B Lab Controversial Issues Statement - Mining Industry

B Lab's Approach to Controversial Issues and B Corp Certification

As for-profit companies that meet the most rigorous standards of overall social and environmental performance, accountability, and transparency, Certified B Corporations are leaders in the movement to use business as a force for good.

Whether through information a company provides in its Disclosure Questionnaire, an issue raised by a third-party through B Lab's formal Complaints Process, or public discourse on B Corp certification requirements and standards, difficult and complex questions regularly arise as to how controversial issues in the world of business should affect a company's eligibility for B Corp certification. Judgments on these issues are then determined by B Lab's independent Standards Advisory Council as part of a disclosure review process.

B Lab's Disclosure Questionnaire forms the basis of the disclosure review process, which covers sensitive industries, practices, outcomes, and penalties and is based on third party screenings and standards like the IFC Excluded Industries List and International Labor Organization Conventions. Recognizing that any list of sensitive issues may be incomplete, however, B Lab also reserves the right to conduct similar reviews on issues that are not currently featured in the Disclosure Questionnaire, but are deemed subject to material stakeholder concern and a potential violation of the B Corp movement's Declaration of Interdependence.

When new industries or issues where a decision making model has not already been developed arise, B Lab conducts research into the issue in order to guide the Standards Advisory Council's decision. Research is based on secondary sources compiled by B Lab staff, with the overall intent of identifying and understanding the different concerns related to the industry or issue and the different perspectives of stakeholders. This includes a review of press related to the industry and its impact, how the issue is covered by other standards, existing public policy and public policy recommendations from non-profit organizations and other topical experts, examples - potentially both good and bad - of actors within the industry, interviews with expert stakeholders and other public commentary and perspectives. This content is in turn used to develop the framework for Standards Advisory Council review, and determines the types of questions that individual companies are required to answer as part of their review.

Particularly when it comes to industries that are controversial, there is a natural and healthy tension between the inclination to exclude all companies in those industries from eligibility for B Corp Certification, and *the need for leadership* that has the potential to transform the culture,

behavior, and impact of those industries. While B Lab and its Standards Advisory Council may determine that an industry as a whole is ineligible for certification because of its negative impacts or practices, they also recognize that in controversial industries it may be possible for companies to be meaningfully managing those potential negative impacts or controversies. In these circumstances, the need may be greatest to distinguish between good and bad actors, as well as good, better, and best performance by using rigorous standards of verified social and environmental performance, legal accountability, and public transparency. All stakeholders are best served by the existence of credible and transparent standards that facilitate improved policy, investment, purchasing, and employment decisions.

Along with the recognition that there are many diverse and reasonable perspectives as to what contributes to a shared and durable prosperity for all, B Lab and its Standards Advisory Council will make determinations regarding eligibility for B Corp Certification and, if eligible, will require companies in controversial industries, with controversial policies, or engaged in controversial practices to be transparent about their practices and how they work to manage and mitigate concerns. B Lab will also document and share these positions publicly in order to enable all stakeholders, including citizens and policymakers, to make their own judgments about a company's performance, as well as further thoughtful, constructive public discussion about important issues. Existing B Lab statements and frameworks on controversial issues are available here.

These frameworks, like B Lab's standards generally, are works in progress, and we look forward to improving upon them in the future. B Lab invites other perspectives as it continues to refine its views and, hopefully, contribute to a constructive conversation about the role of business in society.

Independent of eligibility for B Corp Certification, all companies in any industry are able to use the B Impact Assessment as an internal impact management tool to assess and improve their overall practices, and/or adopt a stakeholder governance legal structure (such as benefit corporation) appropriate to the company's current corporate structure and jurisdiction.

If you have questions or comments about B Lab's approach to the below issues, please email B Lab's Standards Management team at standardsmanagement@bcorporation.net.

Mining and B Corp Certification

While companies involved in the mining industry play an important role in society and our economy by providing essential products, creating jobs in rural communities and stimulating

economies across the globe, the mining industry also has several significant risks for negative social and environmental impacts.

In response to these controversies, B Lab and its independent Standards Advisory Council have rendered the following decision regarding their eligibility for B Corp Certification:

Companies in the mining industry must meet the following requirements, which must be disclosed on their B Corp public profile[1]:

- The company's mine sites have achieved at least IRMA 50 Certification or Fairmined (ARM) Certification or equivalent credible certifications at the time of certification.
- If the company has achieved IRMA 50 Certification, the company should achieve IRMA 75 within two B Corp recertification periods (six years) in order to maintain B Corp Certification. After this, the company should aim for continuous improvement and consistently demonstrate improvement towards IRMA 100.
- Companies that are engaged in mining and purchase from other mine sites must have formalized policies and ongoing monitoring to manage the environmental and social risks of the mining industry in their direct supply chain using the IRMA or Fairmined standards, including for example, policies and practices encouraging supplier mining companies to begin using the IRMA self-assessment, using such assessments to identify and encourage needs for improvement, and progressing towards audited and IRMA certified mine sites over time.

Overview of the Mining Industry, Associated Risks and Best Practices

Mining includes extraction of any non-renewable resource such as ores of metals and gemstones. It is required to obtain any material that cannot be grown through agricultural processes or feasibly created artificially in a laboratory or factory. As of 2021, 80% of mined minerals come from large-scale mines.[2]

The mining industry poses many significant environmental and social risks and impacts. Below is a summary of each material risk and some of the industry best practices related to managing them:

Labor practices and worker health and safety

The mining sector has a high potential for human rights abuses given the elevated risks of fatal accidents, abusive labor practices, and pollution incidents.[3] Worldwide, approximately 8% of fatal workplace accidents are related to mining, even though the mining sector comprises just 1% of the global workforce.[4] Workplace injuries, noise-induced hearing loss, impacts on mental health, and occupational illnesses and diseases from exposure to chemicals, heat, radiation, metals and

[1] For additional requirements regarding coal mining, see this page.
[2] https://www.reuters.com/article/us-health-coronavirus-peru-mining-exclus/exclusive-peru-mines-set-to-restart-to-hit-80-production-in-a-month-industry-official-idUSKBN22J266
[3] https://2020.responsibleminingindex.org/en/results/thematic/320
[4] https://www.ilo.org/public/libdoc/ilo/1993/93B09_118_engl.pdf

particulates are also significant in the mining sector. Mining is also a male-dominated industry, with women facing discrimination in hiring, engagement, and benefit-sharing activities of mining companies.[5]

Environmental impact of the materials being mined and the practices of the mining
Environmental hazards exist throughout the entire lifecycle of the mining process. Due to the large-scale movements of waste rock and vegetation, underground mining has the potential for tunnel collapses and land subsidence which can release toxic compounds into the air and nearby water sources.

Deforestation due to mining leads to the disintegration of biomes and contributes to the effects of erosion and climate change. The drilling and transport of solutions during the mining process can disrupt existing ecosystems. Well casings, pipelines, and storage tanks are subject to corrosion due to the chemical content of the solutions that they are exposed to, which can lead to leaks and contamination of adjacent bodies of water.[6] Further, mining is a water-intensive industry, and mining operations in water stressed areas can exacerbate water crises. According to a 2015 study by the US Department of Energy, total water used for mining in the United States ranged from 70 million to 260 million gallons a day.[7]

Tailings dams, which are an earth-fill embankment dam used to store byproducts of mining operations after separating the ore from the gangue, the invaluable material from which the ore is retrieved. Tailings dams are designed for permanent containment. The dams can contain liquids, solids, or a slurry of fine particles, and are usually highly toxic and potentially radioactive. Impacts of tailings dams may include damage to the environment by releasing toxic metals via acid drainage, damaging aquatic wildlife, and risk of collapse.[8]

Additionally, the mining industry generates between 1.9 and 5.1 gigatons of CO2 equivalent (CO2e) of GHG emissions annually, incurred through mining operations and power consumption.[9] Mining is currently responsible for four to seven percent of GHG emissions globally.[10] Scope 1 and Scope 2 CO2 emissions from the sector (those incurred through mining operations and power consumption, respectively) amount to one percent.

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[5] https://www.responsibleminingfoundation.org/research/gender2020/
[6] The fluids remaining after this process commonly contain elevated concentrations of metals and radioactive isotopes, posing a significant risk to nearby ground and surface water sources.
[7] https://www.usgs.gov/mission-areas/water-resources/science/mining-water-use?qt-science_center_objects=0#qt-science_center_objects
[8] https://graphics.reuters.com/MINING-TAILINGS1/0100B4S72K1/index.html#:~:text=They%20are%20extremely%20vulnerable%20to,the%20potential%20for%20a%20rupture
[9] https://www.mckinsey.com/business-functions/sustainability/our-insights/climate-risk-and-decarbonization- what-every-mining-ceo-needs-to-know#
[10] https://www.mckinsey.com/business-functions/sustainability/our-insights/climate-risk-and-decarbonization-what-every-mining-ceo-needs-to-know#

Community impacts regarding access and equity to natural resources and the broader impacts they have on an area.
Disagreements over proper community consultations and Free, Prior, and Informed Consent (FPIC) are a source of conflict within the mining industry, especially in areas of operation where Indigenous Peoples are present. Indigenous Peoples have been subjected to social exclusion and large-scale expropriation of their land and resources; they continue to be particularly impacted by extractive activities, as these resources are often located on lands tied to their cultural identities and livelihoods.[11] Surrounding communities in the area of the mine are often at risk from pollution from mine dust and exposure to toxic materials that can be dangerous to human health.

Governance
Corruption and bribery, often to skirt local regulations related to mining, are particularly common in the extractives industry. Many mine sites do not disclose site-level data on issues of public interest of stakeholders, and rarely do mine sites evidence engagement with local stakeholders on ESG issues. Most companies are obliged to disclose payments to national governments, although most often not on a project-disaggregated basis.[12]

Lobbying can also play an important role in societal debate, but when carried out irresponsibly, it can also unduly benefit company interests and have a direct adverse impact on the environment and the society. Many companies do not publicly disclose that they are involved in lobbying or advocacy and certain legislations are in place that prevent companies from making direct political contributions. However, this has resulted in opaque relationships between companies and political figures who make contributions on their behalf. Many companies view lobbying as risk management rather than impact management or as an issue with material impact to a company's stakeholders.

Similarly, many companies that do not partake directly in lobbying are part of large trade associations that actively lobby on their behalf for legislative regulation that benefit their wider industry. The amount of transparency surrounding the activities of certain sectoral trade associations, inclusive of the mining industry, are limited, with many trade associations not being required to publish their political agenda.

There are several leading independent frameworks to help identify best practices in the mining industry, including the Responsible Mining Foundation and the Extractive Industry Transparency Initiative (EITI). In addition to these two frameworks, which focused on specific types of companies who are evaluated or the topics considered, there are also two third party certifications that provide certification and verification on a comprehensive set of mining specific best practices that are broadly applicable: the Initiative for Responsible Mining Assurance (IRMA), and the Alliance for Responsible Mining (ARM).

[11] https://indianlaw.org/content/mining-industry-south-america-threatens-indigenous-communities
[12] https://www.oecd.org/dev/Corruption-in-the-extractive-value-chain.pdf

IRMA is a certification body that covers all mined materials, except for energy fuels, for large scale, industrial mine sites globally. The organization is governed by a multi-stakeholder set of labor unions, mining-affected communities, environmental and social justice organizations, as well as mining companies and those businesses that buy mined materials. IRMA independently verifies social and environmental performance at mine sites. In addition to using IRMA as a self-assessment tool, verification of individual chapters of the Standard (called IRMA Transparency) is available, and high performing companies can achieve the IRMA 50, IRMA 75 and IRMA 100 Certified levels.[13] Qualification for IRMA includes conformance to criteria under four specific categories: Business Integrity, Planning for Positive Legacies, Social Responsibility, and Environmental Responsibility. In order for a company's mine site to become certified, the company needs to have an average score of 50, 75, or 100 points respectively in each of the above categories. According to IRMA and based on the numbers of mining sites that have achieved the certification, even achievement of IRMA 50 represents a relatively significant level of achievement, and IRMA's multiple tiered approach is designed to enable continuous improvement over time.

The Alliance for Responsible Mining's mission is to set standards for responsible artisanal mining, and to support and enable producers to deliver "Fairmined" certified metals and minerals through economically just supply chains to markets around the world. ARM is an international, community-based, multi-sector governed initiative organized to provide a benefit, in the form of site based and product certification and corresponding market incentives, to small-scale and artisanal mining communities meeting criteria for responsible social, labour, environmental, and trading practices.[14] ARM works in close partnership with IRMA to develop standards.

These certifications, as well as B Lab's further research, emphasize many different practices across four main risk categories, including the following:

Labor practices and worker health and safety

- Occupational Health and Safety (OHS) Systems
- Measures to attract and retain a gender-diverse workforce
- Digitized mining

Environmental Impact

- Conduct and disclose regular assessments
- Water stewardship strategies
- Identify and assess potential risks
- Adopting a lifecycle approach
- Decarbonization

Community impacts

- Community Stakeholder Engagement:

[13] https://responsiblemining.net/what-we-do/certification/
[14] https://www.responsiblemines.org/en/

- Formal commitments
- Due diligence systems
- FPIC and Indigenous communities

Governance

- Adopting responsible minesite behavior
- Company tracks, reviews and acts to improve its performance on anti-bribery and corruption
- Whistleblowing mechanisms
- Lobbying

Rationale for the Standards Advisory Council Decision:
While there are undoubtedly specific and material risks associated with the mining industry, B Lab's research demonstrated that mining is currently necessary given the current needs of society and the economy, and that the risks of the industry can be managed through best practices. The complexities of these best practices, along with the desire to avoid duplication or efficiency when other credible standards for the industry exist, also warrants linking B Corp Certification to established, credible, verified third party standards.

B Lab's research indicates that IRMA and Fairmined Certifications are independent, multi-stakeholder, credible, and globally recognized standards that cover the material risks identified above for the mining industry. The recommendation of IRMA 50 as a minimum requirement with ongoing improvement has been designed taking into consideration that IRMA 50 is itself an aspirational standard for mining companies, while also acknowledging the need for continuous improvement over time.

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The decision of the Standards Advisory Council has been informed by independent research conducted by B Lab and stakeholder consultations including academic experts.

This statement is effective as of June 2021 until further judgment from the Standards Advisory Council.

Please send your feedback or questions to B Lab's Standards Management team at standardsmanagement@bcorporation.net.