Mining ESG:

2023 in Review and What to Expect in 2024

sympact

About Sympact

This report was prepared by Sympact Advisory Inc.

Expectations of business are shifting rapidly. Sympact helps companies achieve strong ESG performance to meet them.

Sympact is a sustainability think tank and ESG consultancy specialized in natural resource industries. As cutting edge thought leaders, we focus on the practical implications of global macro trends on corporate sustainability to support business resilience. Sympact provides corporate sustainability, ESG, and social performance advisory services, training and coaching.

Headquartered in Canada and operating globally, we work from mine sites to board rooms to advance social sustainability and improve ESG performance, by designing and implementing practical solutions and actionable strategies for social risk mitigation and benefit maximization. Sympact regularly partners with companies and networks to explore emerging practices and strategies in sustainability leadership.

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Introduction

While the mining industry continued to grapple with the geopolitical and inflationary pressures that characterized the previous year, 2023 saw some ESG backlash, but mostly growing entrenchment of ESG and corporate sustainability principles globally. ESG was again ranked as a top industry risk by multiple entities, while climate change risk and decarbonization continued to be the key focus.

Tailings management held its central position in the investor spotlight, as ICMM members disclosed their alignment progress with the Global Industry Standard on Tailings Management (GISTM), and the Global Investor Mining Commission on Mining 2030 announced US$11 trillion strong investor support. Worldwide interest in biodiversity and natural capital also gained momentum, including final recommendations from the Taskforce on Nature-related Financial Disclosures (TNFD).

Human rights and rights of Indigenous Peoples gained attention in 2023, especially given regulatory initiatives such as mandatory due diligence legislation in the EU and the Canada's long-awaited first modern slavery act. Meanwhile, the mining sector's first comprehensive standard on diversity, equity and inclusion (the Towards Sustainable Mining Equitable, Diverse, and Inclusive Workplaces Protocol) has spurred renewed action, as the industry acknowledged the need for greater efforts to address ongoing talent management challenges.

The sustainability reporting and ESG disclosure landscape changed substantially in 2023, including consolidation progress. The IFRS Foundation's International Sustainability Standards Board (ISSB) inaugural disclosure standards now enable companies and investors across the world to standardise on a single, global baseline of sustainability disclosures for the capital markets. Support statements issued from nearly 400 organizations across 64 jurisdictions, as well as 70 institutional investors, and 20 regulators and standard setters, signal that these standards may rapidly become the global reference for ESG disclosure. And in a move likely to significantly alter the mining ESG landscape, key mining associations including the International Council on Mining and Metals (ICMM), Copper Mark, Mining Association of Canada (MAC), and the World Gold Council (WGC), announced a collaborative effort to consolidate responsible mining standards.

Meanwhile, many mining projects experienced community opposition, with protestors citing threats to biodiversity, water, human rights and the rights of Indigenous Peoples. Several cases escalated, some shutting down mining operations, emphasizing how material social acceptability is. Amidst a backdrop of rising costs, elusive capital, and evermore demanding host governments, recent efforts to rebuild mining's tarnished reputation took a battering, with several headlines in late 2023 eroding public and investor faith in industry governance. Although reputational challenges are not new, these setbacks, many of which were ESG-related, further threaten the social acceptability of the industry responsible for producing the world's metals and minerals - many of which are crucial to a low-carbon future.

Within this challenging and rapidly changing context, mining companies will continue to grapple with increasing ESG performance and disclosure expectations. Yet a 2023 PwC survey uncovered that the majority of corporate boards still lack understanding of their ESG risks, highlighting the crucial need for leadership upskilling.

To help you navigate the complexities of the mining ESG landscape, Sympact has compiled this 2023 Mining ESG Review report, summarising top highlights and new sector-relevant guidance across a range of core industry ESG topics. We have collated the headlines and resources that most captured our interest, covering the mining sector's major ESG themes, emerging trends, and evolving standards and practices.

Looking forward to 2024, many ESG challenges offer strategic opportunities. Mining companies can redefine their strategies to tackle risks proactively and reduce negative impacts, as the ESG commitments of investors and companies are tested in the year ahead. Those who position ESG as a fundamental component of risk management and resilience strategy stand to secure their social license to operate and meet the pressing demands of short-term financial and operational performance expectations.

Elizabeth Freele and Rachel Dekker

Co-Founders and Managing Partners, Sympact

Climate Change and Energy

Synopsis

In 2023, climate action urgency was heightened as new data showed a smaller-than-expected Remaining Carbon Budget to keep global warming within 1.5°C. The mining sector continued to grapple with mounting pressure and decarbonisation was identified as a top industry risk.

The Net Zero Tracker reported that half of the world's largest companies now have net-zero targets, though their effectiveness and clarity remain in question. As net-zero pledge headlines continued to increase across the industry, the focus began to shift to Scope 3 emissions.

Meanwhile, the IFRS Foundation's new sustainability reporting standards marked a major shift in the disclosure landscape, emphasizing climate-related disclosure. And after an influential few years, the Task Force on Climate-related Financial Disclosures (TCFD) disbanded and transferred its mandate to monitor company progress on climate-related disclosures to the IFRS Foundation.

The year ended with an announcement at COP28 of a climate deal to transition away from fossil fuels, with many critics noting that the deal only calls for incremental change when more drastic action is needed.
These developments marked 2023 as a pivotal year for the mining industry and beyond, as we face intensifying pressures and a growing imperative for climate action.

2023 Highlights

Study found the remaining carbon budget is smaller than previously assessed by the IPCC.

A new study published in Nature Climate Change provides a new estimate of the remaining carbon budget (RCB), or the net amount of CO2 humans can emit before exceeding chosen global warming limits. The study found that minor changes in methodology have a major impact on the resulting budget estimate, and concludes that the RCB for keeping global warming to within 1.5°C is lower than that previously provided by the Intergovernmental Panel on Climate Change (IPCC). This suggests that humanity is even closer to exceeding global warming limits than previously thought.

Carbon Disclosure Project (CDP) publishes credibility of climate transition plans.

The CDP report Are companies developing credible climate transition plans? considered over 18,600 organizations in 13 industries across 135 countries in its evaluation of the credibility of company climate transition plans. The report found just over a third of the organizations met the criteria of a credible climate transition plan. Financial planning, targets, and strategy to achieve net-zero were the poorest performing elements across the board.

Stakeholder pressure on companies over climate risk inaction and greenwashing increased.

In a legal first, environmental law firm ClientEarth, in its capacity as a shareholder, filed a first-of-its-kind lawsuit against Shell directors at the high court of England and Wales, alleging that they are mismanaging climate risk, and breaching company law by failing to implement an energy transition strategy that aligns with the landmark Paris Agreement. Elsewhere, Glencore was forced to update its climate planning following investor pressure. Glencore plans to release an updated climate action transition plan by March 2024, responding to investor demands for more clarity on emissions reduction commitments. The move comes after 30% of investors, including BlackRock, rejected the company's climate progress report at its annual meeting.

Half of the world's largest companies are now committed to net zero, but there is a declining focus on climate change.

The Net Zero Tracker, noted that the 1,000th company of the world's largest 2,000 publicly listed companies has now adopted a net zero target, meaning 66% of the annual revenue of the world's largest 2,000 companies is now covered by a net zero target. However, the credibility and integrity of many of these targets remain uncertain: only 37% of corporate net zero targets cover Scope 3 emissions, and only 13% specify conditions under which any offsets would be used. Elsewhere, EY's 2023 Sustainable Value Study released in November concluded that companies are losing their focus on climate change and that corporate progress on sustainability initiatives has begun to stall within a wider context of economic and geopolitical uncertainty.

IFRS published its new disclosure standards and took over TCFD.

The IFRS Foundation's International Sustainability Standards Board (ISSB) published its first sustainability-related disclosure standards in June, with IFRS S2 covering climate-related risks and governance. The IFRS also announced that it would be taking over responsibility for the Task Force on Climate-related Financial Disclosures, which released its last status report in October, detailing companies' progress in producing climate-related financial disclosures and highlighting some of the challenges faced. With the release of the report, the TCFD disbanded.

COP28 resulted in climate deal that calls for transition away from fossil fuels.

By the end of COP28, nearly 200 countries reached an agreement on "transitioning away from fossil fuels in energy systems, in a just, orderly and equitable manner, accelerating action in this critical decade, so as to achieve net zero by 2050 in keeping with the science." While a significant step, the anticipated language of "phasing out" fossil fuels was not included. Critics called the deal "an incremental advancement" when "an exponential step change" is needed.

2024: Looking Forward

Although an EY CSO survey revealed declining company focus on climate change, within a wider context of economic and geopolitical uncertainty, a mining sector risk supplement from the SustainAbility Institute identified decarbonization as the top ESG risk and opportunity for the industry. Looking to the year ahead, we should expect a greater focus on credible decarbonization action, transparency, and growing collaboration for decarbonization in the mining value chain.

Net-zero commitments will continue to grow, with more companies setting ambitious carbon reduction targets and seeking to align with global climate goals. Scrutiny regarding quality of targets and commitments is likely to continue. Leading companies will explore new and improved climate scenarios for better business planning. And the role of offsets will be a key point of discussion as efforts to foster greater credibility in the Voluntary Carbon Market evolve.

In the wake of significant headlines like the investor rejection of Glencore's climate planning and reporting and the notable case of Shell's board directors being personally sued over climate inaction and greenwashing, industry leaders will need to pay greater attention to growing climate litigation globally and assess their own risks.

As suggested by a global BCG survey at the end of the year, an ongoing area of focus will be setting Scope 3 targets (those that fall outside of direct operations), which can represent up to 90% of total emissions for some mined products. The study had revealed that over half of surveyed companies are now already reporting on at least some of their Scope 3 emissions. Efforts are likely to continue also on standardizing supply chain emissions accounting.

2024 will likely see ongoing growth and innovation in renewable energy, including implementation of utility-scale solar installations and wind energy. Innovations such as hydrogen fuel cell mining trucks will continue, although commercialization remains distant.

Preparations for mandatory climate change reporting, especially in the EU and countries considering IFRS S2 adoption, will be centre stage too. During Finance Day at COP28, close to 400 organizations from 64 jurisdictions announced the adoption of the ISSB's climate-related reporting standards, suggesting strong support going forward.

New 2023 Resources

Engaging Supply Chains On The Decarbonization Journey: A Guide To Developing And Achieving Scope 3 Supplier Engagement Targets, May 2023

ICMM scope 3 emissions accounting and reporting guidance

Climate Governance Initiative's third edition of the Primer on Climate Change: Director's Duties and Disclosure Obligations

Biodiversity and Natural Capital

Synopsis

In 2023, biodiversity and natural capital rose to prominence, most notably with the Taskforce on Nature-related Financial Disclosures (TNFD), aiming to integrate nature into financial decision-making, issuing its final set of recommendations in September. The Nature Positive Initiative was also launched, aiming to halt biodiversity loss by 2030, and the OECD released guidance on nature-related financial risks.

Certain jurisdictions led the way on this topic. The EU published guidelines under its Biodiversity Strategy for 2030, and over 100 financial institutions committed to the Finance for Biodiversity Pledge. Australia proposed a national Biodiversity Market. The US and Australia collaborated on a natural accounting protocol, potentially setting a new global standard for valuing nature, and new tools for assessing biodiversity loss risks in mining reflected a growing focus on nature conservation.

Concerns over mining's environmental impact spurred community opposition in numerous regions, including particular attention to the alarming levels of illegal mining in the Amazon. Legal actions, such as the suspension of First Quantum's mining contract in Panama and proceedings against Grupo Mexico, underscored increasing accountability for biodiversity preservation. Meanwhile, research revealed that around 30% of global tailings are stored near conservation areas.

These developments marked a year of heightened awareness and action towards integrating biodiversity risk management into the mining sector's practices.

2023 Highlights

Taskforce on Nature-related Financial Disclosures (TNFD) launched final recommendations.

In September, the TNFD published its final set of recommendations for nature-related risk management and disclosure. The 14 recommendations fall under the four categories of governance, strategy, risk & impact management, and targets, and are intended to assist companies in identifying, assessing, and disclosing nature-related issues within their own timeframe and ability. The recommendations are consistent with ISSB and GRI standards, and can accommodate different approaches to materiality.

Jurisdictions including the EU, US, and Australia led the way on biodiversity.

The EU published two new Biodiversity Strategy 2030 guidelines in March, which contribute to the EU's international biodiversity commitments under the Kunming Montreal Global Biodiversity Framework and the European Green Deal. Elsewhere, the US and Australia announced that they aim to co-create a joint natural accounting protocol that will include natural capital accounting, environmental-economic statistics and accounting, and procedures for measuring nature-based solutions. The framework could guide similar protocol development globally, altering how natural resource assessments are approached. Finally, in March, Australia tabled the Nature Repair Bill, which launched a national Biodiversity market. The market, which is being closely watched by other countries, will allow individuals, businesses, and foundations to invest in biodiversity.

Finance for Biodiversity Pledge highlighted nature-related impacts and risks.

Over 100 financial institutions in 20 countries representing US$17tn in assets signed the Finance for Biodiversity Pledge, calling for leaders in financial services to responsibly protect and restore biodiversity and nature via their financing and investing activities. However, there is still a long way to go as 200 of the world's largest banks have provided more than US$267bn to companies involved in deforestation (including extractive sector companies) since the signing of the Paris Agreement in 2015.

Nature Positive Initiative seeks to reverse biodiversity loss by 2030.

In September, the Nature Positive Initiative launched, with an ambitious goal to halt biodiversity loss by 2030, intended to be an equivalent to the 1.5℃ climate change goal. Changes in the diversity, health, and resilience of species and ecosystems will be measured against a 2020 baseline to track progress. The World Business Council for Sustainable Development has published roadmaps for companies with guidance to accelerate meaningful nature-positive action. The industry-agnostic roadmaps include in-depth analysis, and specific guidance is provided for four high-impact systems (land use, including agriculture and forestry industries, built environments, and energy).

Analysis revealed 20% of mines and 30% of tailings are within or near biodiversity hotspots and conservation areas.

An International Mining article noted that 20% of existing mines tracked by the MSCI ACWI Investable Market Index are located in biodiversity hotspots. And a University of Queensland analysis revealed that almost 30% of the world's mine waste storage poses a salient threat to biodiversity and ecosystems, given facility proximity to protected conservation areas, underscoring the urgent need to safeguard vital ecosystems in mining zones.

Scrutiny of mining operations' impacts on nature increased.

Community opposition and legal actions against mining companies because of their biodiversity and nature impacts increased. In Mexico, the government initiated a criminal proceeding against Grupo Mexico over a toxic spill that contaminated the Sonora River in 2014. Panama rescinded First Quantum's mining contract, ordering the company to cease operations at its Cobre Panama copper mine, following weeks of mass protests over the granting of a 20-year extension on its mining license, with protesters asserting that the mine damages ecosystems and biodiversity, and threatens the Panama Canal. Finally, according to the Foundation for Sustainable Development Conservation, illegal artisanal and small-scale mining in the Peruvian Amazon has reached alarming levels (over 20 rivers in five regions) with environmental protection organizations calling for government action.

2024: Looking Forward

As the global focus on biodiversity loss and its interconnections with climate change intensifies, the year ahead will see growing expectations for companies to integrate biodiversity and natural capital into their core strategies, set goals, and issue meaningful disclosures to enable assessment of their efforts.

As highlighted by a PWC report, at least a third of the economic value in the mining industry's supply chain specifically depends on nature; a range of stakeholders increasingly recognize that companies must understand their nature-related risks and related financial implications, to set clear ambitions. Such assessments will rapidly become standard practice in the next couple of years. And companies and investors alike will be adopting various biodiversity monitoring tools that enable more accurate and efficient nature assessments, crucial for aligning operations with evolving biodiversity regulations and expectations.

Companies with substantial nature impacts will begin to focus more on designing and adopting metrics and data systems to assess and mitigate biodiversity-related risks. This will include progress on quantification of nature dependence and assigning of economic value to company reliance on nature for business resilience. Such quantification will be a key part of disclosure readiness as nature-related disclosure expectations expand.

Alongside the launch of the TNFD's recommendations in 2023, market participants have called on the ISSB to prioritize biodiversity in its next work plan, considering that estimates indicate over half of the world's GDP is directly dependent on nature and its ecosystem services.

Companies are likely to increasingly turn to nature-based solutions in their decarbonization approaches in the year ahead. And some may encounter increased downstream value chain interest in partnering on in-setting (offsetting in the value chain) with nature-based solutions too.

New 2023 Resources

World Economic Forum and Climate Governance Initiative's new Chairperson's Guide to Valuing Nature

OECD four-step framework for assessing nature-related financial risks

TNFD general guidance on its "Locate, Evaluate, Assess and Prepare" (LEAP) approach

TNFD Integrated Biodiversity Assessment Tool and "TNFD in a Box" guidance to identify, assess, manage, and disclose nature-related risks

TNFD draft supplemental guidance for the metals and mining sector

Tailings and Waste

Synopsis

Throughout 2023, the mining industry experienced both progress and challenges in tailings management. The Global Tailings Management Institute (GTMI) was established to oversee the Global Industry Standard on Tailings Management (GISTM), while the Church of England continued to scrutinize company GISTM compliance, threatening to vote against board chairs. ICMM member initial disclosure of their GISTM alignment was received well by investors, who recognized it has been a major undertaking for the world's largest mining companies, representing a significant step in addressing a major systemic risk.

New research showed that growing amounts of mining waste are threatening land cover and communities. Meanwhile, the class action lawsuit against BHP for the 2015 Fundão dam collapse and other ongoing legal challenges continued, including for Vale, highlighting the escalating legal risks associated with dam failures and emphasizing the industry's legal and reputational vulnerabilities.

Technological innovations in tailings management have proliferated, including dry tailings, carbon absorption, risk assessment and management, monitoring and early warning systems, re-valuation and circularity. Satellite earth data began to play a crucial role in monitoring and analyzing risk too. And the GeoStable Tailings Consortium's began exploring "geo-stable" landforms as an alternative to traditional dams.

These developments, along with numerous conferences and educational resources, underscored the industry's intensifying commitment to rapid improvement on responsible tailings management.

2023 Highlights

Global Tailings Management Institute was formally announced.

On the anniversary of the Brumadinho tailings dam failure, the United Nations Environment Programme (UNEP) and the Church of England Pensions Board announced an independent Global Tailings Management Institute (GTMI) to oversee the implementation of the Global Industry Standard on Tailings Management (GISTM). The GTMI will provide an assurance framework, promote awareness, facilitate knowledge sharing, and support transparency. A core function of the Institute will be to ensure auditing and certification against the GISTM is undertaken by qualified, independent third-party assessors.

Church of England updates GISTM commitment list, and states plan to vote against 113 companies.

The Church of England (CoE) Pensions Board updated its list of company responses regarding GISTM adoption in February 2023. The CoE Pension Board highlighted 63 companies that are implementing the standard or intend to, 65 that are reviewing it, and 7 that are partially implementing GISTM by deferring to the Mining Association of Canada's Towards Sustainable Mining Standard. The Church of England noted that 112 companies have not responded, while 1 company stated that it had no plans to implement GISTM. The Board is voting against the chairs of those 113 companies.

English class action against BHP became the largest class action brought in the UK.

The compensation case against BHP over the 2015 collapse of the Fundão tailings dam at the Samarco Mariana mine in Brazil has expanded to 700, 000 claimants seeking damages of up to £36bn, making it the largest opt-in class action lawsuit ever brought in the UK. Brazilian claimants are seeking compensation for alleged damage to homes and livelihoods from the collapse. In November, English courts dismissed Vale's appeal to be removed as a co-defendant alongside BHP in the upcoming lawsuit, meaning Vale may be liable for 50% or more of any damages the court levies against BHP.

Mining waste increasingly threatens land cover and communities.

A new Journal of Environmental Management study found that mine waste and contamination are a leading cause of human displacement, often underreported and taking place once the mine is operational (not at the greenfield, pre-development stage). Waste of the projected 500% rise in mining activity in the next two decades is expected to be one of the most significant ecological and social development challenges of urbanization, industrialization, and the global energy transition. Efforts are needed to mitigate impacts and protect vulnerable communities and ecosystems.

New consortium explores geo-stable landforms as an alternative to tailings dams.

Following the April announcement of plans to form the GeoStable Tailings Consortium (GSTC) (comprising Antamina, Barrick, BHP, Freeport-McMoRan, Gold Fields, Newmont, Teck and Vale), the GSTC has been created. Its goal is to explore technologies and solutions for blending waste rock with tailings to create so-called geo-stable landforms that are more stable than traditional tailings deposition methods. The hope is to generate new ideas about how to improve tailings management and safety, through industry collaboration.

ICMM members published updates on GISTM compliance.

In accordance with the ICMM's 2020 GISTM commitment (for tailings dams that have extreme 'extreme' or 'very high' consequence classifications by August 2023), ICMM members made their first disclosures on implementation of the Standard, covering 236 tailings dams. Some larger players have fallen short, but have established detailed plans for each gap identified. The Chief Responsible Investment Officer for the Church of England Pensions Board commented that the results represent a major undertaking by the world's largest mining companies but they must continue to work towards GISTM conformance. Elsewhere, the Church of England (CoE) Pensions Board continued to track information on company adoption of the GISTM, with its latest update showing 112 companies have yet to respond, leading to a vote against the board chairs of the non-responsive companies.

2024: Looking Forward

In 2024, tailings management pressure is expected to continue, driven by growing public awareness and legal scrutiny, technological advancements, and ongoing GISTM adoption. A key event to watch is the BHP class action lawsuit in UK court, which could set new global legal precedents and amplify public awareness about the risks associated with poorly managed tailings.

Compliance with the Global Industry Standard on Tailings Management (GISTM) will continue to be a major focus, especially for the Global Investor Commission on Mining 2030, necessitating substantial resources and time from most companies seeking alignment. The Global Tailings Management Institute (GTMI) will begin to play an active role, potentially launching its assurance framework, in line with a broader trend towards third party assurance to support greater transparency and accountability.

Commercializing technological innovations will be another key theme in 2024. In tailings safety for example, advances in remote sensing technologies, such as Synthetic Aperture Radar (SAR) and space-based monitoring systems, will help improve geological monitoring, early detection and post-incident analysis. And as the traditional view of tailings as only a liability begins to shift, many companies will explore circular innovation, resource recovery and other waste-to-value opportunities, especially projects focusing on biomining and bioremediation.

And educational tools and opportunities, which have proliferated in 2023, will continue to support industry-wide knowledge and capacity building, crucial in the face of a significant and persistent shortage of tailings management experts to manage this systemic industry risk. Publicly accessible AI/GPT-based tools will facilitate a deeper understanding of tailings management standards and practices for anyone with an internet connection.

New 2023 Resources

Canadian Dam Association guide to assess and classify potential environmental consequences resulting from dam breach risks

Free webinars and report on tailings technology by Mining Journal, Mining Magazine and Australia's Mining Monthly

Recordings from the Tailings and Mine Waste 2023 Conference, and free access to ICOLD courses

Newmont and the University of Queensland's Centre for Social Responsibility in Mining (CSRM) course materials on the social performance aspects of the Global Industry Standard on Tailings Management (GISTM)

Rights and Communities

Synopsis

In 2023, mining companies around the world faced challenges in human rights, community relations and the rights of Indigenous Peoples. Efforts to address modern slavery and Indigenous rights issues gained momentum, as awareness of the prevalence of modern slavery grows. Guidance documents, such as the ICMM's update on human rights due diligence, and resources focused on supporting alignment with the UN Guiding Principles on Business and Human Rights, have emerged to assist the industry.

Conflicts over mining projects in Mexico and Peru made international headlines (also see Biodiversity and Natural Capital), drawing attention to the tensions between mining activities and community interests. Reports of human rights violations across Latin America linked to Canadian mining companies and anti-mining activism, including the disappearance and death of activists, underscored the sector's ongoing struggles with rights issues. Indigenous rights were a focal point, with legal actions and court decisions in Canada, the United States, and Mexico challenging mining laws and practices that infringe on Indigenous land rights and environmental rights.

The University of Queensland highlighted missed opportunities in addressing Rio Tinto's destruction of Juukan Gorge rock shelters, while Indigenous Peoples, from Aboriginal elders in Western Australia to communities in Peru, actively resisted mining activities that they felt threatened their heritage and the environment. The Taskforce on Nature-related Financial Disclosures' guidance on engaging with Indigenous Peoples and local communities emphasized responsible management of nature-related impacts in mining. Developments reflect a growing emphasis on rights and social license, as well as crucial interconnections with environmental stewardship in the mining industry.

2023 Highlights

Reports exposed Canadian mining companies' human rights violations.

Six reports published by the Canadian Network on Corporate Accountability (CNCA) underscored human rights abuse allegations connected to Canadian mining companies, including forced labor, arbitrary detention, intimidation, torture and killings. Additionally, a UN report also drew attention to 37 Canadian projects across nine Latin American countries, attributing a range of environmental rights infringements and violations of the right to free, prior, and informed consent (FPIC) to the companies. It proposes comprehensive cross-border corporate accountability and due diligence legislation.

Indigenous world leaders warned that climate strategy holds potential for "green colonialism".

In April, Indigenous leaders expressed concern during a UN summit in New York that the west's climate strategy prioritizes conservation efforts over the rights and sovereignty of Indigenous communities, emphasizing the need for "free, prior and informed consent" in decision-making processes, recognizing that Indigenous people are often disproportionately affected by the impacts of climate change. The Indigenous leaders urged the UN to collaborate to develop a climate plan that respects their rights and collaborates with them.

Indigenous world leaders warn climate strategy could be "green colonialism" while efforts to protect cultural heritage increased.

In April, Indigenous leaders expressed concern during a New York UN summit that the west's climate strategy prioritizes conservation efforts over the rights and sovereignty of Indigenous communities, emphasizing the need for "free, prior and informed consent" in decision-making processes and recognitiong that Indigenous people are often disproportionately affected by the impacts of climate change. Elsewhere, Indigenous communities more vocally resisted mining activities that threaten their cultural heritage too. For example, in October, Elders of the Muntulgura Guruma people in Western Australia halted a survey of Rio Tinto's Brockman Syncline project after a blast damaged a rock shelter overhang.

UNDP report highlighted interconnectedness between climate change and inequality.

In September, the United Nations Development Programme (UNDP) released a report on embedding social issues in sustainable finance, which highlighted that addressing inequality is central to tackling climate change and other emerging environmental issues. Experts are calling for greater transparency of social risks to investors, and human rights non-profit Shift urged for the integration of a human rights lens in climate action strategies. A key initiative on this was the 2023 merger to create the new Taskforce on Inequality and Social-related Financial Disclosures (TISFD), developing a global risk management and disclosure framework for inequality- and social-related risk, which will be interoperable with TCFD and TNFD.

Study revealed that a third of conflicts over development projects affect Indigenous Peoples.

Roughly one third of environmental conflicts affect Indigenous Peoples according to a research article published in June by Science Advances. Mining is the top sector cited, with loss of landscape and livelihoods, and land dispossession being listed as the most frequent impacts across 1,044 conflicts affecting Indigenous peoples.

Panama rescinds First Quantum's mining contract following mass protests.

Panama's government ordered First Quantum to cease operations at its Cobre Panama copper mine in December, following weeks of mass protests covered by international media, sparked when the company was granted a 20-year extension on its mining license. Protesters asserted that Central America's largest copper mine, despite providing a "critical" mineral, sacrifices national sovereignty and will damage ecosystems and biodiversity, compete for freshwater, and threaten the vital Panama Canal. Courts deemed the new contract unconstitutional in November, leading to the shutdown. Following the announcement, workers took to the streets in backlash, demanding job protection or lay-off compensation be assured by the government. The company has stated that it has initiated international arbitration procedures, citing the protection of their rights under the Panama-Canada free trade agreement.

2024: Looking Forward

With scrutiny expected to continue growing as new rights-related legislation is enacted, 2024 will see mining companies focus more on understanding, mitigating, and disclosing their human rights impacts and related social risks, at their operations and throughout their value chains. More companies will be covered by value chain human rights and modern slavery legislation in jurisdictions worldwide, including Canada's Modern Slavery Act, in effect from 2024.

In light of calls from groups like the PRI, international disclosure standards (such as those of the IFRS Foundation) are likely to consider developing an international corporate disclosure standard for human rights and social issues, to meet investor data needs, in consideration of the associated financial risks and opportunities. With efforts of the Taskforce on Inequality-related FInancial Disclosures underway to design recommendations for disclosure of social- and inequality-related business risks and opportunities, expectations will only grow.

Mining companies will need to focus on maturing efforts to understand, assess, mitigate, and disclose their impacts and risks, as well as take public positions on the strategic relevance of rights and other social/inequality topics to their long-term business success. Key human rights related challenges and opportunities will centre on topics such as climate justice, digital rights, supply chain due diligence, and the role of investors. And as GISTM adoption and alignment continues industry-wide, its social requirements will be further cemented as standard practice.

The focus on this topic will sharpen, with growing public recognition of the significant possible impacts of the additional mining needed for a net-zero economy. There will be scrutiny of the disproportionate impacts on vulnerable communities, including Indigenous communities, especially in light of impacts already being experienced due to the intersecting global climate and biodiversity crises. Leading companies are likely to start adopting a climate justice lens and language to assess and manage their impacts.

New 2023 Resources

ICMM updated Human Rights Due Diligence Guidance

2023 update of the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct

UN Global Compact Network Australia study about Business Integration of Human Rights Due Diligence in Australia: Modern Slavery and Beyond

International Finance Corporation (IFC) new handbook on land acquisition and involuntary resettlement

Taskforce on Nature-related Financial Disclosures (TNFD) new guidance for companies on engagement with Indigenous Peoples, local communities, and other affected stakeholders

Diversity, Equity, and Inclusion

Synopsis

In 2023, attention to diversity, equity, and inclusion (DEI) in the mining industry grew, as it is increasingly recognized as a key industry challenge. Various initiatives and reports underscored the need for continued efforts, most notably McKinsey's follow up on its 2021 report, which highlighted progress but also persistent talent shortages linked to insufficient DEI efforts in the global mining industry. Psychosocial wellbeing and workplace mental health was also a theme that continued to grow in both DEI and health and safety circles.

The Intergovernmental Forum on Mining, Minerals, Metals, and Sustainable Development (IGF) published a first-of-its-kind global report, the culmination of several years of data gathering, providing gender-disaggregated employment data, with the aim of deepening understanding of challenges and foster more inclusive practices. The IGF also released resources on women in mining, gender equality and mine closure. Meanwhile, S&P Global Market Intelligence found that African mining companies are leading the way in women's leadership roles.

Elsewhere, the Mining Association of Canada introduced its new "Equitable, Diverse, and Inclusive Workplaces Protocol", and updated its health and safety protocol, now the "Safe, Healthy and Respectful Workplaces Protocol" (which all Towards Sustainable Mining adopters must align with). ICMM also issued a position statement on DEI and its members made a public commitment to improve DEI in the industry. And the International Finance Corporation (IFC) launched a toolkit for gender inclusivity and gender-based violence.

The Taskforce on Inequality-related Financial Disclosures (TIFD) merged with the Taskforce on Social-related Financial Disclosures (TSFD), forming a unified initiative, in line with climate and nature-related financial disclosure task forces. It signals a concerted effort to understand and address inequality-related risks and opportunities to business and investment, as well as to ensure interoperability and effectiveness.

2023 Highlights

New McKinsey survey showed diversity, equity and inclusion progress.

In November, McKinsey released follow-up results from its 2021 gender and mining survey, finding that mining companies have made some DEI progress: the experience of diverse employees has been improving and more companies are undertaking serious efforts to improve their DEI performance. Companies like BHP, Teck, and Anglo American have made important strides in increasing the percentage of women employees. However, diverse talent remains underrepresented across all employment levels, and the industry as a whole needs to do more to improve, to overcome talent shortages.

UK investor called for improvement in workplace behaviour and DEI.

UK-based investor Abrdn stepped up engagement with the mining industry in February, asking to use all tools available to improve workplace behaviour as well as diversity, equity and inclusion. The US$575bn investor released a statement calling on the industry to apply "the same rigour of existing health and safety regimens to psychological safety". This follows incidents of unacceptable workplace behaviours, including sexual harassment and assault. The statement was endorsed by the International Council on Mining and Metals (ICMM) as well as Rio Tinto, Anglo American, BHP, and Vale.

IGF's Women and the Mine of the Future report summarized two years of global research.

In April, as part of a multi-year project addressing the global lack of high-quality, gender-disaggregated employment data in mining, the IGF published its Women and the Mine of the Future Global Report. The report defines the gender-disaggregated employment profile for large-scale mining in 12 countries, focusing on women and their occupations in the sector. The report is intended to better support decision-makers to effectively support a more equal and inclusive mining workforce. Women and the Mine of the Future is a collaborative project to increase understanding of the status quo for women in mining, so stakeholders can anticipate, assess, and address gendered impacts as mining evolves. In October, the IGF released a Spanish version of the report too.

African mining companies lead in women's representation in leadership.

S&P Global Market Intelligence found that African mining companies outpace their global counterparts in terms of women in leadership positions, with women holding 32.0% of executive roles, 23.9% of C-suite roles, and 26.5% of board roles in Africa-based metals and mining companies. In contrast, at a global level, women in mining fill 14.0% of executive roles, 12.3% of board roles, and 12.1% of C-suite roles. South Africa and Zambia, in particular, have implemented policies and laws to enhance gender and racial equality, which have propelled women into leadership in the mining sector.

ICMM members made a new collective commitment to DEI.

In June, ICMM members committed to a series of DEI actions by the end of 2024, including roadmaps to eliminate harmful workplace and community behaviours, goals to eliminate all forms of harassment and discriminatory behaviours, disclosing aggregated (including gender and ethnicity) performance against goals in accordance with ICMM's Social and Economic Reporting Framework, and enhancing collaboration between companies, industry associations, underrepresented groups, communities, investors, etc. to advocate for and find solutions to the challenges relating to DEI in the industry.

Leading organizations announced a joint effort on Taskforce on Inequality-related Financial Disclosures.

The Taskforce on Inequality-related Financial Disclosures (TIFD) and the Taskforce on Social-related Financial Disclosures (TSFD) which had been developing in parallel, were consolidated into a single initiative in April. The shared vision is a global framework for social- and inequality-related financial disclosures, capturing risks and opportunities that affect financial stability and long-term enterprise value creation. The organizations aim to ensure interoperability with the frameworks of the Task Force on Climate-related Financial Disclosures (TCFD) and Nature-related Financial Disclosures (TNFD) and seem to have much more traction than previous individual efforts.

2024: Looking Forward

In light of the new Towards Sustainable Mining protocol on DEI from the Mining Association of Canada, and the public commitment by ICMM's membership (which together cover a significant portion of the mining industry) 2024 will see many mining companies focus on identifying or more deeply exploring their key DEI issues and needs.

To signal their intentions while meaningful diversity metrics have not yet been developed, 2024 will see many companies conduct research, design strategies and issue position statements to demonstrate their commitment to DEI. As expectations grow and general DEI capabilities in many companies fall short across all levels of the business, training from practitioners to senior leaders is likely to feature heavily in company DEI efforts in 2024.

And for companies that have been advancing DEI for some time and have started to see their efforts translate into improved performance, more case studies may begin to emerge. There are also likely to initially be increasing numbers of companies whose diversity metrics far outpace industry participation of diverse talent, and some potential improvement in industry-wide diversity data too.

As company practices mature in and outside the industry, investor focus on this topic, including proxy firms for whom this was a key focus in 2023, will continue to grow and be a source of pressure for the industry. This will likely expand beyond the existing focus on women and the boardroom, to expect broader approaches to diversity, equity, and inclusion, and across the organization, over time.

New 2023 Resources

Mining Association of Canada (MAC) Towards Sustainable Mining (TSM) Equitable, Diverse and Inclusive Workplaces protocol

International Finance Corporation (IFC) & CommDev toolkit for measuring results-based equality

Disclosure and Corporate Governance

Synopsis

2023 saw a major overhaul of the sustainability reporting landscape, as the International Sustainability Standards Board (ISSB)(of the IFRS Foundation) released its inaugural sustainability disclosure standards, IFRS S1 and IFRS S2, effective January 2024. With headlines indicating the incorporation or alignment of the mainstream Sustainability Accounting Standards Board (SASB), Task Force on Climate-related Financial Disclosures (TCFD) and the Carbon Disclosure Project (CDP) under the IFRS Foundation's umbrella by the end of the year, signs point to these standards rapidly becoming the global reference for ESG disclosure. Canada, Australia, the UK and many other countries have signalled an intent to adopt or explore adoption.

In terms of industry-specific disclosure requirements, the Global Reporting Initiative (GRI) sought and reviewed public feedback on its highly anticipated Sector Standard for the mining industry. And Extractive Industries Transparency Initiative (EITI) adapted to global changes, releasing its fourth edition standard with provisions on anti-corruption, the energy transition, gender, social and environmental issues, and revenue collection.

In a historic move, welcomed by companies and investors alike, key mining associations including ICMM, the Copper Mark, MAC, and the World Gold Council, announced a collaborative effort to consolidate responsible mining standards, aiming for streamlined performance disclosure, transparency, and broad industry participation.

Despite industry strides in managing sustainability performance, a PwC survey highlighted a knowledge gap on ESG risks among corporate boards in 2023: Over two-thirds lacked a strong understanding of their company's ESG risks and more than 75% did not understand their companies' climate risks or strategies, highlighting the need for board-level capability building to manage risk.

2023 Highlights

ISSB published its long-awaited sustainability disclosure standards.

The IFRS Foundation's International Sustainability Standards Board (ISSB) published its first sustainability-related disclosure standards in June, IFRS S1 and IFRS S2. The Standards are effective January 2024. Numerous jurisdictions have voiced support for the standards, some of which are expected to make alignment mandatory.

IFRS Foundation takes over SASB, TCFD, and CDP announces alignment plans.

The Task Force on Climate-related FInancial Disclosures released its last status report in October, detailing companies' progress in producing climate-related financial disclosures. With the release of the report, the TCFD was disbanded and its mandate taken over by the IFRS Foundation's ISSB. IFRS S1 and IFRS S2 already incorporate the TCFD recommendations, and the ISSB is working to consolidate a range of investor-focused sustainability reporting initiatives. In October, the CDP (Carbon Disclosure Project) also announced that it plans to align its sustainability reporting questionnaire with IFRS S2 climate disclosure standard in 2024, to ease the reporting burden on companies. The IFRS Foundation is also internalizing the SASB standards, which it took over in 2022.

European Parliament adopts sustainability reporting standards.

In October, the European Parliament adopted the European Sustainability Reporting Standards (ESRS), effective for reporting periods from January 1, 2024, with the first reports due in 2025. These standards, part of the EU's Corporate Sustainability Reporting Directive (CSRD), were developed to ensure interoperability with most mainstream standards. In September, EFRAG and GRI announced their standards' interoperability for impact reporting in a joint statement. The Carbon Disclosure Project (CDP) and EFRAG also announced a partnership to improve ESRS uptake also, including the CDP agreeing to align its disclosure with the ESRS.

Extractive Industries Transparency Initiative (EITI) released the fourth edition of its standard.

The Extractive Industries Transparency Initiative (EITI), which seeks to promote good governance by enhancing transparency and accountability in the management of natural resources, updated its Standard to respond to a changing global context and new stakeholder needs. This fourth edition includes new provisions on anti-corruption, the energy transition, gender, social and environmental issues, and revenue collection.

Key mining associations announced a collaboration to consolidate responsible mining standards.

In November, the ICMM, the Copper Mark, the Mining Association of Canada (MAC), and the World Gold Council, announced that they are collaborating to consolidate their individual voluntary responsible mining and metals standards. The goal is to identify the best components of each organization's standard and to use those as a foundation to produce a single global responsible mining standard and multi-stakeholder oversight system. This collaboration is a response to feedback from stakeholders including investors, civil society, customers, policymakers and mining companies, and would significantly simplify the current standards landscape. The hope is that the result will also be more robust and transparent, and will encourage broad industry participation.

PwC research found over 2/3 of Boards don't understand ESG risks.

In its latest Annual Corporate Directors Survey, PwC noted that less than one-third of corporate boards have a strong understanding of ESG risks facing their companies, and even fewer understand their companies' climate risks or strategies. Over half of the directors surveyed noted that ESG issues are regularly part of Board agendas and are linked to company strategy. And there were notable differences between the views of female and male board members.

2024: Looking Forward

Reporting landscape changes that were set in motion in previous years will shape mining industry ESG disclosures in 2024 and beyond. The new GRI mining sector standard will be finalized in early 2024, and public consultation will close on the IRMA 2.0 standard. 2024 will mark the first year that many companies across industries begin to report in alignment with the new IFRS standards. Several countries around the world have expressed strong support for the standards since their June 2023 release, and will be exploring adoption and interoperability opportunities during 2024. 2024 will also mark the first year that companies begin reporting in alignment with the recommendations of the Task Force on Nature-related Financial Disclosures (TNFD). And many mining companies headquartered in Canada will publish inaugural modern slavery reports.

Achieving responsible mining performance will continue shifting from being leading to expected practice, and as disclosure proliferates, companies falling behind do so at the peril of facing investor and market repercussions. With transparency and comparability growing, laggards will more easily be identified.

As the sustainability expertise and capabilities of corporate boards reportedly continues to fall short of what's needed to adequately oversee ESG risk and sustainability governance, 2024 will likely see an uptick in board and senior-leader level training on core ESG topics, including climate change, modern slavery, diversity, equity, and inclusion (DEI), and biodiversity.

The first 12 standards of the European Commission (EC)'s European Sustainability Reporting Standards (ESRS) come into effect in January 2024, with additional standards already under development. Confirmed to be interoperable with GRI and IFRS, the ESRS aims to advance the scope and quality of corporate sustainability reporting and promote sustainable development through transparency. The standards require robust sustainability disclosures by companies considered in scope, as well as a double materiality approach to understanding relevant issues, which will represent a significant change in practice for many companies.

New 2023 Resources

World Business Council for Sustainable Development and non-profit Shift: Handbook for CFOs on social performance

IFRS Foundation International Sustainability Standards Board (ISSB) new S1 and S2 Standards

IFRS Foundation Sustainability Knowledge Hub and Sustainability Innovation Lab (LIB) in collaboration with GRI

Investor Landscape

Synopsis

In 2023, investors took a leading role in advancing responsible mining, evidenced in the launch of the investor-led Global Investor Commission on Mining 2030, representing US$11 trillion. Investor activism was notable, exemplified by Norway's sovereign wealth fund's stance against companies failing in climate, human rights, and diversity efforts; and the shareholder backlash against companies like Shell and Glencore for their inadequate climate action. And a key KPMG survey revealed that over half of dealmakers have cancelled deals due to negative ESG findings, showing how ESG increasingly influences investment deal-making.

Yet 2023 saw a decline in climate-related shareholder proposals last proxy season, as well as the Church of England's departure from the Net Zero Asset Owner Alliance, indicating shifting investor priorities. And in the U.S., BlackRock's avoidance of the ESG acronym in its Chair's Letter to Investors sparked widespread debate and fueled the anti-ESG movement in the US and beyond, reflecting the growing political complexities surrounding ESG in some regions.

A PwC survey highlighted the known investor concern about the credibility of sustainability reporting. ESG ratings agencies too were targeted over opaque, uncomparable and inconsistent assessment methodologies, with discontent and confusion among information users spurring attempts to regulate the space. Moody's introduction of a scoring system for corporate decarbonization plans was another move in line with trends to enhance transparency and comparability for investors.

2023 Highlights

Global Investor Commission on Mining 2030 launched, reaches US$11 trillion.

The Global Investor Mining Commission on Mining 2030, a collaborative investor-led initiative announced in 2023, achieved US$11 trillion in initial investor support by the end of the year. The initiative is driving sector-wide reform, seeking to address key systemic risks that challenge the industry's ability to meet increasing mineral demand for the low-carbon transition. It is supported by the United Nations Environment Programme, the Principles for Responsible Investment network, CEOs of major mining companies, and a range of investors, banks, insurers, and mineral demand side companies.

Study revealed that over half of M&A dealmakers have cancelled deals because of negative ESG due diligence findings.

A KPMG survey found that over half of dealmakers involved in M&A deals have cancelled deals due to material findings of an ESG due diligence process. The same study revealed that nearly three quarters of professionals are integrating ESG considerations into their M&A agendas, and that nearly two thirds of investors would pay a premium for companies that are aligned with their ESG priorities. Respondents also identified the need to understand ESG risks and opportunities as the top reason for conducting ESG due diligence as part of M&A processes.

World's biggest investment fund warned directors to tackle climate crisis, human rights and diversity.

Norway's sovereign wealth fund, the world's single largest investor, warned corporate board directors that it will vote against their re-election if they do not bolster efforts to tackle the climate crisis, human rights abuses, and boardroom diversity. Although it is not clear which companies, the fund has previously divested from extractives over ESG (particularly coal and emissions). It currently has 722 investments in basic materials, including many mining companies.

Investor priorities shift suggested a more complex ESG landscape.

Several developments during 2023 suggested that some investors are potentially shifting priorities away from ESG topics including climate change. The Church of England Pensions Board announced that it would leave the Net Zero Asset Owner Alliance (NZAOA), though the Church reiterated that it remains committed to net-zero. Elsewhere, the hot-topic acronym was not explicitly mentioned in BlackRock Chair Larry Fink's annual letter, in part likely due to the ongoing politicalization of ESG in the US. However, despite BlackRock's shift, mining industry portfolio managers highlighted in a KITCO article that the sector continues to prioritize ESG policies, reiterating the importance of an ESG risk management focus to maintain social license to operate and attract capital. And the 2023 proxy season saw more "E"- ESG proposals, but most were rejected, suggesting investor attitudes towards ESG were more mixed in 2023 than in 2022.

PwC investor survey emphasized transparency, consistency and credibility in disclosure.

According to PwC's annual Global Investor Survey, released in November, 75% of investors consider how companies manage sustainability-related risks to be an important factor in their decision-making. However, the survey also highlights significant mistrust with company sustainability reporting and disclosure. A staggering 94% of investors believe that corporate sustainability performance reporting contains some degree of unsupported claims.

Report found that ESG rating approaches remain a source of discontent and confusion.

The SustainAbility Institute published its 10th annual Rate the Raters report in March. While raters and rankers have become key players in the ESG investing ecosystem, discontent and confusion about ratings and how they work is growing among investors, companies, and other stakeholders.

2024: Looking Forward

In 2024, the investor landscape will continue to shift in alignment with global sustainability concerns, as financial institutions are increasingly required to embed sustainability into their operations and portfolios. Moody's, for example, has taken a proactive step by introducing a Net Zero Assessments (NZAs) scoring system, to help investors assess and compare company decarbonization plans. Similar moves towards greater comparability should be expected.

Investors will increase their focus on company impacts and risks, especially related to nature and biodiversity impacts, as expectations will emerge for companies to start reporting in line with the recommendations of the Task Force for Nature-related Financial Disclosures. Investors in jurisdictions with modern slavery and human rights due diligence legislation will also continue to focus on value chain human rights impact management practices of current and prospective investees. This is expected to be particularly pronounced in the EU. As a way to mitigate risk more effectively, we may also see more headlines showcasing investment from downstream metal users, such as Volkswagon's 2023 announcement to directly invest in mining projects.

GISTM will remain a key area of focus for investors, with many expanding their expectations and investment assessments to other areas of responsible mining performance, in line with the emerging vision of the Global Investor Commission on Mining 2030. Another trend expected to continue is the investor and proxy firm focus on the sustainability expertise and capabilities of corporate boards. The 2023 emphasis on diversity and climate-related expertise is likely to expand to more companies and to include nature and biodiversity themes, as various governance and disclosure expectations on this topic come into effect in 2024.

In the United States, large financial institutions will be responding to calls to integrate climate risk considerations into their overall risk management frameworks, enhance board oversight, and develop robust risk management practices. This trend is likely to emerge in other jurisdictions too. As banks bolster their climate risk expertise, expectations and assessments will become more robust, surfacing in stakeholder engagement, strategic planning and business decisions, including with mining companies. Expect more headlines like the investor rejection of Glencore's climate planning and reporting too.

Meanwhile, as diversity, equity, and inclusion (DEI) efforts grow in response to industry expectations and talent diversification needs, 2024 is likely to see an upward trend of anti-ESG proposals requesting the withdrawal of certain DEI programs, though such proposals have not had significant traction to date.

New 2023 Resources

Climate Action 100+ released a new guidance called Net Zero Standard for Diversified Mining

Glass Lewis released its 2024 ESG policy updates, with expanded climate focus

ISS released its 2024 ESG policy updates with expended DEI requirements

International Finance Corporation (IFC) Social KPIs Matter: Setting Meaningful Indicators for Sustainability-Linked Finance

Regulatory Landscape

Synopsis

2023 saw several regulator efforts intended to drive corporate sustainability performance, though many were met with pushback and subject to delays. A number of jurisdictions also introduced critical mineral strategies, focused on stable and sustainable supply, promoting domestic mining, and mitigating environmental and social impacts.

The U.S. Securities and Exchange Commission (SEC) postponed its planned introduction of climate disclosure regulations, but adopted new cybersecurity disclosure rules. And the EU's Corporate Sustainability Reporting Directive (CSRD) entered into force, setting robust expectations for mandatory ESG disclosure. A provisional agreement was also reached on the EU's corporate sustainability due diligence directive (CSDD), which sets the scope for mandatory ESG due diligence. And Canada's new Modern Slavery Act was enacted, coming into effect in January 2024.

Notably, securities regulators have been intensifying their fight against greenwashing in 2023. The SEC's $55.9 million settlement against Brazilian mining giant Vale S.A. over greenwashing (including its sustainability reports) in the lead up to the 2019 Brumadinho dam failure marked a major milestone. The SEC's ESG enforcement initiative has begun to be cited as a major business risk for public companies. And in Australia, the Australian Securities and Investments Commission announced three distinct civil penalty proceedings over greenwashing in 2023.

2023 Highlights

SEC announced a US$55.9m settlement in the first action brought by its ESG task force.

In March the SEC announced it had settled with Brazilian mining company, Vale S.A., for US$55.9m regarding the collapse of the company's Brumadinho dam, which killed 270 people in 2019. The action was the first of its kind brought forward by the SEC's Climate & ESG Task Force, claiming that Vale falsified or otherwise failed to disclose knowledge of the dam's safety to authorities and investors. The SEC has now demonstrated that ESG-related disclosures are material and that they will be broadly scrutinized by relevant authorities for possible misrepresentations or omissions. Elsewhere, the Climate and ESG Task Force was included as a business risk in the 10-K reports of dozens of public companies listed in the US, from Bitcoin miners to oil companies to banks.

EU CSRD entered into force, requiring disclosure from a broad range of companies globally.

In January, the Corporate Sustainability Reporting Directive (CSRD) was enacted in the EU, increasing the social and environmental reporting requirements for a broad range of companies, including large firms and listed SMEs, in Europe and beyond. Disclosure requirements aim to provide stakeholders, including investors, with essential information on corporate ESG risks and sustainability impacts (in line with double materiality principles), and to standardize reporting to reduce company costs over time. The new rules, applied first in the 2024 financial year with reports in 2025, include reporting according to the new European Sustainability Reporting Standards (ESRS), adopted in July. This initiative also includes a requirement for assurance on the reported sustainability information.

EU and UK proposed reforms and regulation of ESG ratings industry.

The EU approved major reforms in the ESG ratings industry. At first, the European Commission proposed requiring ESG rating agencies to disclose methodologies and data sources, be certified by the European Securities and Markets Authority, and not offer consulting services to investors. By December, the EU Economics and Monetary Affairs committee voted to enhance these regulations, mandating the separation of ESG ratings from aggregate ratings and the public disclosure of methodologies, models, and assumptions for greater transparency. The regulations aim to standardize and increase transparency in ESG ratings. Similar efforts are ongoing in the UK.

Canada officially adopted a Modern Slavery Act.

Canada's Bill S-211, known as the Fighting Against Forced Labour and Child Labour in Supply Chains Act, received royal assent in May 2023, mandating publicly listed companies above a certain threshold to annually report their efforts in preventing or mitigating forced or child labour in the production or importation of goods. Some critics argue that the bill is inadequate, while Canada's mining industry unsuccessfully sought to delay its implementation. The Act came into effect in the new year, and first report submissions for the most recent fiscal year, as well as a questionnaire, are due by May 31, 2024.

SEC pushed climate disclosure rules to April 2024.

The U.S. Securities and Exchange Commission (SEC) extended the timeline for implementing new climate disclosure regulations into 2024, according to reports. The delay came as the SEC faced complex challenges related to defining the scope and requirements for climate risk disclosures, and the extended timeline is expected to enable more thorough deliberation and stakeholder engagement. The SEC now expects to release its final rule for requiring publicly-traded companies to disclose climate-related risks like scope 1, scope 2 and scope 3 emissions and their risk management practices in April 2024.

2024: Looking Forward

Regulatory action on ESG in 2024 will only build on the momentum of the 155% increase in ESG regulations across 60 nations worldwide this past decade. 2024 will see the new or continued implementation of many of these laws. Some regulations may remain in a grace period that allows companies to mature practices towards compliance, while others, such as Canada's Modern Slavery Act and the EU's Corporate Sustainability Due Diligence Directive (CSDD), are awaiting further clarifications from the regulator on technical details, but could entail substantial additional efforts, in assessment, management and disclosure, for companies in the near future.

EU and UK efforts to regulate the ESG ratings and rankings landscape may prove to be game-changing, in Europe and far beyond, particularly given the vast potential and current broad use of these scores by many stakeholders, especially certain investors. Similarly, the push for comprehensive corporate sustainability due diligence in the EU will likely spread, influencing corporate strategies and investor relations for companies worldwide.

The highly-anticipated SEC climate disclosure requirements, set to be finalized by April 2024, are likely to inspire Canadian legislation of a similar nature. 2024 will also see more cases such as the DWS and Vale greenwashing suits from the likes of the SEC's ESG Task Force and other securities regulators, even as the International Organization of Securities Commissions (IOSCO) has highlighted the challenge, due to the lack of binding legal definitions.

Several countries, including Canada, Australia and the UK, will move forward on their signalled intentions to adopt the new ISSB sustainability standards, and make these standards mandatory, a topic likely to dominate regulatory sustainability discourse in 2024.

And as sustainability-related regulations affect the financial sector, the effects of these regulations are likely to trickle down to investees in the form of investor engagement, investment screening, investor and proxy voting. Companies are likely to spend time and effort assessing gaps against new regulations and requirements (which will surface both directly and indirectly), identifying required actions to bridge gaps, designing strategies and plans to do so, and publicly disclosing performance.

New 2023 Resources

Australian Competition and Consumer Commission (ACCC) final anti-greenwashing guidance

International Energy Agency (IEA) Critical Minerals Policy Tracker

Other Trends

Synopsis

In other notable trends for 2023, a new report from the UN found that the world will be unable to meet the 2030 sustainable development goals, while another UN report issued a stark warning about how rapidly we are approaching critical climate and ecosystem tipping points, urging significant policy shifts.

Water was a major emerging topic: the world's first UN Water 2023 conference resulted in the Water Action Agenda, with US$300bn in pledges, while global investors signed an open letter on the water crisis. MiningWatch Canada and partners released a guide to educate communities about mining's impact on water. Also on water, the ICMM unveiled its Water Stewardship Maturity Framework, aimed at improving water resource management in mining and aligning with global reporting standards. Meanwhile, the debate continues on the future of deep sea mining, with growing calls for a moratorium over concerns about potential environmental effects and the lack of regulations.

Debates also continued on the link between ESG and company performance: one study showed that strong ESG performance is also a sign of strong business management, and another revealed that over 70% of businesses see ESG as a revenue enabler. However, a third study found that banks remain split in their views on whether ESG is a source of risk or opportunity for companies. Reports were released addressing the sustainability skills gap and decarbonization strategies in the mining industry, and there was a notable rise in the number of cyber attacks against mining companies over the course of 2023. Deep sea mining was also a hot topic, including many calls for a moratorium and the postponed development of key governing regulations.

2023 Highlights

UN report concluded that the world is off track to meet the 2030 sustainable development goals (SDGs).

According to the 2023 Global Sustainable Development Report published by the UN in September, the world is on track to meet only two of the 36 SDG targets by 2030. Several global crises, including the COVID 19 pandemic and the war in Ukraine, are noted to have amplified SDG setbacks, and have hampered nations' attempts at recovery. Elsewhere, the UN Global Compact SDG Stocktake report surveyed over 2,800 business leaders about the private sector's contributions to SDG growth. The report found that while 94% of business leaders believe in the vision of the SDGs, only 48% believe that they will be achieved by 2030.

Studies revealed that strong ESG performance is a revenue driver.

In April, assessments by Bain & Company, EcoVadis, and IBM underscored the business significance of strong ESG performance. Bain & Company and EcoVadis found that robust ESG performance signals effective overall business management, especially in private markets, while IBM's study revealed that over 70% of businesses see ESG as a revenue enabler. Executives consider ESG pivotal for revenue, with consumers increasingly making purchasing and employment decisions based on sustainability. 'ESG leaders' reported a 52% higher likelihood of ESG efforts positively impacting profitability, emphasizing the growing importance of ESG in both corporate and consumer decision-making. But a third study found banks around the world to be divided on whether ESG is a source of risk or opportunity for their business. Some see ESG as a way to mitigate risk and improve their reputation with investors, others believe that ESG-related issues are a potential source of liability and could harm profitability. But the majority of banks agree that taking a strategic approach to ESG and integrating it into their operations is necessary to stay competitive in the financial industry.

Global water commitments set in UN Water Action Agenda.

The world's first UN Water 2023 conference in March was attended by more than 2, 000 government representatives, scientists, academics, civil society groups, Indigenous peoples, members of the private sector, and youth delegates. One of the main conference outcomes was the Water Action Agenda, intended to enshrine commitments from governments, civil society, and the private sector to accelerate progress towards water-related goals and targets, in the same way as 1.5°C enshrined the global commitment to fight climate change. The US$300bn in pledges made within the Water Action Agenda has the potential to unlock at least US$1tn of socioeconomic and eco-system gains. In the lead up, a group of 30 global investors representing over US$1.7tn in assets, signed an open letter organized by the CDP urging heads of state to commit to stronger and deeper policy action.

Deep sea mining permit applications opened but placed on hold following calls for a moratorium.

The International Seabed Authority (ISA) began receiving applications for deep sea mining in July. Two years ago, a two-year countdown was triggered, during which the ISA was required to establish governing rules for deep sea mining. However, rules have not yet been established, raising concerns about potential environmental impacts. As a result, marine scientists and a number of countries began to call for a moratorium on deep sea mining. When member nations of the ISA met in August, they chose not to open the seafloor to mining until they could hold another discussion on the subject, scheduled for the ISA's next meeting in July 2024. Lobbying amongst member states (with countries such as China and Norway supporting the practice) is expected to continue alongside efforts to better understand the environmental effects of the practice.

New study found that the world is more rapidly approaching a series of tipping points.

The United Nations University Institute for the Environment and Human Security released its Interconnected Disaster Risks Report in October. The report argues that we are closer than expected to climate and ecosystem tipping points, which are moments at which a system irreversibly ceases to be able to buffer risks and to continue to provide its expected function. The sobering report suggests we are on the brink of irreversible change to nature, and argues that policy leaders are allowing the continued indiscriminate extraction of natural resources, while only supporting incremental interventions at best. It concludes that world leaders are underestimating both current and future impacts on humanity and the economy if we pass these tipping points.

Organizations must address critical sustainability skills gap to reach sustainability goals.

According to a report by Boston Consulting Group (BCG) and Microsoft, titled Put Talent at the Top of the Sustainability Agenda, only 17% of companies are on track to meet their emissions targets. The report argues that there is a systemic sustainability skills gap standing in the way of achieving the targets, and that a company's sustainability journey will succeed only when leaders and individuals throughout the organization embrace sustainability as an inherent component of their everyday work, seamlessly incorporating it into their business models and processes.

Cyber attacks on mining companies were on the rise.

The chief information security officer of the non-profit industry-owned corporation, Mining and Metals Information Sharing and Analysis Centre (MM-ISAC), revealed in August that the number of cyber attack incidents in the extractive industry has doubled since 2022 with 11 in July alone (the figure is based on information from MM-ISAC members and publicly reported incidents by non-members). Overall, in 2023, there have been an average of two attacks per month. It is unclear whether this trend will increase, but MM-ISAC is urging companies to better prepare for ransomware and other cyber security threats, and to ensure that they have action protocols in place.

2024: Looking Forward

Looking to 2024, the future of deep sea mining is likely to remain in the spotlight, while the terrestrial mining industry continues to pay closer attention to its impacts on water.

Geopolitical instability and inflation will continue to pose important risks for the mining industry, and will need to be balanced against ESG risks moving forward, though ESG is likely to remain a top concern for mining companies and executives. Greenwashing, and other related practices, will face growing attention from regulators, as governments pay closer attention to company disclosures.

Mining companies will continue to explore and adopt AI and remote technologies to improve the safety and efficiency of mining operations. This will continue the trend begun in 2023, when new technologies like Nutrien Ltd.'s tele-remote technology for boring machines, and the development of autonomous hauling trucks, which boost productivity by 10%-15%, emerged on the market.

Cybersecurity is likely to keep rising in importance for mining operations globally. With cyberattacks on the rise, mining companies will need to better prepare for cybersecurity threats, including putting into place action protocols for dealing with ransomware attacks.

New 2023 Resources

Non-profit Planet tracker's Greenwashing Hydra report describes six types of greenwashing practices

MSCI Corporate Sustainability Insights tool for companies to analyze their sustainability strategy against peers

International Council on Mining and Metals (ICMM) Water Stewardship Maturity Framework

MiningWatch and partners Citizens' Guide on mining's water impacts

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