November 2, 2015

Dear Sirs,
Freeport-McMoRan Inc. (Freeport) is pleased to submit comments on the Second Draft Environmental and Social Framework issued on July 1, 2015. Freeport is a premier U.S.-based natural resources company that operates large, long-lived, geographically diverse assets with significant reserves of copper, gold, molybdenum, cobalt, oil and natural gas. Freeport is currently the world’s largest publicly traded copper producer and has active copper mines in Africa, South America, Indonesia, and the United States. The company has significant experience with the implementation of International Finance Corporation Performance Standards and, specifically, Performance Standard 6 (Biodiversity Conservation and Sustainable Management of Living Natural Resources). The following comments pertain to the proposed Environmental and Social Standard 6 (ESS6: Biodiversity Conservation and Sustainable Management of Living Natural Resources), and largely derive from Freeport’s experience with Performance Standard 6 (PS6).

General Comments
1. While the text of ESS6 is extremely similar to PS6, in certain sections ESS6 has incorporated additional language that is effectively more restrictive than the corresponding section of PS6. We have several concerns regarding this issue. First, these differences might lead to confusion among lenders, borrowers, and practitioners. Second, the current ESS6 language could result in denial of financing for a project that achieves no net loss/net gain and meets all other Environmental and Social Framework standards. Finally, the more restrictive language precludes discretion necessary to effectively manage site-specific biodiversity risks.

2. As currently written, ESS6 would potentially preclude resource-based projects. Specifically, paragraph #18 states that projects located in unique or irreplaceable habitats will not be financed unless the project is redesigned to avoid the need for offsets. For certain types of development, such as copper mines, the project location is dictated by location of the mineral deposits and there is little opportunity to redesign or relocate a mine to avoid important biodiversity features. In instances where a unique or Critical Habitat geographically overlaps with a mineral deposit, avoidance and minimization may not be feasible and may necessitate offsets in order to achieve no net loss/net gain objectives. As written, ESS6 would not allow a Borrower to fund such a project even if offsets would achieve no net loss/net gain.

3. The draft Environmental and Social Framework does not address implementation of ESS6 for existing projects that have been designed to align with previous versions of the standards. We are concerned that a project that was explicitly designed to align with the standards in place when the project was initiated may be unable to meet the new standards.
Specific Comments

4. Paragraph #10, page 2: This paragraph requires consideration of “projected climate change impacts”. This is somewhat ambiguous and would be difficult to address in the absence of a more defined approach/methodology. As currently presented, it is unlikely that threats to biodiversity resulting from climate change can be meaningfully addressed.

5. Paragraph #11, page 2: The first sentence states “The Borrower will avoid adverse impacts on biodiversity.” We suggest adding the words “to the maximum extent practicable” to the end of this sentence to better reflect the intent of this paragraph, and to be consistent with corresponding language in PS6.

6. Paragraph #12, page 3: The second sentence states “The assessment undertaken by the Borrower will include consideration of potential risks to and impacts on the ecological integrity of the habitats, independent of their protection status and regardless of the current degree of their disturbance or degradation.” It is important to recognize that the current degree of disturbance or degradation is extremely relevant to ecological integrity and the assessment of biodiversity risks.

7. Paragraph #13, page 3: The last sentence references “materially adverse impacts” but the phrase is not defined in ESS6. We suggest defining this term in a footnote or glossary.

8. Paragraph #14, page 3: The content of this paragraph appears to addressing the concept of Ecosystem Services. If that is the case, we suggest explicitly using the term “Ecosystem Services” to provide greater clarity and align with corresponding language in PS6.

9. Paragraph #18, pages 3 & 4: Issues also presented in comments 2 and 3 above. The last sentence states “In such cases, the Borrower will not undertake the project unless it is redesigned to avoid the need for such offset, and to meet the requirements of this ESS.” As previously described, this is not only more explicitly restrictive than corresponding language in PS6, but also would pose significant constraints and/or preclude some natural resource-based projects. We suggest this paragraph be revised to allow consideration of offsets on a case-by-case basis.

10. Paragraph #22, page 5: Section (b) indicates no net loss and preferably net gain are required in natural habitats. The corresponding PS6 criteria for natural habitats includes the phrase “where feasible.” We suggest adding similar language to this section to improve consistency with PS6 and avoid confusion among lenders, borrowers, and practitioners.

11. Paragraph #23, page 5: While generally consistent with PS6 critical habitat criteria, ESS6 adds section (e) regarding ecological functions and excludes of “key evolutionary processes”. The term “ecological functions and characteristics” is not defined and is too vague to be meaningfully addressed. We suggest eliminating or clarifying (e). We also recommend adding “key evolutionary processes” to critical habitat criteria in ESS6 as it represents a meaningful and relevant biodiversity factor and it would improve consistency with PS6.
12. Paragraph #24, pages 5 & 6: We have two comments on this paragraph. First, section (e) includes the phrase “range restricted Vulnerable species”. It is unclear what this refers to as it is not defined and does not represent standard terminology used in PS6 or elsewhere. Additionally, this is the first time this phrase is presented in ESS6. We recommend clarifying and/or revising as necessary. Additionally, the document should include a definition and, if intended to represent another critical habitat criterion, it should be incorporated in the appropriate section of the document.

Second, sections (c) and (g) explicitly prohibit Borrowers from implementing projects that either “lead to measurable adverse impacts on those biodiversity values for which critical habitat was designated” or “involve significant conversion or degradation of critical habitats”. These two elements, which are absent from PS6, are broadly restrictive and contrary to the ESS6 conservation approach. As currently written, this text effectively precludes financing of projects that result in any adverse impact to or significant degradation of critical habitat regardless of whether the project is designed to achieve net gain. These are not mutually exclusive concepts - a project could adversely impact or degrade critical habitat and result in net gain through application of the mitigation hierarchy. We recommend revising this paragraph to acknowledge that while projects should be designed to minimize adverse impact and/or significant degradation, the ultimate criteria for Borrowers is whether the project can meet no net loss/net gain criteria.

Thank you again for this opportunity and please contact me if you have any questions or require additional information.

Sincerely,

[Signature]

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