



PAN-EUROPEAN RESERVES &
RESOURCES REPORTING COMMITTEE



Submission by the Pan European Reserves and Resources Reporting Committee (PERC)

In response to a consultation paper by CESR entitled:

CESR proposed amendments to CESR's recommendations for the consistent implementation of the European Commission's Regulation on Prospectuses N° 809/2004 (CESR/05-054b) regarding mineral companies (paragraphs 131 to 133)



PAN-EUROPEAN RESERVES &
RESOURCES REPORTING COMMITTEE



Background to the PERC Submission

The importance of exploration results, Mineral Resources and Mineral Reserves in underpinning the value of any mineral company is well understood as they are the primary assets and as such will form the basis for financial valuations supporting a listing and issuance of prospectuses.

Reporting of these assets, whether in public statements, prospectuses or reports, is governed by reporting standards that are commonly linked to stock exchange listing and disclosure rules. For example, in Australia reporting is carried out according to the JORC Code which is incorporated in Australian Securities Exchange (ASX) Listing Rules. In Australia and South Africa, reporting under a single nationally endorsed code is mandatory for primary listings. In Europe, the mineral resource and reserve reporting standard endorsed by professional organisations is the PERC Code, developed and maintained by PERC.

PERC is a standing committee set up jointly by a number of professional organisations which include the Institute of Materials, Minerals and Mining (IoM3), the Geological Society of London (GSL), the European Federation of Geologists (EFG) - *which itself represents professional geological organisations in 21 European countries (see Appendix C)* - and the Institute of Geologists of Ireland (IGI) to develop a Pan-European reporting standard for resources and reserves of solid minerals. It includes representatives from relevant sectors including the major mining companies, financial sector, industrial minerals, junior mining companies and the Association of Mining Analysts (London) and mining consultancies. The PERC Code 2008 is the current version of the reporting standard which has been developed specifically for use in European markets. This code is the successor to The Reporting Code 2001 and the IMM Reporting Code 1991. It is envisaged that the PERC Code will be modified from time to time as appropriate.

CRIRSCO is the Committee for Mineral Reserves International Reporting Standards whose objective is the alignment of international codes for the public reporting of Mineral Resources and Reserves. It is composed of representatives of NROs (national reporting organisations) such as JORC and SAMREC which have defined reporting standards aligned with the CRIRSCO Template of definitions and which are linked to the corresponding national securities regulators. In the major mining regions of Australia, South Africa, and Canada, 100% of mining and exploration companies report using their respective CRIRSCO-aligned standards but together represent just 23% of market capitalisation of all mining and exploration companies. On the London Stock Exchange, mining companies represent 41% of market capitalisation of all mining and exploration companies worldwide. Although they report according to CRIRSCO-aligned standards, these are selected by the companies themselves from other jurisdictions whose respective competent authorities do not monitor compliance when used on European stock markets, which is problematic, as our submission makes clear.

Despite the unequivocal significance of mineral companies on European markets (as recognised in the CESR Consultation Paper), Europe has not yet adopted a single reporting standard against which public reporting of exploration results and Mineral Resources and Reserves can be regulated. This is at odds with other major jurisdictions on whose stock markets mineral companies represent a significant proportion of market capitalisation.

PERC seeks to have the PERC Code endorsed as the preferred code for reporting exploration results, Mineral Resources and Mineral Reserves in Europe. It is proposed to revise the list of acceptable

reporting codes in the CESR Guidelines to include only those that are CRIRSCO- aligned and to set the PERC Code as the standard against which regulatory compliance will be measured.

The reasons to adopt a single European Code, and how such a single European standard would function alongside existing CRIRSCO-aligned codes, are presented in PERC's answers to questions and additional supporting material, in particular Appendices A and B of this submission.

Importantly, it should be clearly understood that disclosures made on European stock markets using securities regulation principles and reporting standards from other jurisdictions such as the ASX and JORC are not vetted by those organisations. Irregularities are only identified and investigated if an investor complains.

NB. This submission is concerned with those aspects of the CESR consultation paper which relate to solid minerals and we make no comments on those parts which are specific to oil and gas.

Websites: PERC www.percreserves.com

CRIRSCO www.crirSCO.com

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INTRODUCTION

We consider that CESR has correctly identified the issues involved in resource and reserve disclosures. In our view there are two main issues for consideration, first the desire by CESR to strive for consistency of reporting standards throughout Europe and second whether CESR should support a particular reporting standard or a number of standards.

PERC fully supports CESR in its recognition and promotion of convergence in reporting standards in the disclosures related to prospectuses. In particular, we welcome CESR's endorsement of the convergence of minerals reporting standards which is being achieved by CRIRSCO's member organisations, and fully support CESR's commitment to support the use of these standards within Europe.

With regard to whether CESR should support a particular reporting standard or a number of standards, it is our view that the best approach to reporting mineral resources and reserves is for each regulator to adopt a single standard. This is the model used by the ASX in Australia (which uses the JORC Code), the JSE in South Africa requires the SAMREC Code, and the Chilean code is used in Chile. In our opinion, the PERC Code, which is very similar to the other CRIRSCO based codes, should be recognised as the single code for Europe.

We recognise that market practice in Europe may require a broader approach, and a menu of codes such as proposed by CESR is a reasonable alternative, however, in our opinion this is a much weaker alternative. If the menu of codes is preferred by CESR we strongly recommend two modifications. First, as has been recognised by CESR, there are strong arguments for limiting the menu of codes to those that are members of the CRIRSCO 'family'. This would exclude SEC IG7 which is not compatible with the CRIRSCO standards in a number of important areas, in particular the lack of recognition of mineral resources and the lack of recognition of a Competent Person.

The second modification that we would strongly recommend is that any public reporting that is not based on the PERC Code should at least be reconciled to (show differences with) the PERC Code in the report. This is similar to the system which operates in Canada. Such a reconciliation requirement is not onerous if all reports use CRIRSCO standards. Differences between the CRIRSCO standards are primarily a result of the different regulatory regimes for which they are defined.

This submission from PERC is supplemented by parallel supporting submissions from CRIRSCO and from other CRIRSCO member organisations, who fully endorse our comments above and responses to the questions below.

W. Kleingeld, Chairman, PERC
S. Henley, Deputy Chairman, PERC
P. Gribble, Secretary, PERC

CESR Questions, PERC Answers

We address each of CESR's questions in turn, with detailed comments, referencing as appropriate the numbered sections and paragraphs in the CESR document.

1. Do you agree with our analysis as to the shortcomings of the existing provisions?

Yes, our view is very close to CESR's analysis.

We have some specific comments as follows:

I - Executive Summary

Paragraph 8

- We fully endorse these comments.
- In the second paragraph the word "evaluated" should be replaced by "estimated" when referring to resources and reserves.
- The name of CRIRSCO should be corrected to the ***Committee for Mineral Reserves International Reporting Standards ('CRIRSCO')***¹

Paragraph 9

- The CPR is introduced before a definition of the Competent Person. As the paper refers to 'competent authorities' elsewhere we suggest that it should be made clear that the Competent Person is a defined term in resource and reserve reporting and refer to Appendix 1 for the allowed reporting standards. As such the Competent Person should have capital C and P.

Paragraph 13

- We agree that it makes sense not to require a CP report when the issuer has kept the market informed on an on-going basis

2. Do you agree with our observations on market practice in EU markets?

Yes, we agree with CESR's observations on market practice and the proposals go a long way towards resolving identified issues.

Paragraph 17

- We note the recognition by CESR that prospectuses and detailed CPRs are a general requirement on first listing but thereafter companies would rely on continuous updates. Annual reporting is a fundamental part of the CRIRSCO reporting standards. Logic suggests that CPRs should only be required when a major change occurs in a company's reserves or resources, e.g. on an acquisition.

¹ CRIRSCO was originally (in 2002) named the "Combined Reserves International Reporting Standards Committee" but has subsequently been renamed for clearer definition of its scope. The acronym had already entered common usage and therefore was kept unchanged.

Paragraph 18

- CRIRSCO epitomises the 'process of international convergence' and PERC as a member of CRIRSCO is taking the lead in that process for Europe
- It is our view that the best approach to reporting mineral resources and reserves is for each regulator to adopt a single standard: thus JORC is used in Australia, SAMREC in South Africa, and the Certification Code for Exploration Prospects, Mineral Resources and Ore Reserves in Chile. However, we recognise that market practice in Europe may require a broader approach, and a menu of CRIRSCO-aligned codes such as proposed by CESR is a reasonable, though less attractive alternative, subject to the following:
- The PERC code should be the “benchmark” or reference standard for the EU. We agree with CESR that a proliferation of codes internationally is not a good thing - which is why the CRIRSCO system best meets CESR requirements for international convergence. Even though the total number of standards may well increase as additional countries join CRIRSCO (potential additions currently include Peru, the Philippines, Indonesia, and elsewhere), the degree of commonality among all CRIRSCO codes means that it will be possible always to reconcile to a single national/regional standard - such as CIM in Canada, or PERC in Europe, and such reconciliation will not be onerous.
- Individual countries and regions still need ‘local’ rules and in order for reporting standards to be incorporated into laws or other regulations (e.g. securities regulations) there has to be scope to monitor them on a national basis
- This is why, while endorsing the CRIRSCO system as the global model, PERC should be recognised as the ‘benchmark’ code in Europe and should be referenced in individual state regulations in the same way that JORC is linked to ASIC / ASX in Australia and CIM is the reference standard for NI43-101 which is governed by the Canadian Securities Commission
- Without the link to regulations there is little chance of enforcement
- Competent Persons can be disciplined according to rules of conduct, but only those of the organisation to which they belong. Allowing the use of a menu of different standards makes for a very complex, and in our view unworkable, disciplinary environment.
- In supporting a menu of CRIRSCO standards, it should be noted that there is a need to exclude non-CRIRSCO reporting standards. CESR has already rejected the Russian and Chinese standards on this basis; similarly the SEC IG7 should be excluded (see detailed reasons for this in our answer to question 11).

3. Do you agree we should have regard to these factors in framing the proposal to revise the CESR Recommendations?

Yes, very much so.

4. Do you agree with our proposal to exempt wholesale debt in line with other specialist companies?

We have no comment to make on this question.

5. Should we include exploration only companies?

Yes. Exploration companies should be included as they routinely seek market financing and logically they would supply a CPR on work done to date and a statement on what would be done with the money raised. Our proposed definition of a mineral company (see our answer to Question 6 below)

would automatically include any exploration company which wished to include its mineral exploration assets as part of its valuation

6. Do you agree with our proposed definitions?

Yes, with one exception. We think that it is possible to frame a better definition of a mineral company. Rather than defining it in terms of the company's activities, it should be defined in terms of the company's need to report mineral assets as a part of its valuation:

In the context of disclosure of exploration results, mineral resources and reserves, for the purposes of a prospectus or similar document or for ongoing reporting, a mineral company is a company which wishes to include exploration results, mineral resources and reserves in its valuation.

With this definition there is no need to define a particular percentage of the company's activities or to define the word 'material'. It also includes automatically any exploration company which wishes to place a value on its exploration assets. The need for a CPR report, for example, should be triggered by this definition, not by the proportion of the company or its revenue that relies on minerals.

Particular points in the CESR text:

III: Full text

Paragraph 1b 2a)

- In our view the definition of mineral companies is too loose unless some guidance is given on what constitutes 'material'. Is it 10% of income? 50%? Should the company list as a mining company rather than an industrial company etc? The problem is that any such definition could lead to anomalous cases and to situations in which a company's status as a 'mineral company' may vary from year to year. Our preference would be to replace the definition itself, as noted above.

7. Should we define materiality? If so, how?

Under our proposed definition of a mineral company the term 'materiality' would not be used, so this question would not need to be answered.

8. Do you agree with our proposal to update existing section 132?

Yes, we would agree in principle with the proposal to update section 132.

In several places the CESR document specifies that resources and reserves should be presented separately. If taken to mean that they should not be added together and reported as a single combined 'resources+reserves' figure, then we are in full agreement and this is a basic requirement of PERC and all other CRIRSCO standards.

In Appendix II there is a specific suggestion that resources should be reported exclusive of reserves. There are circumstances in which it may be more appropriate to report resources inclusive of reserves. PERC and other CRIRSCO standards allow the Competent Person to decide whether it is more appropriate to report resources inclusive or exclusive of reserves, but it is also clearly within the remit of the regulator to impose one or the other convention. While we are happy with a

recommendation by CESR that resources should be quoted exclusive of reserves, it should be noted that this may cause problems in some instances for companies which are producing reports that are fully compliant with PERC or other CRIRSCO standards but fail to meet CESR requirements on this criterion, and therefore we propose that it should remain no stronger than a recommendation.

We agree with the requirement that estimates be kept updated on a regular basis, but that such on-going reporting need not be done by an independent expert.

Specific comments follow:

IV Explanatory Commentary

Section 3 paragraph 9

- This paragraph is consistent with many of the principles built into CRIRSCO reporting standards such as currency of the estimates and refreshing the reported data every year.

Appendix II paragraph iii) 3)

- We are happy with this recommendation subject to the reservations above.

III Full text, 1b: 3) a) - also 1b: 5) a) and c)

details of mineral resources, and where applicable reserves (presented separately) ...

- We interpret this as not allowing the reporting of a combined figure of 'reserves+resources', and if so we are in full agreement. If it means reporting resources exclusive of reserves as indicated in Appendix II, although we are happy with this recommendation we have reservations as indicated above.
- It should be noted that this would not be compliant with **SEC IG7 which does not allow the reporting of resources - and this is one of our reasons for recommending exclusion of IG7.**

IV Explanatory Commentary, Section 3: 9.

For example we have included a new clarification that resources and reserves figures should be presented separately.

- We interpret this as not allowing the reporting of a combined figure of 'reserves+resources', and if so we are in full agreement. If it means reporting resources exclusive of reserves as indicated in Appendix II, please note our reservations as above.

9. Do you agree with our proposal to remove the requirement for a cashflow projection?

Yes

10. Do you agree with our proposed replacement for section 133(b)?

Yes. We see no problem with management setting out how they will use the funds generated by listing or IPO to explore for minerals or develop a minerals property including a cash flow of the planned expenditure.

11. Do you agree with our proposals to establish minimum competence requirements for reporting mineral experts?

Yes. This is an integral part of all CRIRSCO-aligned reporting standards. Consequently, provided that CESR limits its 'menu' to such standards, it will not be necessary for CESR to define the Competent Person separately. In more detail:

III: Full text

Section 1b Paragraph 4a)

- The definition of a Competent Person is very close to the definitions in CRIRSCO standards. If CESR were to take the logical step of excluding non-CRIRSCO codes (SEC IG7) then it would not be necessary for CESR to include a Competent Person definition for mining and mineral exploration.
- The question of independence needs to be considered further. Continuous reporting does not in practice require a Competent Person to be independent of the company. IPOs are different but the requirement could perhaps be met by a technical audit, though this would have to be done by an independent Competent Person.
- Bracketing the terms exploration results and prospects is confusing. "Exploration results" is a defined term in all CRIRSCO standards (though not SEC IG7) and should be used in preference to the undefined term 'prospects'.

IV Explanatory Commentary

Paragraph 14

- It should be noted that Competent Persons need not be independent of the company for most reporting purposes under existing reporting codes but we can see the logic in requiring an independent CPR for a listing or other major fund raising. Instead of CESR inserting its own definition of competency (which matches all of the CRIRSCO standards), it should exclude from its preferred list of codes any that lack this provision - i.e. SEC Industry Guide 7.

We point out that, notwithstanding the quality of initial training, the appropriate experience, and continuing professional development, it must be assumed that the Competent Person is only as good as the disciplinary capabilities of the organisation he/she belongs to, and that the combination of professional bodies and regulatory authorities is very powerful (indeed essential) in ensuring ethical practices amongst Competent Persons. This reinforces the idea that, if CESR is the primary source of regulation in EU markets, then PERC should be the primary European minerals reporting standard, and that PERC and CESR (and national regulators in EU states) should work together to resolve any issues that arise where Competent Person work is queried. It is difficult to see European regulators asking directly the professional organisations linked to SAMREC or JORC to discipline a Competent Person when a query is received, as, although these are CRIRSCO member organisations the expertise they can call upon has experience principally with their own national regulatory regimes. See also Appendices B, C, and D for more information.

12. Do you agree with our proposal on how old a CPR should be?

Yes, we broadly agree with the proposal, but would suggest that more important than the actual age of the CPR is that it should remain "current". In other words, there should be no substantial changes in controlling parameters or risk factors which might invalidate the conclusions.

13. Do you agree in principle with our revised trigger for a CPR?

We agree in principle, but as in question 12 above, the word "current" should be used. Normally, with continuous disclosure in on-going reporting, a CPR would not be triggered. If risk levels change, or a previously unidentified risk becomes known, or there is a major change in mineral prices, there could be a need for a new or revised CPR.

14. Do you agree with how we have structured our proposed exemption?

Yes, we are in broad agreement. The proposed exemption provisions appear to be logical and reasonable.

However, it should be borne in mind that the mining industry operates globally, and assets upon which a report by an EU listed company is based may actually be located anywhere in the world. As a result, there will always be a risk of conflict between the requirements of foreign jurisdictions and those of the MAD Directive. For example, disclosure of resources and reserves in Russian mineral deposits may be prohibited until government registration procedures have been completed, and thus full disclosure to the market is not always possible.

Specific comments:

III Main text

1b 5)

- Proposals for exemptions from CPR reports are generally sensible. The level of detail required is considerable and expensive to produce; it should not be needed every time a company declares resources or reserves, or changes to these.

15. Do you agree with our proposals to require a CPR where there have been significant changes either through acquisitions or organic development?

The answer to this question is linked to question 13. We would see that in some circumstances a CPR could be required, but in other circumstances it might be necessary only to require notification by the company, for example if there is a still current CPR prepared for a company which has been acquired.

One significant question is whether this should require an independent Competent Person or not. In large companies such reports would normally be produced internally, noting that the situation does not necessarily involve major fund raising.

We should like to note also that we think that (in the main text, paragraph 6 b), a 100% change is perhaps too prescriptive, and the requirement should perhaps identify a "material" change instead.

16. Do you agree with our proposed new rule on consistent presentation of scientific and technical information?

Yes

17. Do you agree with our "menu" approach to reporting and valuation codes?

We do not wholly agree. Ideally, each national/regional regulatory regime has a direct link to a particular national/regional reporting standard (as for example ASIC and JORC in Australia, the Johannesburg Stock Exchange and SAMREC, or the Chilean stock exchange and the Certification

Code for Exploration Prospects, Mineral Resources and Ore Reserves. It is recognised, however, that current market practice, by companies listed on EU exchanges, is that multiple reporting standards are used. The PERC and CRIRSCO view is that the local NRO ("national reporting organisation") standard should have primacy in its 'local' exchanges, and that while the use of other CRIRSCO standards is acceptable, reports should at least be reconciled to the 'local' standard.

With reference to valuation codes, there is not currently a minerals valuation code defined specifically for use in Europe; however, any of the three principal codes (VALMIN, CIMVAL, SAMVAL) may be used in conjunction with PERC. We propose that once a European valuation code is defined, then subject to approval by CESR, it should be adopted as the 'reference valuation code' in the same way that we are recommending the PERC Code be adopted as the reference standard for reporting reserves, resources, and exploration results.

More detailed comments follow:

III Appendix I and IV Explanatory Commentary:

Paragraph 26

- The proposal to adopt a menu approach to acceptable reporting codes causes some difficulties. We start with the principle that the CRIRSCO family of codes are sufficiently aligned that in general they can be used interchangeably, but that codes not aligned with CRIRSCO cannot be - whether, as in the case of IG7 they do not adhere to fundamental concepts (the Competent Person, disciplinary process etc) or as in the case of Russia, they do not yet have a compatible standard. In general the local CRIRSCO standard has primacy over the CRIRSCO Template and other member codes in individual regions. CRIRSCO will defer to local requirements precisely because these may be varied by local regulators and local laws prevail. Thus, while the principles of good reporting are included in all the CRIRSCO standards, the legalities reside in the NRO (national reporting organisation member of CRIRSCO). The Australian regulator (ASIC) requires all reporting companies to do so in accordance with JORC, South Africa requires all reporters to do so using SAMREC. Canada allows various codes to be used by the Competent Person BUT insists on reconciliation to NI43-101 and meeting CPR requirements in Canada. This is the model that PERC suggests is a reasonable alternative for Europe should the PERC Code not be considered the only reporting code.

Paragraph 28

- The correct name of CRIRSCO (Committee for Mineral Reserves International Reporting Standards) must be inserted here.
- CRIRSCO does not recognise Industry Guide 7 as a CRIRSCO compatible code. The only reporting code recognised by CRIRSCO in the USA is the SME Guide. The use of IG7 is mandatory in the USA and this is why companies are forced to use it, but it often results in duplication of efforts as reports where companies also list in other exchanges (very common) as two sets of resource/reserve statements have to be prepared.

Paragraph 30

- CESR acknowledges the exception of SEC IG7 and has had to add text to the consultation paper to try to get around this. It would be much simpler and more logical if IG7 is removed from the menu of recognised codes in the same way that the oil and gas equivalent is not present on the oil & gas preferred list.

18. Are there other codes we should include? Should we remove some of the codes we have included from the list?

There are no other reporting standards which should be added at this time.

However, it is our very strong recommendation that SEC Industry Guide 7 should be excluded from the list until the SEC adopt a CRIRSCO-aligned reporting standard. We have a table that shows convergence among CRIRSCO member codes and divergence with IG7. For example, IG7 does not include any competent person requirement, requires no code of conduct (so how can they police Competent Persons?), and reporting of resources and exploration results is not allowed.

CESR's argument that where individual codes are deficient the wording in the CESR document has been expanded to compensate (for example there is a definition of the Competent Person) but in our view it would be better to remove IG7 from the list, for just the same reasons that the Chinese, and Russian standards are not included. It should be noted that CESR has not included the most recent form of reporting regulations for oil and gas for essentially similar reasons.

Restriction of the mineral reserves/resources reporting standards to those in the CRIRSCO family would allow considerable simplification of the CESR document as there would be no need for any separate definition of terms such as Competent Person.

There are other reporting standards which have been defined (e.g. Peru, Philippines) and although these have adopted the CRIRSCO approach they are not yet CRIRSCO members and we recommend that these standards should be excluded until or unless they become CRIRSCO members.

19. Do you agree with our proposed CPR content requirements set in Appendices II and III?

We broadly agree with the proposed CPR content. However, we consider that the actual content to be included in any CPR is a matter for the Competent Person to decide, and therefore that this should be a recommended table of contents, rather than a definition of required contents.

In particular, not every CPR will necessarily include a valuation section.

III: Full text

Paragraph 1b 3)

- Proposals for contents of prospectuses all appear reasonable and would be normal practice using CRIRSCO type reporting codes. SEC IG7 (see below) does not fit this mould as it does not allow disclosure of resources

Appendix II

paragraph iv)

- This section could be problematic, and as noted above may not be appropriate in all CPRs. If it is included, it might be acceptable if this is a straightforward mechanical DCF analysis of the proved and probable reserves only, but most companies would look at valuation as including at least part of the resources and maybe even exploration results in trying to boost the perceived value of a property to investors. In our view CESR will need to make it clear that this section applies to IPOs or prospectuses only and not to ongoing reporting, and the

valuation is strictly on a DCF basis. Clause iv (1) appears to allow any form of valuation methodology provided it is defined. The results could then be highly variable depending on the views of management - bearing in mind they are essentially trying to sell their resources and reserves to investors. Values would range from NPV of reserves only, through to a fair value estimate of overall value with all identified estimates of mineral assets included.

- Without being too prescriptive, we think it important to clarify this area

General Points

CRIRSCO should be identified correctly: it is the *Committee for Mineral Reserves International Reporting Standards*.

It should be noted that the CRIRSCO Template has been recognized by the IASB in its recently published Discussion Paper on Extractive Industries as the internationally accepted standard for reporting Mineral Resources and Reserves for solid minerals: *Question 3 – Definitions of minerals and oil and gas reserves and resources. In Chapter 2 the project team proposes that the mineral reserve and resource definitions established by the Committee for Mineral Reserves International Reporting Standards and the oil and gas reserve and resource definitions established by the Society of Petroleum Engineers (in conjunction with other industry bodies) should be used in an IFRS for extractive activities.*

Also, CRIRSCO is the recommended standard for reporting minerals by the high-level umbrella-classification of the UNECE - UNFC-2009.

CONCLUDING STATEMENT

Due to the efforts of the various national reporting organisations who are members of CRIRSCO, as CESR has recognised, the international minerals reporting codes have been converging over the past few years. However, this convergence is not complete. Although the definitions of resource and reserve categories are now very similar among all of the CRIRSCO-aligned codes, there remain some differences in places in the accompanying codes and guidelines. Critically, also there is variance among the codes relating to the extent to which they are aligned with or required by national and regional regulatory regimes. This has important implications for enforcement and disciplinary actions when CPRs are judged to be deficient.

CRIRSCO, indeed, does not envisage that convergence will ever go as far as creating a single reporting standard applicable worldwide. The reason for this is that the various national stock exchanges and regulatory authorities have different requirements. For this reason, it is likely that the number of CRIRSCO aligned codes will increase with the development of new standards (standards are currently under development in Peru, the Philippines, and Indonesia, for example).

It is important that the regulatory authority provides a clear and unambiguous set of rules for company reporting, but even the relatively small differences among the various reporting codes are sufficient to create uncertainty.

For example, the reporting of historical estimates is allowed by PERC, though under tightly constrained circumstances. Australia also allows historical estimates to be reported - but only under specific conditions which are defined by the Australian Stock Exchange (The circumstances are clearly defined. An application must be made for permission. ASX states “..there are only exceptionally limited circumstances in which ASX will accommodate reporting that is not in accordance with the requirements of the JORC Code.” It lists 10 requirements that must be met. It also lists 5 examples of cases where it does not apply). It clearly is not acceptable for reporting on European stock exchanges to be dependent upon decisions by Australian authorities, even if ASX were willing to rule on such cases, which seems unlikely.

We propose an alternative to the simple menu suggested by CESR, which provides greater clarity while at the same time not being onerous for reporting companies. A single reference reporting standard should be defined - PERC. Reserves and resources may be reported under other CRIRSCO-aligned standards such as JORC, CIM, and SAMREC, subject to the provision that when there are material differences of definition or interpretation, these must be identified and the report must be reconciled to the PERC standard.

Reporting using non-CRIRSCO codes should not be allowed. This includes not only the Russian and Chinese codes but also the SEC IG7.



PAN-EUROPEAN RESERVES &
RESOURCES REPORTING COMMITTEE



APPENDIX A - Background Notes Prepared by PERC: February 2010

THE PAN-EUROPEAN RESERVES AND RESOURCES REPORTING CODE – PERC CODE NOTES ON A PROPOSAL TO ENDORSE THE PERC CODE AS THE REFERENCE CODE FOR EUROPE

Background

The importance of exploration results, Mineral Resources and Mineral Reserves in underpinning the value of any exploration and mining company is well understood as they are the primary assets and as such will form the basis for financial valuations supporting a listing.

Reporting of these assets, whether in public statements, presentations or reports, is governed by reporting standards that are commonly linked to stock exchange listing and disclosure rules. For example, in Australia reporting is carried out according to the JORC Code which is incorporated in Australian Securities Exchange (ASX) Listing Rules. Similar linkages occur in South Africa and Canada. In the UK and Western Europe, the mineral resource and reserve reporting standard is the PERC Code, developed and maintained by the Pan-European Reserves and Resources Reporting Committee (PERC). PERC is a standing committee set up under the auspices of a number of professional organisations which include the Institute of Materials, Minerals and Mining (IoM3), the Geological Society of London (GSL), the European Federation of Geologists (EFG) and the Institute of Geologists of Ireland (IGI) to develop a Pan-European reporting standard. It includes representatives from various sectors including the major mining companies, financial sector, industrial minerals, junior mining companies and the Association of Mining Analysts and mining consultancies. The PERC Code supersedes the old IMM Code 1991 and The Reporting Code 2001 and is recognised by the UK regulators and stock exchanges.

PERC is a full member of CRIRSCO (Committee for Mineral Reserves International Reporting Standards) which works towards international harmonisation of resource and reserve definitions and reporting standards. Through its membership of CRIRSCO, the PERC Code is a direct equivalent of other standards such as the JORC Code, SAMREC and CIM Guidelines with only minor differences, mostly related to local regulatory requirements from securities regulators and professional organisations.

A common feature of major jurisdictions involved in mining is the linking of a national reporting code to national securities legislation either through reference or incorporation. This includes strong working ties between the professional groups responsible for the reporting standards and the regulatory authorities. Currently this is not mirrored in Europe and the UK despite London's preeminent position as a leading financial centre.

With the advent of International Financial Reporting Standards, the International Accounting Standards Board has indicated its desire to see common mineral resource and reserve definitions used for accounting purposes. The IASB has recognised that the CRIRSCO family of Codes provides this assurance, which is a further reason for supporting a common standard in Europe.

The Need for Reporting Codes

The reporting codes are drawn up by industry and professional organisations, generally in collaboration with other interested parties such as securities regulators and stock exchanges. The professional organisations represent geologists, metallurgists, mining engineers and other industry professionals who are responsible for the estimation, classification and reporting of Mineral

Resources and Mineral Reserves. The reporting codes stipulate minimum qualifications, experience and competencies for the recognised professional or Competent Person who writes Competent Person Reports which generally form the basis for disclosure in listing applications and prospectuses. The Competent Person (CP) must be a professional Member or Fellow of an approved professional organisation with an enforceable code of ethics and disciplinary procedure and the CP must have relevant experience of a minimum duration.

These codes have no statutory or legally binding status. They are guidelines which really only become effective when incorporated into securities laws or stock exchange rules. However, they are important because of the generally accepted governing principles of such codes, namely:-

- **Transparency:** requires that the reader of a Public Report is provided with sufficient information, the presentation of which is clear and unambiguous.
- **Materiality:** requires that a public report contains all the relevant information which investors and their professional advisors would reasonably require, and reasonably expect to find in a Public Report, for the purpose of making a reasoned and balanced judgement regarding the Exploration Results, Mineral Resources or Mineral Reserves being reported.
- **Competence:** requires that the Public Report be based on work that is the responsibility of suitably qualified and experienced persons who are subject to an enforceable professional code of ethics and rules of conduct.
- **Impartiality:** requires that: the author of the Public Report is satisfied and able to state without any qualifications that his/her work has not been unduly influenced by the organisation, company or person commissioning a Public Report or a report that may become a Public Report; that all assumptions are documented; and that adequate disclosure is made of all material aspects that the informed reader may require, to make a reasonable and balanced judgement thereof (Note: This requirement is not stated explicitly in the CRIRSCO Template, nor some of the other CRIRSCO-aligned codes).

Other Jurisdictions

National reporting codes are well developed in countries such as Canada, Australia and South Africa where disclosure and ongoing reporting of Mineral Resources and Mineral Reserves are regulated through specific national securities laws e.g. Canada (NI-43 101), or through mineral industry specific stock exchange rules which incorporate a national code, e.g. Australian (ASX) and Johannesburg (JSE) Stock Exchanges. Also, there are strong links between the professional bodies from whose members the Competent Persons are drawn, and the corresponding regulatory authorities (see Appendix B).

In Australia and South Africa, reporting under a single nationally endorsed code is mandatory for primary listings.

The UK and Europe

The situation in the UK and Europe is clearly an anomaly in relation to other jurisdictions where the mining industry is an important contributor. Current CESR recommendations on the content and structure of prospectuses contains some basic mineral industry specific references. The competent authorities in each member state such as the UKLA apply these recommendations and build on them in their own national securities regulations. However, securities regulation on listing, prospectuses, transparency and disclosure in the UK includes very little guidance on definitions and minerals reporting standards. A 'Note for Mining Oil and Gas Companies' distributed by AIM in June 2009

stipulates that an internationally recognised standard for reporting should be used in the preparation of Competent Persons Reports (CPR).

Whilst physical mining activity has become less important in the UK, the London Stock Exchange (LSE) remains the most important exchange for mining finance.

The total equity market value of the 237 mining and industrial metals companies listed on the LSE was some £314Bn at the end of August 2008 which represented approximately 8.5% of the total LSE. The 54 companies listed on the main board made up some £300Bn while the 183 companies listed on the AIM represented approximately £14Bn, which equated to 17% of the AIM total value.

Whilst the above figures represented a substantial share of the LSE, of greater significance is that mining industry market capitalisation on the LSE represented 41% of the world total at the end of 2007 (source CRU).

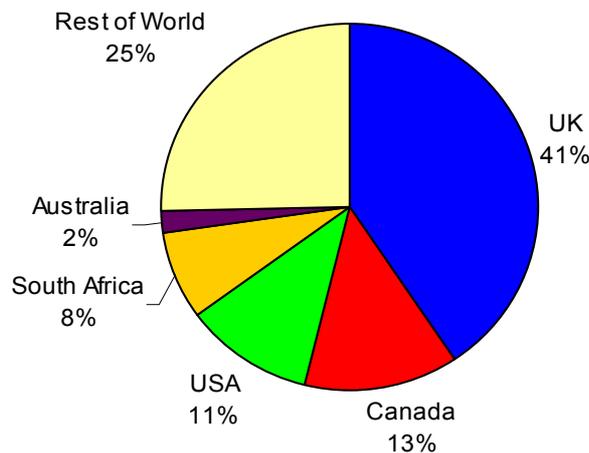


Figure 1. Mining industry capitalisation end 2007 (Source CRU Database)

Increasingly, companies from the Former Soviet Union (FSU) are raising finance in London through IPOs. The standards and methodology used for classifying and reporting Mineral Resources and Mineral Reserves in the FSU are very different to western standards. An initiative is underway through CRIRSCO to agree criteria for mutual recognition of Russian and non-Russian Competent Persons and obtain preliminary agreement on alignment of reporting classifications. Given the increasing importance of the LSE to companies from the FSU and the differences in classification and reporting standards, adoption of the PERC Code by the UKLA would reduce ambiguity in interpreting listing requirements and provide clear standards against which compliance can be regulated.

A serious shortcoming of the current system is that listings in London using other codes are not reviewed by the regulators in their country of origin. For example, reporting under the JORC Code in the UK would not be monitored for compliance by the ASX or JORC.

Objectives and Implications

PERC seeks to have the PERC Code endorsed as the preferred code for reporting Exploration Results, Mineral Resources and Mineral Reserves in Europe. It is proposed to revise the list of acceptable reporting codes in the CESR Guidelines to include only those that are CRIRSCO- aligned and to set the



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PERC Code as the standard against which regulatory compliance will be measured. Currently, the list of CRIRSCO-aligned codes is likely to include JORC, SAMREC and the CIM Guidelines (NB. Canadian National Instrument 43-101 is securities legislation and not a reporting code). For European securities regulators to exercise the necessary overview and regulatory functions it would seem sensible to operate under a single consistent framework.

National codes such as JORC and SAMREC are written to meet specific requirements of the regulators and stock exchanges in their regions. Although the definitions of reserves and resources in all of these codes are (almost) identical, the rules on how estimates are to be quoted and used are different in detail, depending on national regulations. It is unreasonable to expect that stock exchanges in Europe, should unquestioningly accept guidelines which have been prepared for the use of - and for the benefit of - stock exchanges in South Africa, Australia etc. It also makes it more difficult for a competent authority such as the UKLA to impose discipline on non-compliant companies and individuals.

If adopted, this system would not mean that all European reporting must be done using the PERC Code; it simply means that whichever standard is used, reporters should be able to demonstrate if necessary that their reports also align with the PERC Code. As the PERC Code is compatible with other CRIRSCO codes, this should require little effort on behalf of the reporting company. Equally, if a company wishes to report under PERC and is already reporting under some other CRIRSCO-aligned standard (such as JORC or SAMREC) then to change to using PERC will involve virtually no change in their procedures or estimation methods, and only minor changes in the text of their reports. A common European standard would clarify the regulatory process both in terms of listing prospectuses and ongoing reporting and remove ambiguity in respect of the standards required.

The PERC Code has been endorsed by the largest relevant professional bodies in Europe, whose members are required to comply with the professional standards, definitions and experience requirements for a Competent Person as laid down in the PERC Code. Disciplinary matters relating to professional misconduct in the reporting of Exploration Results, Mineral Resources and Mineral Reserves will reference the PERC Code.

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APPENDIX B The relationships between regulators and standards organisations.

1. Australasia

The JORC Code is incorporated in the Listing Rules of the Australian Securities Exchange, the New Zealand Stock Exchange and the National Stock Exchange.

Disciplinary procedures

Both The Australasian Institute of Mining and Metallurgy (AusIMM) and the Australian Institute of Geoscientists (AIG) have disciplinary procedures to handle complaints made to those professional bodies regarding alleged breaches of the JORC Code by a member. It is mandatory for members of both bodies to comply with the JORC Code.

They are similar in operation, but differ in the detail. There is a two stage process, whereby first of all a Complaints Committee assesses the allegation to ensure it has substance, undertakes investigation of the matter and decides how best to handle it. Complaints which are based on frivolous or commercial issues would not be passed to the next stage. The next committee (an Ethics Committee) decides on appropriate action, which might range from education to reprimand to suspension from membership.

Both bodies seek to keep confidential the identity of the complainant, the person complained about and the subject of the complaint during investigation. Depending on the penalty, the name of the person who has been disciplined may be made known. Both have an appeals process and both limit the presence of legal representation of parties. Every effort is made to process the complaint in a fair and just manner as quickly as possible.

Complaints may be made by anyone or an organisation. The AusIMM Complaints Committee may direct a complaint, which alleges a breach of Listing Rules or company law to the regulators (ASX or ASIC). Those organisations may make complaints to the professional societies for action against a member. The Joint Ore Reserves Committee (JORC) plays no role in policing the JORC Code.

In addition to the above the Australian Securities Exchange can take action against a company which breaches the Listing Rules. (e.g. suspend listing, demand a retraction or rewriting of a release which breaches the Rules) The legal aspect is covered by ASIC, which administers the Corporations Act.

They can take action against a company or person who breaches the Act. Both ASIC and the ASX can refer a suspected breach (e.g. of JORC Code or Code of Ethics) by a Member of The AusIMM or AIG to those bodies for action.

2. Canada

National Instrument 43-101, which includes the CIM Reserve Definitions, is law in Canada

Disclosure of Mineral Property Information in Canada

NI 43-101 deals with the public disclosure of information about a mineral property and requires that scientific and technical information made by an issuer on a material property must be based on information prepared by or under the supervision of a "Qualified Person".

In Canada, securities law is a provincial/territorial responsibility. Each of the thirteen provinces/territories has a securities commission that regulates the distribution of securities. To maintain uniformity across Canada many securities laws are adopted on a national basis. The Canadian Securities Administrators (CSA), an umbrella group of the securities commissions, prepares these national securities laws. For example, National Instrument 43-101 Standards of Disclosure for Mineral Projects (NI 43-101) is a national securities law governing the disclosure of scientific and

technical information about a mining/exploration company's material mineral properties. The Canadian stock exchanges have adopted NI 43-101 and have some additional disclosure policies for mining companies.

The Canadian Institute of Mining, Metallurgy and Petroleum (CIM) is a technical society with a national charter; it cannot write law and is not a professional association with the authority to register and discipline professionals. CIM has developed the definitions of Mineral Resources and Mineral Reserves (CIM Definition Standards) and Industry Best Practice Standards. These CIM Definition Standards are incorporated by reference in NI 43-101 and the Best Practices are referenced in the Companion Policy, NI 43-101CP, as guidance. The CIM has a co-operative relationship with the CSA. In 2001, a CIM-CSA Committee was established. It meets on an annual basis to discuss any changes in CIM Definition Standards and Best Practices. CIM also provides advice to the CSA if any technical issues arise in the application of NI 43-101.

Monitoring of Technical Reports

All technical reports required by securities legislation to be filed for securities purposes in Canada must be compliant with NI 43-101, whether they support disclosure of mineral resources or mineral reserves or any scientific and technical disclosure on a mineral property.

Staff at the securities commissions reviews companies' disclosure, including technical reports on material properties, at the time of a public offering of shares and also as part of risk based continuous disclosure reviews. The stock exchanges review disclosure when a company files an initial public offering (IPO). Market Regulation Services (RS) is a separate regulator in Canada. RS plays an important role in real-time regulation of news releases and share trading activity by listed companies. It focuses on the review of press releases.

Disciplinary Procedures

In Canada a NI 43-101 technical report are publicly available on the internet at Sedar.com. Certain reports are reviewed by a technical reviewer employed by one of the provincial securities commissions and if the report does not comply with the requirements of NI 43-101 then a letter of deficiency is issued and the report must be corrected and re-filed. It is up to the individual reader to refer the author to his/her professional association if the report is judged to be sufficiently deficient. Not all reports filed on Sedar are reviewed.

Any member of the public has access to the technical reports and can refer the author to the author's professional association. The author's name and professional association is disclosed in a certificate that is attached to the technical report. The provincial or territorial professional associations in Canada or the Recognized Foreign Associations have the responsibility for the discipline of its members.

3. Chile

The state organization was established by law (Law No. 20.235 proposed by the Chilean government, approved by the two Chambers of Congress, and promulgated by the government on December 31st, 2007) is the Comisión Calificadora de Competencias en Recursos y Reservas Mineras (The "Comisión Minera"). The Comisión Minera is a self-regulatory entity that manages a Public Registry of Competent Persons, has enforceable rules of ethics and conduct, has the right to denounce any negligence action on the part of a Competent Person to the Justice to apply fines and penalties. The Comisión is formed by five entities: The Institution of Mining Engineers, The College of Engineers, the College of Geologists, The National Society of Mining, and the Mining Council.

Disciplinary Procedures

In Chile a technical report prepared under the law 20.235 will be filed on a publicly available internet site (www.comisionminera.cl). Certain reports will be reviewed by the Comisión Minera and if the report does not comply with the requirements of law 20.235 then a letter of deficiency will be issued and the report has to be corrected. In cases of proved negligence, the Comisión must denounce it to the Chilean Ministry of Justice in addition to the SVS. Not all reports filed on the Chilean Bolsa de Comercio de Santiago (the Santiago Stock Exchange) will be reviewed.

In the Chilean Code on Mineral Resources and Reserves is Annex 2 including “Norms and Guidelines of Conduct of the Qualified Competent Person”.

4. South Africa

The SAMREC and SAMVAL Code are incorporated in the Listing Rules of the JSE Limited (JSE)

Public report Monitoring

The SSC (SAMREC/SAMVAL Committee) provides a Readers Panel to the JSE for monitoring of all public reports submitted to the JSE. The panel consists of CPs with the relevant expertise in the commodity and type of deposit which is the subject of the report. The readers would normally submit comments through the JSE to the project sponsors. The CP responsible for the report would then make the necessary changes to make the report compliant with the regulatory code. Readers are remunerated by the JSE.

Disciplinary Procedure

The SSC maintains a disciplinary procedure for complaints received regarding Competent Persons and Competent Valuers. Competent Persons and Competent Valuers shall be a members of a Professional Body that has a Code of Ethics and a Disciplinary procedure recognized by the SSC. Complaints regarding Competent Persons and Competent Valuers must be in writing and must be referenced to the Code of Ethics of the Professional Body to which they belong.

APPENDIX C Membership of the European Federation of Geologists

The EFG represents organisations in 21 European countries, as follows:-

- Belgium and Luxembourg - Belgo-Luxembourg Union of Geologists
- Croatia - Croatian Geological Society (CGS)
- Cyprus - Cyprus Association of Geologists And Mining Engineers
- Czech Republic - Czech Union of Geological Associations
- Finland - The Finnish Union of Environmental Professionals
- France - French Union of Geologists
- Germany - Professional Association of German Geoscientists
- Greece - Association of Greek Geologists
- Hungary - Hungarian Geological Society
- Ireland - Institute of Geologists of Ireland
- Italy - Italian National Council of Geologists
- Netherlands - Royal Geological and Mining Society of the Netherlands
- Portugal - Portuguese Association of Geologists
- Russia - National Association for Subsoil Auditing
- Serbia - Serbian Geological Society
- Slovenia - Slovenian Geological Society
- Spain - Official Spanish Association of Professional Geologists
- Sweden - Geologist Section of the Swedish Association of Scientists
- Switzerland - Swiss Association of Geologists
- United Kingdom - Geological Society

APPENDIX D Disciplinary procedures of the parent organisations of PERC, and description of the ROPO rules of PERC

All four parent organisations have confirmed that compliance with the requirements of the PERC Code 2008 is binding on all of their membership when reporting exploration results, mineral resources and mineral reserves.

The Institute of Materials, Minerals and Mining

Professional affairs within the Institute are overseen by the Professional Policy Board, which deals with membership, qualifications, accreditation and education.

Following recent mergers, the IOM3 Council has approved a new Code of Conduct appropriate to all members practising across the breadth of the Institute's range of interests. This Code meets the requirements also of the Institute's Royal Charter, and bodies with which the Institute registers its members. It includes a key item in the context of mineral reporting:

All members shall discharge their professional duties with integrity and shall not undertake work that they are not competent to do. Members must carry out their professional duties with complete objectivity and impartiality, and must always declare and, where possible avoid all conflicts of interest.

Disciplinary procedures are defined and provide for a range of sanctions including expulsion if considered appropriate.

To be qualified as a Competent Person a member must be a corporate member (MIMMM or FIMMM) and also must hold chartered status (CEng, CSci, CEnv)

The European Federation of Geologists

The EFG has its own code of ethics (<http://www.eurogeologists.de/index.php?page=168>) but also all of its member organisations have defined codes of ethics and disciplinary procedures.

The European Commission has recognised the value of the European Geologist (EurGeol) title in facilitating the free movement of geologists within the Community. To guarantee wider international recognition the EFG has entered into reciprocal recognition agreements with kindred professional associations in North America.

In accordance with Directive 89/48/EEC (OJ L 9.24.1.1989, p.16) and Directive 92/51/EEC (OJ L 209.24.7.1992, p.25), the EFG has adopted a system of multi-lateral recognition between the affiliated national geological associations in 20 countries. All of these associations have agreed to accept each other's accredited degree courses, and have agreed a formula, which defines a professional geologist. This formula embraces education, training and experience.

Holders of the title of European Geologist must comply with the EFG's Code of Professional Conduct and maintain their professional standards by participating in Life-long Learning Programmes.

To be qualified as a Competent Person a member of an organisation affiliated to EFG must hold the title or European Geologist (EurGeol)

The Geological Society

The code of practice is binding on all Fellows of the Society - that is all ordinary members - and not just those who have 'chartered' status, the rationale being that under the code of conduct Fellows should only practice or offer advice in that area in which they are expert, and necessarily any involvement in matters concerning resources and reserves should only be undertaken by those with the necessary training and expertise. Disciplinary powers of the Society include expulsion for gross misconduct.

To be qualified as a Competent Person a member must be a Fellow (FGS) and also hold Chartered status (CGeol, CSci).

The Institute of Geologists of Ireland

There is a full code of ethics, and the following items within it are of particular relevance:

A member will not take on the functions of an expert in fields other than his or her own, or accept professional obligations not competent to discharge.

Any member violating any of the applicable standards prescribed in this Code shall be subject to discipline as provided for by the Articles of Association of the Institute of Geologists of Ireland Limited.

This disciplinary action can include expulsion if appropriate.

To be qualified as a Competent Person a member must hold the Professional Geologist (PGeo) qualification.

ROPO rules.

PERC defines recognised overseas professional organisations - i.e. those organisations which are not affiliated to the above, in the following terms:

A 'Competent Person' must have a minimum of five years' up to date experience, at an appropriate level of seniority, which is relevant to the style of mineralisation and type of deposit under consideration and to the activity which that person is undertaking
AND

A 'Competent Person' must be a professional member of an approved institution in Europe (or elsewhere subject to satisfying the requirements in option (f) below), with an enforceable code of ethics, a disciplinary procedure allowing suspension of or expulsion from membership and which has in place a scheme for the continuing professional development (CPD) of its members. The class of membership which the Competent Person must hold must have been awarded based on peer review of their application for membership and minimum experience requirements. Acceptable classes of membership under the Code, which meet these requirements, include (but are not limited to):

- (a) 'Member' (MIMMM) or 'Fellow' (FIMMM) of the Institute of Materials Minerals and Mining (IOM3); or
- (b) 'European Geologist' (EurGeol) as awarded to suitably qualified members of the National Associations which constitute the European Federation of Geologists (EFG); or
- (c) 'Professional Geologist' (PGeo) as awarded by the Institute of Geologists of Ireland to suitably qualified members; or

- (d) 'Chartered Geologist' (CGeol) or 'Chartered Scientist' (CSci) as awarded by the Geological Society of London to suitably qualified Fellows (FGS); or
 - (e) 'Chartered Engineer' (CEng) or 'Chartered Scientist' (CSci) as awarded by IOM3 to suitably qualified Members or Fellows; or
 - (f) a professional member, of demonstrably equivalent standing by virtue of their verifiable experience, ethical practice, and acknowledged expertise, of the institutions listed above (or other institutions elsewhere of equivalent status)
- This definition of 'Competent Person' is subject to any additional restrictions or conditions which may be required by the appropriate stock exchange or regulatory authority.

The European Federation of Geologists is actually a consortium of 20 national geological professional organisations as listed in Appendix C. Each fulfils the requirements of the above definition.