (ii) Ensuring that companies involved in human rights abuses or failing to their environmental and social obligations are held accountable to the legal system;
- (iii) Requiring that multinational companies operating in the country apply best practice technologies, or at least apply the same technologies consistently across similar operations worldwide;
- (iv) Requiring that their domestic financial institutions apply relevant sustainability criteria and safeguards to mining project finance;
- (v) Requiring from mining companies listed domestically to disclose relevant corporate information in their yearly reports, in a way similar to what is being put in place in the USA.
- (vi) Establishing national dialogues between companies and the Government in order to foster the adoption by companies of best practices in the areas of resource efficiency; environmental and social impacts assessments; human rights; participation of local communities; and local community development.

59. Companies should ensure that CSR activities undertaken by them are fully compatible with and reinforce national sustainable development objectives, actions and policies relevant to the areas where they operate, where these exist. Governments have a variety of options at their disposal to ensure such coordination. Those include introducing nationally adapted frameworks for CSR engagement by mining companies; monitoring CSR activities undertaken by mining companies; promoting the adoption of corporate codes of conducts, such as the OECD guidelines; and supporting NGOs that provide independent, third-party evaluation of the CSR performance of mining companies. Canada's ~~, or the~~ corporate social responsibility strategy for the Canadian mining sector operating abroad includes the creation of the CSR Centre of Excellence, the office of the Extractive Sector CSR Counsellor, promoting internationally recognized voluntary CSR guidelines for performance and reporting, and governance capacity-building. ~~and supporting NGOs that provide independent, third-party evaluation of the CSR performance of mining companies.~~

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<p>60. Civil society and the international community could support enhanced corporate performance in the mining sector by:</p> <ul style="list-style-type: none">(i) Continuing to support greater transparency of the mining sector, including broader disclosure of information on mining projects to the general public and affected communities, transparency over revenues and their allocation, and companies' performance;(ii) Continuing to document and evaluate the performance of the industry and disseminating the results thereof to the broader public;(iii) Promoting the adoption by individual companies of voluntary standards and best practices, many of which have been compiled over the last decade;(iv) Promoting third-party certification schemes that address environmental and social issues associated with the mining of gold and precious stones;(v) Requiring corporate social responsibility and sustainability reports from companies;(vi) Helping local communities to build capacity, and in particular supporting capacity-building in the ASM sector;(vii) <u>working collaboratively with industry towards these goals.</u>	

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C. Improving national governance	
<p>63. Options at the national level to increase transparency regarding the contracts between Governments and mining companies include:</p> <p>(i) Adopting internationally promoted codes of transparency such as Extractive Industries Transparency Initiative (EITI), and the Kimberley Process Certification Scheme, <u>or other initiatives with a similar purpose</u>;</p> <p>(ii) Increasing the disclosure of exploration and production contracts signed between Governments and companies, by making public an agreed set of variables relating to these investments;</p> <p>(iii) Making available to various levels and branches of Government and the general public the tax regime applicable to mining activities as well as conditions applying to specific investment projects (e.g. tax exemptions);</p> <p>(iv) Producing and disseminating budget information, including at the local level. One way to support these objectives is through the passing of freedom of information-type legislation.</p>	
<p>64. Transparency over the allocation and use of revenues can be enhanced by:</p> <p>(i) Inscribing those in the law in adequate frameworks;</p> <p>(ii) <u>States ensuring</u> that the allocation rules are enforced, and that information is made available to local and sub-national levels of governments on how they should receive on a regular basis;</p> <p>(iii) Providing for legal channels to oversee and supervise the use of revenues;</p> <p>(iv) Providing effective feedback mechanisms to local communities, regions, and at the national level, to convey priorities and needs, evaluate and report on the effectiveness of the use of revenues;</p> <p>(v) Developing adequate communication mechanisms between institutions involved in revenue management at different levels, and promoting communication between institutions; and</p> <p>(vi) Developing local capacities to manage revenues.</p> <p>(vii) <u>Developing effective legislation and enforcement of such laws.</u></p>	
<p>66. Many experts consider that in order to improve governance in the sector, the issue of conflicts of interests in government and regulatory agencies should be given serious consideration. The fact that trained personnel from government departments have the opportunity to join more lucrative positions in the industry when they leave public service has been noted as a source of corruption and conflicts of interests in developed and developing countries alike. The negative impacts of this effect can be more pronounced where capacity is already limited in government.</p>	<p>The free flow of persons between public and private employment, and the associated opportunities for advancement, personal growth, and improved livelihood is a right that all persons should have access to, in developed and developing countries alike. Eliminating the movement of persons is not the manner in which to address possible corruption. Strengthening institutional governance will address the concerns raised here of corruption and limited government capacity.</p>

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VI. Building and Reinforcing National Capacities	
<p>67. The issue of adequate capacity of governments cuts across the whole life - cycle of mining operations. In many countries, including developed countries, the existence of gaps in government capacity has been identified as one of the main obstacles to achieving more favorable outcomes. Governments need to build capacity to survey their mineral resources; to deal with companies on a fair basis; to design laws and regulations in the mining sector; to enforce environmental and social regulations; to monitor the economic, social and environmental impacts of mining activities; and to manage the revenues that accrue from mining. For capacity building to be effective, <u>efforts should be made to de-bundle the layers of "capacity", which can refer to individuals, management systems, transparency and accountability frameworks, nepotism and corruption.</u></p>	
<p>69. A first area where needs have been identified regards the need to reinforce the technical, legal and fiscal capacities of government officials, with a view to improving the capacity of governments to negotiate fair deals with multinational companies. The international community could support this goal. One option could be the creation of a critical mass of specialized experts, which could be shared, e.g. at the regional level. NGOs could provide support to small countries lacking adequate resources to train enough personnel. More generally, there is a need to develop the broader capacity of national legal and administrative systems to monitor and oversee large-scale investment contracts, <u>and for the government to avail itself of mining lawyers, economists, and policy makers.</u></p>	
<p>72. There is scope for international institutions, as well as bilateral, regional or sub regional cooperation, to provide support to governments, in particular in the following areas:</p> <ul style="list-style-type: none"> (i) Identification and survey of national mineral resources; (ii) Provision of training and capacity-building for mine closure and rehabilitation; (iii) Technical assistance and training to help countries build capacity to effectively comply with EITI and other transparency initiatives, in areas related to monitoring mining and trade activities, enforcement, fighting smuggling and illegal trading networks for diamonds and gold; (iv) Support to draft legislation relating to mining codes <u>and the associated implementation and management frameworks</u>, including for ASM; transposing ILO core conventions and other international instruments into national legislation; and environmental legislation applying to mining activities, including integrated environmental and social assessments. 	
VII. The Way Forward	

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<p>75. The challenge for the international community is to find adequate ways to help countries make the most of their mineral wealth. This can be achieved through technical cooperation; through exchange of good practices; and through the pursuit of international initiatives on transparency. During the discussions at CSD18, a global initiative for sustainable mining was proposed for consideration, encompassing such areas as facilitating policy dialogue, defining product standards, promoting responsible behaviour and transparency, and encouraging greater resource efficiency and recycling. International cooperation to advance measures to strengthen governance, transparency and public accountability; to build technical and managerial capacities; to develop new mining technology; promote investment and technology transfer; and ensure rehabilitation and benefit sharing was also mentioned.</p>	<p>Canada believes that a UN global initiative on sustainable mining should focus on mining governance and capacity building, within the following parameters:</p> <ul style="list-style-type: none"> • takes a sustainable development approach; • is focused on enhancing capacity for good governance of the mining sector; • encourages national ministries responsible for mining to be fully engaged in policy dialogue; • takes an inclusive, multi-stakeholder approach; • focuses on issues directly related to the mining sector and avoids duplicating discussions that are already ongoing in other fora, e.g.chemicals, sustainable production and consumption, product standards, resource efficiency; • promotes cooperation with the work of other mining-related forums and agencies, such as EITI, Communities and Small-scale mining (CASM), the World Bank, UNCTAD, UN ECA, UN ECLAC, the Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development.