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Executive Summary

The Mining and Minerals Sustainable Development (MMSD) project for the Southern African region identified various key issues for study to make input into the global report. Participation by stakeholders in policy development in the mining sector is significant. South Africa has developed its minerals and mining policy through a participatory approach. This report sets out the participation of community stakeholders in the policy and regulatory development as undertaken in South Africa.

The views of communities affected by mining were not reflected in the Green Paper, which outlined policy proposals for the Minister of Minerals and Energy to consider. The explanation for this is that the primary inputs handed to the Minister in October 1996 came from government, business and labour groups, which comprised the tripartite steering committee overseeing the process.

This shortcoming was addressed after the release of the Green Paper when the KWAGGA programme of the Minerals and Energy Policy Centre, with the collaboration of the Parliamentary Portfolio Committee on Minerals and Energy, undertook a countrywide exercise to obtain the points of view of communities affected by mining. This occurred within the window period of two months allowed for public comment on the Green Paper and two weeks on the Minerals Development Bill. After the release of the White Paper, ad hoc workshops were held over the country to clarify the policy direction and explain inconsistencies and conflicts caused by different policies having impact on mining.

Communities' discussions and submissions concentrated on the issues that impacted on sustainable livelihoods of local communities. The following issues received overwhelming inputs: land and mineral rights ownership and prospecting rights, environmental management, downscaling, people's issues, small scale and junior mining development. Overall all the discussions centred on the need and importance of local communities to be consulted during the lifespan of the mine, enjoy benefits of mining in their locality and participate in the mitigation of environmental impacts caused by mining development. Black economic empowerment featured throughout the policy process. Provinces differed on the issue of ownership of mineral rights, with those provinces with previous access and potential to have the rights restored arguing for community ownership of mineral rights and other provinces favouring the state ownership of rights. It is believed by the latter group that state ownership will increase access by the previously excluded people. However, there was a general concern as to how the state was going to tackle the issue of compensation for present mineral rights holders and whether Department of Minerals and Energy had the capacity to do so, both financially and administratively.

Integrated development planning with the local government as the main role player was emphasised as a better way to ensure true sustainable livelihoods of the local communities and therefore of the country as a whole. This could be facilitated by adherence to the National Environmental Management Act and other related policy processes, which have better guidelines than the Minerals Development Bill on consultation and participation in developmental projects.

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I. Introduction

1.1 Background

A review of existing policies and drafting of new policies to be in line with the new democratic dispensation followed the election of the new democratic government in South Africa, in 1994. In 1995, the Department of Minerals and Energy began its policy review process and the drafting of the Green Paper on Minerals and Mining Policy, which was completed in 1997. The Minerals and Energy Policy Centre (MEPC) was appointed as the secretariat to the drafting of the draft Green Paper. In the drafting of the Green Paper, which outlined policy proposals for the Minister of Minerals and Energy to consider, the views of communities affected by mining were not considered. The primary inputs handed to the Minister in October 1996 came from government, business and labour, groups that comprised the tripartite steering committee overseeing the process. The South African government's intent on mining and minerals policy, in line with the Reconstruction and Development Programme (RDP) principles was to redress the imbalances of the past and ensure use of mineral resources in a sustainable manner. The Minister therefore questioned the lack of input from the marginalised groups such as communities and small scale miners and held back the release of the Green Paper until some of these groups were consulted.

While waiting for the release of the Green Paper, the MEPC facilitated sessions with communities to make them aware of the minerals policy issues. These sessions formed part of the Green Paper release strategy, aimed at educating communities about mining issues before they were asked to respond to proposals contained in the Green Paper.

After the release of the Green Paper, the KWAGGA programme of the Minerals and Energy Policy Centre, with the collaboration of the Parliamentary Portfolio Committee on Minerals and Energy, undertook a mammoth exercise countrywide to obtain the points of view of communities affected by mining. This occurred within the window period of two months allowed for public comment on the Green Paper. More than a hundred people attended each session.

Facilitators and technical experts were drawn from the industry, labour, government and academia to co-ordinate the inputs. The sessions covered the following areas highlighted by communities during the pre Green Paper workshops as important:

- Small scale Mining
- Health and Safety/ Human Resource Development/ Migrant Labour/ Industrial Relations
- Land Restitution
- Mineral Rights and Prospecting Information

- Mining and Environment
- Downscaling

The resulting submissions were presented to the Minister of Minerals and Energy, as well as to the Parliamentary Portfolio Committee, for consideration as policy proposals.

It is common knowledge that communities affected by mining have, in general, been victims of pollution caused by dust, contaminated water and soil, as well as a host of other harmful effects of mining operations. At the same time, as a result of a skewed history of participation in this important sector of the economy, such communities were unable to make their voices heard. It is therefore appropriate that the voices of all stakeholders and interested parties require consideration, as this will contribute to a balanced policy and industry in which all stakeholders are accorded equitable participation.

In line with the above the MEPC responded to a call raised by some communities to ensure that they are informed about the new policy developments. When the Minerals Development Bill was released in December 2000, the MEPC together with the Group for Environmental Monitoring (GEM) worked out a strategy of engaging communities in making their comments into the Minerals Development Bill. Using the database developed by the MEPC during the Green Paper process and through their involvement with the communities over the last four years, communities affected by mining were invited to the Minerals Development Bill workshops in Gauteng, Johannesburg and Northern Cape, Kimberley. Due to financial constraints, the workshops had to be limited to the two regions.

The workshops focused on the aspects of the Bill that are likely to have direct impact on the communities affected by mining. The areas examined were:

- Sustainable development
- Environmental management and Health and Safety
- Mineral Rights and Access to Mineral Resources
- Transformation and Downscaling of the Minerals and Mining industry
- Small scale mining and Junior mining
- Mineral Resource Management and Regulatory Bodies
- Diamond Control

The MEPC managed and facilitated this process. The data gathered during the Green Paper, the Minerals Development Bill and other ad hoc policy sessions have been used in this document to synthesise and analyse the inputs of the affected communities' and their understanding of the minerals and mining sector.

1.1.2 The Workshops

From January 1998, KWAGGA started to make logistical preparations for the Green Paper public workshops. The identification of delegates was done through the database that had

been developed during the information sessions. The database was updated by linking with union structures, Non Governmental Organisations (NGOs) and Community Based Organisations (CBOs) working in the various sectors related to mining. The Green Paper workshops were run on successive Saturdays from 14 February 1998 to 28 March 1998 and the Minerals Development Bill workshops were held on 18 and 24 March 2000. Where necessary, participants' expenses were covered from KWAGGA's Canadian grant.

Seven of the country's nine provinces were covered by the Green Paper input workshops. These were Kimberley, North West, Northern Province, Mpumalanga, KwaZulu-Natal, Namaqualand, and Gauteng & Free State. (The Eastern Cape and the Western Cape were not included in the process; these are not mining intensive provinces, and were therefore considered the lowest priority for intervention by the KWAGGA project. (Refer to the map in Appendix section for the location of the workshops). Two workshops were held in the Northern Cape: one in Kimberley and one in Namaqualand. Furthermore, the workshop planned for the Free State had to be cancelled and delegates from the Free State attended the last workshop, held in Johannesburg, with the delegates from Gauteng.

A team of technical experts and facilitators was employed to run the workshops. At each Green Paper workshop delegates split into groups which addressed one of the six areas listed in the introduction section. The same methodology was followed during the community inputs into the Minerals Development Bill. The topics remained the same except for the addition of Diamond Control. The role of the technical experts was to explain the issues in the Green Paper, as well as what the law says on these issues. The facilitators' role was to take delegates through the various policy proposals and to document their comments. Participants were also encouraged to comment on issues which they thought had not been covered in the Green Paper, the White Paper and the Minerals Development Bill. The participants' input on both the Green Paper and the Minerals Development Bill were compiled into regional reports and handed over to the chairperson of the Parliamentary Portfolio Committee on Minerals and Energy.

1.1.3 Workshop Participants

About 80 percent of the participants came from rural areas. These mining affected communities were contacted and selected because they had one or more of the following features in common:

- suffered the impacts of downscaling in the mines,
- depended on migrant labour remittances for their livelihoods,
- were land and mineral rights claimants displaced by colonial invasion of land and subsequent measures to enforce racial segregation,
- suffered high level of unemployment and bear the effects of environmental impacts of mining.

Some traditional leaders participated in the process while others made formal submissions through the Congress of Traditional Leaders of South Africa.

The participants were representatives of the marginalized sector of the society as reflected in the initial tripartite structure who participated in the drafting of the minerals and mining policy.

The communities in which they live in, lack access and control over resources as a result of past racial discrimination and are dependent on external sources for their livelihoods.

The inputs made by participants, as reflected in the following sections, should be interpreted against this social context.

1.1.4 Limitations of the Workshops

Even though information sessions had been held prior to the release of the Green Paper, not enough ground was covered to enable all communities to participate effectively in the workshops. The participation in the workshops was also not based on any systematic sampling. Participation list was developed with local authorities, who although were given criteria of who to send, sometimes sent councillors just because they were office bearers at the time. In one case the facilitator commented that there was a distinct lack of understanding of the Green Paper policy process and mining issues, and that participants were not representative of stakeholders that had an interest in mining. (This was a case in KwaZulu Natal, where a process of this kind was taking place for the first time).

Much depended on the ability of the workshop facilitators to elicit comments from the participants. Even though technical experts and facilitators were asked to be neutral in their conduct, they could still have influenced the comments received from participants. In some cases different facilitators were used for the same topic at different workshops, which may have compromised uniformity in the methods used to elicit comments.

However, the use of external consultants to conduct workshops ensured some level of objectivity in receiving comments from communities. All facilitators were issued with guidelines to follow during the course of the workshops. A senior policy analyst from KWAGGA also monitored all the group discussions, and had to ensure that facilitators stuck to the guidelines. Discussions in the small working groups also ensured that participants had a common agreement on proposals before they were recorded. This process was also a learning opportunity for many participants. Never in the history of mining in South Africa were communities regarded as an important stakeholder.

The Green Paper process was the first time that KWAGGA undertook a process of this magnitude. As such, shortcomings of the public participation methodology were picked up in the process. Where possible, these shortcomings were rectified before the next workshop and used to inform the planning of the Minerals Development Bill process. The lessons learned through the Green Paper process informed the improved planning of the Minerals Development Bill workshops. The presence of a key Parliamentary Portfolio Committee member on Minerals and Energy in each workshop gave the participants confidence that their views were taken seriously.

2. Synthesis and Analysis of the Submissions

2.1 Green Paper

For the synthesis contained in this document comparative tables were prepared summarising the comments from each workshop on each of the six main areas for discussion, grouped in categories. In some instances the categories chosen were dictated by the structure of the Green Paper and the Minerals Development Bill and in others appropriate categories were created from the totality of comments on the particular issue. These tables can be found in Appendix A to F.

Once the comparative tables had been prepared, responses were compared across the seven workshop groups (loosely referred to as provinces). The written synthesis highlights the most commonly expressed views, and notes the minority responses. Occasionally two opposing views emerged from one group, and this is noted, either in the table or in the relevant section.

The information that follows is intended to provide the reader with an overview of the responses made by communities.

2.1.1 Mineral Rights and Prospecting information

Ownership of mineral rights

Most provinces supported the proposal that all mineral rights revert to the state. They interpreted mineral wealth as belonging to the people. It was felt that state ownership would contribute to black people benefiting more from mineral wealth, in that rights could be made available to black groups for economic empowerment. In three workshops however an opposing view was also expressed. In Northern Province and Gauteng & Free State a minority supported privately owned mineral rights. In North West this was the majority view. These reactions follow a pattern in that communities that presently own mineral rights are opposed to state ownership as they can see immediate benefits of mineral exploitation through royalties.

North West also pointed out that when it comes to compensation of mineral rights holders, the emphasis is on present holders. The issue of communities that were dispossessed of their land (and consequently of access to minerals) was not addressed. More on this issue appears in Section 2.1.6, which reports on comments from the groups that discussed land restitution. Support for state-held mineral rights was less strong in those groups.

Access to mineral rights

In general it was felt that mining companies intending to start a mining operation should consult with surrounding communities through the entire process and that the inhabitants should be given first priority when it comes to employment. A proposal that came from the Kimberley workshop was that applications for mining permits from foreign companies should be advertised for public scrutiny prior to consideration, and that local holders of mining permits should be adequately protected from outside intrusion and interference. The group in Mpumalanga supported the 'one-stop-shop' approach, which they felt would

not only make mineral rights more accessible but would ensure efficient administration as well.

In terms of royalties, three provinces, North West, Northern Province and KwaZulu-Natal proposed that negotiations of royalties should be left to the communities to decide; the state should not interfere, but should only set a minimum percentage. Other provinces did not comment on this issue.

Prospecting information

In general all groups supported the proposal to have all the data from prospecting to be submitted to the state after completion or abandonment of any particular prospecting activity. Kimberley did not comment on this issue.

Database of mineral rights holdings

Three provinces; Kimberley, KwaZulu-Natal and Gauteng & Free State supported the view that information on mineral rights holdings should be made available. Kimberley proposed that this information should be directed from each premier's office.

Tax on mineral rights

Three provinces; Kimberley, KwaZulu-Natal and Gauteng & Free State supported the imposition of a mineral tax on lands not being explored or developed for mining. It was felt that this would discourage sterilisation of minerals. Other provinces did not comment on this issue.

Other Concerns

- Delegates were concerned about how the state was going to tackle the issue of compensation for present mineral rights holders, and whether it has the capacity to do so, both financial and administrative.
- Some delegates felt that the Green Paper did not deal with capacity building to redress past injustices. The Green Paper did not contain specific proposals on how government planned to tackle the issue of black economic empowerment.
- Delegates also wanted clarity from the Department of Minerals and Energy on whether there would be state ownership of mines if mineral rights were held by state.
- Delegates asked what would happen to trust land.

2.1.2 Small Scale Mining

The intent was to encourage small-scale mining to ensure optimal development of small deposits and to enable the sector to contribute to the national economy. Five provinces had no comment on the intent with regard to small-scale mining. Gauteng & Free State accepted the proposed intent without amendments, whilst Kimberley proposed that government should encourage sustainable small-scale mining so that it can contribute to the local as well as the national economy.

Information about and access to mineral rights

The groups from KwaZulu Natal and Mpumalanga proposed that unutilised mineral rights should revert to the state so that small-scale miners can have access to these mineral rights. Northwest went further to say that mineral rights restitution should go hand in hand with land restitution. Northwest suggested that once communities get mineral rights, these rights should be held in perpetuity by communities.

Access to finance and technology

All seven groups commented on this proposal. The main comments were that government should ensure financial and technological assistance for small-scale mining rather than just encourage it. Technological transfer was seen as crucial for the success of small-scale mining. The general impression from the comments made on this section was that the policy proposals are too weak.

Consistent regulations and improved administration

Groups from North West and Northern Provinces had nothing to say on this proposal. Gauteng & Free State accepted the proposal without amendments. Kimberley proposed that “appropriate” health and safety standards be maintained in small-scale mining. Mpumalanga proposed that temporary permits be issued to all small-scale miners who are awaiting the outcome of their applications in order to avoid arrests. KwaZulu-Natal would like to see an independent and vibrant small-scale mining sector. KwaZulu-Natal also proposed that a simplified and faster approval system be devised. In addition, a mineral development commission made up of all stakeholders should be formed. The purpose and functions of the commission were not given.

Environmental management

Namaqualand and North West had no input on this proposal. The representatives from Northern Province proposed an installment system for the payment of the rehabilitation bond. Northern Province added that the installments should only be paid once profit has been generated. Mpumalanga proposed that state funds should be provided for environmental management where there is a high concentration of small-scale miners. KwaZulu-Natal proposed that the state should provide small-scale mining with environmentally friendly technologies.

Promotion of mineral beneficiation

Groups from North West and Mpumalanga had no comment on this proposal. The need for research and training to improve skills in the area of mineral beneficiation was supported by groups from Kimberley and Namaqualand, KwaZulu-Natal, and Gauteng & Free State. The group from KwaZulu-Natal proposed the development of local markets for small-scale mining products. The group from Kimberley called for a review of all legislation that constrains mineral beneficiation and the jewellery manufacturing sector. Kimberley and Namaqualand also proposed more coordination regarding mineral development between the Department of Trade and Industry (DTI), the DME and the provincial departments of Economic Affairs. Northern Province proposed that minerals mined in a certain province should benefit that particular province. This would create jobs locally.

Minerals marketing

Three of the groups had no input (Gauteng & Free State, Mpumalanga, and North West). Kimberley, Northern Province, Namaqualand, and Kwazulu-Natal proposed that government should create a marketing institution to facilitate the marketing of SSM products. The KwaZulu-Natal group proposed that government projects such as housing should give preference to utilising products produced by small-scale miners, such as bricks.

Summary

Participants in this session highlighted the importance of the sustainability of the small-scale mining sector, and how, if strategically promoted, it can contribute to the national economy. Access to mineral rights was hotly debated, with some participants suggesting that mineral rights restitution should go hand in hand with land restitution. Other issues which received a high level of debate were those around the marketing of small scale mining products, access to finance and technology, need for research and training for beneficiation development, an overhaul of the current permitting system and the inability of small scale miners to pay their rehabilitation deposits upfront.

2.1.3 People's Issues

This section covered the following topics: health and safety, human resource development, housing and living conditions, migrant labour, and industrial relations (IR), which when clustered are the largest section of the proposals contained in the Green Paper on a new minerals and mining policy.

Health and safety

A key proposal that emerged from this section (proposed by North West, Mpumalanga, KwaZulu-Natal and Northern Province) is that health and safety should extend to the environment as well (particularly in terms of environmental pollutants and the effects of blasting on the community). A second theme was that a trust fund is required to compensate ex-mineworkers who had suffered the adverse effects of mining. Not all of the provinces said how this should be achieved. However, one suggestion is that the fund should be supported by government, the mines and employees. Another theme that emerged was that the tri-partite alliance (government, employers and employees) was the most effective structure to monitor and regulate health and safety.

Human resource development

All the provinces felt that "Fanakalo" (type of language used to communicate in the mines) should be replaced by English or other languages. Namaqualand however recognised that there were practical problems in achieving this and that other languages should be phased in slowly. Two groups (Gauteng & Free State and KwaZulu-Natal) saw all skills and language training as fitting into the National (Adult Basic Education Training (ABET) initiatives. Other issues mentioned were the need for flatter management structures (a more participative style of management), the need for transferability of skills, and that industry and government together should fund training.

Housing and living conditions

Most of the provinces raised the two issues of housing subsidies for workers and the reorganisation of hostels to make them more friendly, liveable environments. As regards the

former, Northwest, Mpumalanga, Northern Province suggested that subsidies be standardised for managers and workers, and that mine policy for housing be incorporated into the National Housing Act. The second issue elicited suggestions that hostels be more integrated into local housing infrastructures, recreational and educational facilities, and that there should be more consultation with mine workers over housing and living conditions.

Migrant labour

Migrant labour is a contentious issue particularly with the high levels of unemployment currently being experienced in South Africa. All the provinces felt however that a balance needs to be struck between the rights of foreign workers as representatives of the international labour community, and the rights of local workers. The issue of effective regulation of migrants was raised by all the groups in one way or another.

Industrial relations (IR)

There was a wide range of responses to the issue of industrial relations. It was suggested that job grading should be linked to a minimum wage policies, Sunday work should be reviewed and the IR climate on mines should be monitored by the Department of Labour. It was also proposed that labour standards should conform to international labour norms.

Summary

Only a small percentage of the participants had direct experience of working on large mines. However, many came from communities where they have relatives who have done so. The comments therefore need to be viewed in light of this. Health and safety was viewed particularly as it affects the community, but also in terms of compensation. The use of “Fanakalo” was strongly resisted by the community, whilst housing and living conditions on mines are seen as needing a greater degree of integration into the local community. This was obviously because communities in the vicinity of mines would like more contact with workers on the mines. Migrant labour was seen as requiring regulation, although the rights of migrants were acknowledged.

2.1.4 Downscaling

Downscaling is one of the most sensitive issues facing the mining industry in South Africa. Over the past 15 years the mining industry has shed more than one third of its jobs and this trend seems set to continue. The impact on communities is enormous and this effect is reflected in the community responses to this section of the Green Paper. The responses are captured under the following headings: retrenchments (the principles), retraining, advisory boards (to monitor downscaling), trust funds (funding for retrenched miners) and a general category.

Retrenchments

Most of the provinces accepted that downscaling was inevitable given the resource based nature of the industry. However there were a number of suggestions as to cushion the impact. Northern Cape felt that the government had a duty to co-ordinate retrenchments. Mpumalanga and North West felt that retrenchments could be lessened by new managerial strategies which were sensitive to the issues and did not cut labour at all costs. Both Namaqualand and KwaZulu-Natal felt that the issues were too vague and ill defined in the Green Paper.

Retraining

Both Mpumalanga and Gauteng & Free State said retraining should begin long before retrenchments commenced, and that this should be built into the long-term plan of the mine. Northern Cape said that the retraining of retrenched mineworkers should be in partnership between the government, mining companies and National Union of Mineworkers (NUM). KwaZulu-Natal suggested that retraining should focus on the small scale mining sector as well.

Advisory boards

Namaqualand suggested that the advisory board envisaged in the Green Paper should be driven by a permanent secretariat which would report on such issues as the financial health of mines as well as the broader business and investment climate with respect to mining. North West and the Northern Province felt that the composition of the advisory boards should comprise all the stakeholders (including community representatives).

Trust fund

For retrenched workers to survive post-mining obviously requires funding and this issue was debated amongst the seven affected provinces. All the provinces supported the establishment of a trust fund and all agreed that such a fund should comprise contributions from government and industry and in some cases also from workers themselves. There were however various suggestions regarding the fund. Gauteng & Free State said that workers should not contribute more than 10% of the total whilst KwaZulu-Natal felt that companies should be given tax breaks for contributing to such a fund.

General

General issues raised included the need for beneficiation of minerals in South Africa, the necessity of the Gold Summit [Gold Crisis Committee] to regulate the process of retrenchments, and the need for financial counselling of retrenched workers, for example with respect to investing retrenchment packages wisely.

Summary

Downscaling was recognised as being part of the mining landscape. However, there were a number of suggestions as to how to lessen the impact. Advisory boards to manage the process at both a regional and national level were seen as essential, as was the establishment of a trust fund to assist retrenched mine workers. Retraining is seen as essential, and should begin at an early rather than a later stage.

2.1.5 Mining and Environment

All the groups made significant general input, both at the beginning and end of the sessions. In all cases general comments were made on issues which participants felt were important, but which had been ignored in the draft minerals and mining policy. Some of these issues are: clear definition of “environment”, which should be laid out at the beginning of the chapter; the need to put equal emphasis on the social environment; the fact that the tripartite alliance that drafted the Green Paper excluded community representation; the need for government to take black empowerment in the minerals and mining sector more seriously; and the need for clarity on the functions of Department of Minerals and Energy (DME) and

Department of Environmental Affairs and Tourism (DEAT) in the implementation of the minerals and mining policy.

Participants also commented that the issue of sustainability is not adequately dealt with. Cost-benefit analysis of mining should be done so as not to preclude other potentially viable land uses. Small scale miners need assistance with environmental management. Capacity building for environmental management should be undertaken for small scale miners, communities, and government officials. Capacity building was cited as being crucial to the implementation of the new minerals and mining policy. Participants felt empowered by the participation process. However, lack of women involvement in mining was raised as an issue of concern, and, as such, a proposal was made that the new policy should be more gender sensitive.

All other comments submitted were additions to existing proposals. The following are the comments submitted under various proposals.

Accountability (Ensuring that the mining industry is accountable for its actions, and the DME for its decisions)

Five groups accepted the accountability proposal. The group from North West province was concerned about the lack of capacity in the DME to enforce this proposal. Northern Province requested guidelines for relocation compensation, and KwaZulu-Natal reinforced the need to hold mining companies responsible for all the impacts of their mining activities. Gauteng & Free State called for the enlargement of buffer zones between mines and communities. This group also called for the creation of an impartial watchdog which will ensure that government does what it promises to do.

The Polluter Pays Principle (PPP)

Four groups said that the state must accept final responsibility for environmental management by mining companies. However, they would want all other options to be exhausted before the state is financially saddled with environmental management where companies fail to do it themselves. Kimberley added that the PPP should be co-enforced with self-regulation. Participants in Kimberley saw increasing community involvement in environmental management in the mining sector, particularly on impacts that affect them directly. The lack of DME capacity to enforce this principle was again raised as a matter of great concern.

Identifying environmental impacts (The adoption of a proactive approach in identifying environmental impacts)

Four groups had no comments to make on this proposal. The Northern Province, North West, and Kimberley called for community capacity building to enable communities to effectively participate in environmental management. Kimberley and North West proposed that environmental education for small scale miners be introduced as soon as possible. Lack of DME capacity to implement this proposal was again raised.

Consistent standards (The uniform application of standards dealing with environmental impact management)

Three groups accepted this proposal (Gauteng & Free State, Kimberley, and North West); the Northern Province group did not comment due to the ambiguity of the proposal, whilst Mpumalanga had nothing to say about the proposal. Namaqualand and some of the representatives from KwaZulu Natal said that small scale miners should not be expected to reach the same standards of environmental management as the big mines.

Public participation and consultation (Equitable and effective consultation with stakeholders)

Namaqualand had no input on this proposal. The other groups reiterated the importance of this proposal with additions, notably that community participation should include room for an appeal procedure and negotiations. They added that at times public participation may have to be site specific. The implication that public participation will lead to sterilised decision-making should be removed. The call for community capacity building was strong.

Integrated environmental management (Recognising the wide use of the term “environment” by including economical, social and environmental factors in all procedures)

Namaqualand had nothing to say on this proposal. The other groups accepted the proposal, three of them with additions. There was once again a call for arbitration and court of appeal as well as other recourse mechanisms. Gauteng & Free State added that the Minerals and Mining Policy should refer to the Security of Land Tenure Act which also deals with environmental management.

Multiple land use (Contending land uses will be assessed on economic, social and environmental grounds. The decision making process will give precedence to mining where it is justified)

The Namaqualand group had no comment. Groups from Kimberley and Mpumalanga proposed that land requirements for communities should get preference over land required for mineral development. North West and Northern Province groups wondered at the sustainability of mining under any circumstances, but accepted the proposal. Gauteng & Free State, Kwa-Zulu Natal and Northern Province groups called for a national inventory of mineral resources, which can then be used to ensure integrated land-use planning for the future.

Waste minimisation and management (The mining industry will be encouraged to reduce pollution by adopting strategies such as re-cycling and re-use of waste products)

The group from Namaqualand had no input. The other seven groups accepted this proposal with additions, mainly that effective legislation must be formulated and enforced and that communities should have access to re-work mine dumps. The last addition was strongly supported as participants felt that re-working mine dumps can create employment.

Streamlined system of environmental approval (There will be a single interface with the minerals industry (the one-stop-shop) where the DME acts as the dedicated sectoral lead agent with a clear separation of powers and responsibilities within the department)

Four groups accepted the proposal without amendments. Mpumalanga province proposed that the proposal be taken out (elsewhere they stated that the DEAT should be the lead agent). Namaqualand commented that there might be a conflict of interests if the DME goes ahead and become the lead agent. Kimberley felt that the proposal was not clear enough for

them to comment; however, they suggested that DME should clearly justify why it has to be the lead agent.

Summary

One group strongly felt that the new policy on minerals and mining should be more gender sensitive, and that the definition of environment should include the social and cultural environment. Community capacity building for environmental management and future effective participation in the implementation of the new policy was also raised as a critical issue that needs attention. Participants also questioned DME's capacity to enforce regulations as well as to assist communities. As such, capacity building for small-scale miners and the DME was proposed.

The need to establish a national inventory of all minerals was proposed. This was justified on the grounds that it would assist in integrated land use planning for the future. There was a general feeling that mining companies should be responsible for environmental management, and that government bears final responsibility to ensure that this is done. There was however no consensus within provinces as to whether or not small-scale miners should meet the same environmental management standards as big mines. Proposals were put forward that government should assist small-scale miners with environmentally friendly technology, finance, rehabilitation and access to mineral rights (including access to mine dumps that can be reworked). The current permitting process was heavily criticised, and proposals were made that it be simplified and fast tracked to avoid unnecessary delays.

2.1.6 Land Restitution

Not much is said in the Green Paper about the land restitution process and how it impacts on mining issues, in particular the question of mineral rights ownership. However as many communities are involved in land claims it was deemed important to address the land question in detail and for this reason one of the six areas addressed in the workshops was land restitution and land reform, in as much as it relates to minerals. Not all comments appear in the table; those that do were grouped in three categories although it will be seen that there is a strong link between those categories.

Mineral rights ownership

The comments recorded here should be compared to those recorded under this heading in section 2.1.1 above. It is interesting to see that as soon as the ownership of mineral rights was put into the context of land restitution, support for state-owned mineral rights was not so whole-hearted, whereas in the groups that focused on mineral rights and prospecting information four provinces supported the state ownership of mineral rights without qualification. (It must be remembered that the delegates who contributed to these discussions were different delegates from those who discussed minerals rights ownership as a topic.) Most groups felt that mineral rights should go hand in hand with land rights when land was restored, and that if the state did assume ownership of all mineral rights, it should compensate the community concerned for the mineral rights (three groups said this) or should give the community concerned first option to lease the mineral rights (three groups). Where state ownership was supported (Namaqualand) this was on the specific understanding that government would use this to benefit communities.

Capacity building / Community involvement

The call for capacity building and community involvement was strong. Communities want to be informed about prospecting information, and about planned mining activities on land that is the subject of a claim. Where land restitution claims are successful they want to be advised on the best land-use for that land, and they want funds and training to enable them to lease mineral rights and mine the deposits themselves. Communities who own surface rights must be consulted by those planning to mine on their land.

Benefits

Following from the above, several groups raised the issue of benefits to be gained from mining operations. It was proposed that mining houses should enter into agreements with communities in relation to social benefits and the development of basic services, with the involvement of local government, as well as compensation for loss of agricultural land and costs such as moving graves. It was also suggested that land where mining was no longer taking place could be made available to local communities, e.g. for grazing or making bricks from mine dumps.

General comments

The general feeling was that the Green Paper on mining and minerals policy makes insufficient reference to the question of land and minerals rights. The view was expressed that the Department of Land Affairs and the Department of Minerals and Energy should meet and agree on a policy to avoid contradictions. For example, there is new legislation aimed at land reform policy in the areas of restitution of land rights, and the extension of security of tenure act. These reform policies are in conflict with some proposals in the Green Paper. People hope to get mineral rights through land restitution. This is an area of potential conflict that must be addressed.

2.2 The White Paper

2.2.1 Introduction

The White Paper on Minerals and Mining Policy was released in October 1998. Notable in the White Paper was the clause on the intent on the Mineral Rights and Prospecting Information which said that government will address the past racial inequalities by ensuring that those previously excluded from participating in the mining industry gain access to mineral resources and benefit from the exploitation thereof. Most of the sections in the White Paper however had very few changes made on them compared to the Green Paper. Communities felt that there were some areas raised in the Green Paper which the White Paper did not consider and wanted to ensure that there was continuous dialogue with the DME and other departments to ensure inclusive policy process. This became a useful exercise as the various government departments gained insight into how different communities were affected by mining. Through their involvement in the multi-stakeholder processes on sustainable land use and land claims issues the Department of Minerals and Energy committed itself to a minerals and mining policy which ensured benefits for all the South African people. The following section reviews activities and inputs made to the Department of Minerals and Energy after the release of the White Paper on Minerals and Mining Policy.

2.2.2 Ad Hoc Policy Process Meetings

The KWAGGA programme was inundated with requests to explain the minerals and mining policy to land and mineral rights claimants. Various rural local governments and the Congress of Traditional Leaders wanted to understand their roles in relation to the new minerals policy development. Where possible consultation meetings and workshops were arranged with the various departmental stakeholders to allow for explanation on cases in which the various related policies seemed to contradict each other.

The issues communities continued to address and stress after the release of the White Paper varied per province. In the Northern Cape, through the Kimberley Multi Stakeholder process, a forum which included government departments, industry, community representatives, small scale miners, environmental and land groups, the issues centred on how the policy was encouraging sustainable local development and how can the government and the large industry facilitate the development of a viable small scale mining in the area since the bigger deposits were getting depleted. The mining companies in the area have been downsizing since the late 80's as ore deposits are becoming difficult to mine and require new and high technology. The concern in the province was that national government should plough back some revenue accrued through mining over years to boost the local economy. Environmental issues were also high on the agenda of the stakeholders as the need to diversify from mining and concentrate efforts on integrated land use to promote better use of resources became more pressing with the imminent closure of the mines.

In the Northern Province and Mpumalanga, the issues discussed included how the government can ensure environmental management and rehabilitation of abandoned and old closed mines. The other issues were around involvement of local communities during the development of new mines. Communities wanted to be involved in the planning stages of the mines and be part of the environmental mitigation committees which can ensure that companies adhere to their Environmental Management Programme Reports. These debates continued as the White Paper provided no mechanisms as to how communities affected by mining can participate in the mining process despite recognising them as an important stakeholder. The provision made in the National Environmental Management Act offered guidance as to how communities can influence decisions around development planning.

The most discussed issue by all the groups was that of mineral rights ownership. The proposed state ownership of mineral rights was highlighted as a controversial issue by both the communities and industry. The South African history of dual ownership of mineral rights was seen by those who benefit as property rights which if expropriated will be contravening the country's constitution. For those who argued for the state to gain custodianship of the mineral rights, it was seen as the only way to open access to the previously excluded stakeholders. However, the clause on "use it and keep it" was still viewed as discriminatory by communities who never had an opportunity to be owners of mineral rights. Under the proposed policy owners of mineral rights have the opportunity to exploit the rights or lose them, while communities will never realise this opportunity.

Inputs from the various workshops were communicated to the Department of Minerals and Energy if they were not present at the meetings. To further enhance the communities' understanding of the policy process some community members obtained bursaries to attend

the Minerals and Energy Education and Training Institute to attend courses on Mining and Minerals Policy and Mining and Environmental Policies.

2.3 The Minerals Development Bill

2.3.1 Background

The Minerals Development Bill was published for public comment on the 18 March 2000. This gave less than a month for the public to make their inputs. Minerals and Energy Policy Centre (MEPC) and Group for Environmental Monitoring (GEM) conducted two workshops in March with the aim of gaining input into the draft Mineral Development Bill from mining affected communities, small-scale miners, environmental and community based organisations and other interested parties.

The workshops were well attended and great interest in the Bill was shown. However the objective of the workshops had to be adjusted because it was apparent that a public information and distribution drive of the Bill and its contents to civil society and small-scale mining organisation had not been undertaken. It was clear that the great majority of participants in both workshops had not had access to the Bill prior to the workshops; and it appeared that most were quite unaware of the contents of the proposed legislation. There was noticeable level of understanding among participants who took part in the Green Paper process and those that continued engaging government on different policy issues. They were clear about what they wanted the Bill to address and keen to ensure that their previous submissions were considered in the Bill.

The technical experts and facilitators had to ensure that participants' information needs were met before any inputs were made. There was an outcry in both workshops for the Department of Minerals and Energy (DME) to extend the submission date to allow better and fuller participation by communities affected and impacted by mining. An urgent drive for capacity building of regional officials of DME was also urgently called for. The aspects required to be covered included, the contents of the Bill, information dissemination and awareness raising in the public domain on the Bill. The latter included simplified and easy to understand materials outlining the contents of the bill for specific target audiences (small scale miners, labour, environmental groups, entrepreneurs, mining affected communities).

The parliamentary portfolio committee representatives attending the workshop stressed that participants would be able to make inputs into the Bill at a later stage, particularly when the parliamentary portfolio committee visited the provinces at final drafting stage, or by making representations in parliament. In general, the majority of participants of groups indicated support for the intent of the Bill. Unlike the White Paper the Bill made attempts to include some of the comments raised by communities in their various engagements with the Parliamentary Portfolio Committee and the Department of Minerals and Energy.

The following sections cover the analysis of the community inputs made into the Minerals Development Bill. The first part details synthesis of general comments from each group that need to be considered when redrafting the Bill. The second part details key points in relation to sections of the Bill, the intents and principles. The points are divided into the following subheadings:

- Sustainable Development
- Environmental Management and Health and Safety
- Mineral Rights and Access to Minerals Resources
- Transformation and downscaling of the Minerals and Mining Industry
- Small Scale Mining and Junior mining
- Mineral Resource Management and Regulatory Bodies
- Diamond Control

2.3.2 *General Comments*

Clarification of Underlying Concepts

It should be noted that most participants battled to understand the underlying concepts in the Bill, particularly where customary and western concepts of mineral rights, custodianship and land rights appeared to be in conflict. The Land Restitution Act and the Security of Tenure Act advocates for the return of land rights to the rightful owners, being communities under the jurisdiction of their chiefs or communally elected structures. These policies seem to contradict the Minerals Development Bill intent of reverting all the mineral rights back to the state custodianship, since mineral rights are rights in land. Communities strongly felt that the concepts need to be clarified and a clearer definition of mineral rights, surface/land rights within the South African context be included in the definition section. In line with this, some participants particularly in the Northern Cape did support the principle that mineral rights are to be vested in the state as a national asset. Some felt that mineral rights should rather be vested in local communities. This is a continuing debate especially within communities in the Northwest and Northern Province where land is predominantly under the custodianship of traditional leaders.

Framework for Co-operative Governance

For the principles of the minerals development Bill to be successful, the following must be adhered to:

- Ensure intra/inter governmental co-operation so that departments do not work in isolation.
- Increase the capacity of local government to play a more prominent role in mining developments and decision-making
- Promote integrated development through multi-stakeholder planning. Planning for development of mineral resources should include rural development, civil society and infrastructure development
- Ensure that the municipalities become familiar with all the Acts that involve the mining industry to avoid misunderstandings when mining development takes place in their localities
- Government to summarise and amalgamate all the Acts and policies that have impact on mining development

Decision-making and Environmental Monitoring

Participants suggested that the National Environmental Advisory Forum (NEAFs) and Provincial Environmental Advisory Forums (PEAFs) with respect to the National Environmental National Act (NEMA) should be instituted. These forums should have statutory powers. Participants recommended a one-stop shop. The Minerals Development Bill should be guided by Water Act, NEMA and other related Acts and these Acts should be expanded in relation to the minerals and mining development.

Participants in the Johannesburg workshop raised the need for communities to raise grievances and be involved in decision making on development taking place in their communities. They suggested an ombudsman and/or an environmental forum (could be the PEAFs) that includes all relevant government departments should be in place to monitor mining activities. To prevent environmental degradation and ensure that rehabilitation takes place, legislation should be in place to ensure the setting-up of an appropriate rehabilitation fund. Participants mentioned that it is insufficient for applicants to incorporate the finances available for rehabilitation in the Environmental Management Programme. This mechanism is especially shaky when a company liquidates due to unforeseen circumstances and the responsibility falls back on the State, which means taxpayers' money would be used.

Rehabilitation standards and consistent methods should be established to ensure the rehabilitated areas are free of hazardous material. Standards criteria should be developed in close consultation with the municipalities and local communities, as they are the ones involved in monitoring and maintenance. Communities should have rights to take judicial action if government and industries do not comply with environmental and health standards.

Planning and Public Participation

There was an overwhelming consensus that the Bill is not clear on how mining affected communities, Community Based Organisations (CBOs) and Non NGOs take part during the prospecting period and what role they should play. Participants suggested that local decision-makers (councillors, kgoshis (chiefs) and community leaders) be a vehicle for reaching respective communities but that consultation with the kgoshi and his council for example, does not mean community consent. Risk assessments undertaken for prospecting rights should involve communities. The general feeling was that the Bill should be more explicit about public participation in minerals' development and that community involvement in social development plan and the life span of the mine and social benefits should be included. The Bill should be compared with the Water Act. Water is also regarded as a national asset, but management has devolved to local level communities. In the Minerals Development Bill, control is vested in officials at DME.

Abandoned Mines

The Bill does not state what is to be done with post mining land that has no ownership, i.e. abandoned mining buildings, and the monitoring of illegal mining operators. The Bill does not discuss and/or suggest regulation for procedures and strategies to deal with the negative environmental and health impacts of abandoned mines. Participants suggested communities need to be protected from the negative impact of un-rehabilitated mines and raised the need for awareness in the community on the impact of abandoned mines. Information on abandoned mines should be made available to communities.

Health and Safety

The links between the Health and Safety Act are not explicit in the Bill. Participants requested that legislation be put in place to ensure that companies provide proper health and medical services. Access to and systems of health services for workers and families and affordable healthcare need to be available. In incidences where mine-workers became ill in rural areas as result of working in a hazardous environment, families had to travel for long distances for medical services. Participants mentioned the need for efficient and effective monitoring of health impacts as miners are unfairly retrenched for medical conditions caused from working in the mines.

Compensation

The Bill evades a process for compensation and future regulation by appropriate compensation for workers and families affected from abandoned mines. For example participants from the Northern Province mentioned that relatives died in unrehabilitated pits and requested compensation for families where, mining companies had left areas unrehabilitated.

Compensation pay-outs should consider the health impacts to employees as workers are often retrenched without sufficient compensation and have to cover the cost of health consequences. They mentioned compensation pay-outs are related to worker's salaries and do not provide a true reflection especially of the cost of their health.

Tax incentives and financing

Tax incentives and other financial mechanisms should ensure a responsible investment code for companies from other countries. They should not be allowed to set lower environmental and labour standards in South Africa than in their own countries and should contribute to social and economic up-liftment of local people. The cost recovery element of financing should include an obligation by companies who have just received mining licences to be involved in broader socio-economic development. This can be viewed as paying back in kind instead of in monetary terms.

2.4 Key Areas in Relation to the Bill

2.4.1 Sustainable Development

The Minerals Development Bill defines Sustainable development as “the integration of social, economic and environmental factors into planning, implementing and decision making so as to ensure that development serves present and future generations”. Section 2 (h) states as an object of the Act “to ensure that holders of mining rights contribute towards the social-economic development of the areas they are operating in” and Section 17 detailing Assistance to contribute to rural and local economic development addresses participants requirement for greater clarity on how the Department of Minerals and Energy will work with other departments like trade and industry, finance and labour, to ensure promotion of social and economic development. However the participants still noted that the current mineral development system is profit driven and did not pay attention to social needs of local communities. The act needs to include more provisions to change the current inequitable system. The Bill could include a statement on how communities should benefit from the wealth

generated through mining and the mechanisms to do this should be elaborated in regulations.

The Bill must emphasise strategies for local development such as joint ventures, subcontracting of work to local companies and labour preference policies. The challenge, in the final analysis is to overcome predominant conceptions of the nature of the state and its relationship with society, more specifically to implement the system of local governance. This brings power to make decisions closer to the location of a problem and enables key stakeholders to make inputs into the solution to the problem. The involvement of stakeholders in the solution of the problem increases their commitment to implementing decisions, even if this means paying for inputs into a development programme. The increased contribution of stakeholders enhances the accountability of officials to the eventual beneficiaries of a programme. The result is a more sustainable benefit to society.

Inclusion of previously excluded people in mining

Section 3 point 4 mentions that preference will be given to historically disadvantaged communities when granting a mineral or mining right. The participants questioned if this will be sufficient since existing market forces and access ensured control is concentrated in the hands of a few and it is very difficult for new entrants to enter the industry.

The Bill should ensure black economic empowerment by setting up mechanisms which will discourage the usage of previously disadvantaged people as fronts by companies who want to get lucrative government contracts and be favoured in the granting of prospecting permits. The concept of Black Economic Empowerment (BEE) should not be used as a vehicle for subcontracting. The Bill should have a whole chapter dedicated to Black Economic Empowerment in the mining industry. This chapter should detail governments' plans on BEE, how it hopes to achieve these, set time frames and a framework of how to get there.

Access to information

Access to information was a key concern raised in both workshops. The principle is noted in section 64 (g) of the Mineral Development Bill, which refers to access to information for regulatory control in terms of environmental management and section 21 disclosure of information and data in respect of exploration, but the Bill does not state how information will be disseminated. How do small-scale miners in particular access information such as geological reports and other resources. The Bill should enshrine as a priority the availability of information to local communities. This information should include where to get help with regard to geological information, how to apply for a prospecting and mining licences, how to get finance, etc. The information should include all the steps one needs to go through in the whole mining cycle. It should be in a simplified language that will be user friendly particularly to communities with little education. This will assist communities and previously excluded individuals who want to actively participate in the mining industry especially as subcontractors to also gain full understanding of the sector instead of relying on the mineral holding company only, to provide information. Accessibility of information will also empower local communities to develop realistic expectations in terms of development of mining projects and other areas the mining companies can contribute towards.

Communication mechanisms

Concerns were raised that, if appropriate communication mechanisms in the proposed legislation were not developed, rural communities would not have access to critical information on applications for rights, despite apparent provisions for transparency in the Bill. The government gazette and newspapers were cited as examples of forms of communication that could not reach rural areas. Radio was cited as the preferred option.

2.4.2 Environmental Management and Health and Safety

Co-operative Governance and Discretionary Powers

Section 65 of the draft Minerals Development Bill refers to the duty of care for environmental management and for remediation of the environment. The decision-making and discretionary powers lies with the Director: Minerals Development. For example clause (4a) states that the “Director: Minerals Development may, if no authority has already taken similar action in terms of the National Environmental Management Act, 1998 or Water Act, 1998....” and in clause (4b) “the Director: Minerals Development must on issuing of the directive in terms of paragraph (a) will inform authorities referred to in section 28(4)...”

In the Northern Cape workshop municipality representatives raised a concern that despite the fact that they were informed and issued with a report for excavation (digging) there had been incidences where excavation occurred next to a public road. The suggestion from participants was that not only should other relevant departments like Environmental Affairs, Water Affairs, Health, etc. be part of decision-making but local authorities should play a central role, especially in areas where mining occurs. Participants also raised the absence of the Department of Environmental Affairs and Tourism as the lead agent for environmental management. The Bill also does not propose a mechanism and structure for co-operative governance.

Environmental Management Programmes (EMPs)

Issues raised were the improvement in implementation and monitoring and the need for clear differentiation between EMPs and structural plans in the local community. Concern was raised about the dual role of DME who both regulated EMPs and authorised them. Concerns were also raised about encouraging self-regulation and that there was a need for government to play a stronger enforcement role.

In the Northern Cape area where small-scale mining is common, participants raised the concern about the capacity of small-scale miners to develop and implement EMPs. The feeling was that while government promoted the development of small-scale and or junior miners and provided financial assistance to develop these ventures, the Bill did not differentiate between mine size. Therefore the participants suggested a support mechanism to assist small-scale miners to conduct an Environmental Impact assessment (EIA) and develop an Environmental Management Programme Report (EMPR). The Bill only refers to in section 67(3) the procedure of an applicant for a prospecting right or mining right in general. A fear conveyed was that small-scale miners may short circuit the process at the discretion of the Director: Minerals Development.

Integrated Environmental Management and Environmental Management Programmes

Participants suggested that the mining industry undertake the process of integrated environmental management and environmental impact assessments. They also suggested that regulation should make allowances for a no-go option in areas of significant cultural heritage and rich and/or rare species biodiversity. Section 66 refers to integrated environmental management but is rather vague on the implementation process.

2.4.3 Mineral Rights and Access to Mineral Resources

Information needs

The following were the main information needs expressed by the participants:

- The effect of the Bill on pending land claims for mineral rights
- Measures to deal with the social and economic impacts of mining
- The relationship between mining and land tenure issues
- The mechanisms to acquire rights to prospect and mine i.e., access to rights (and how this would benefit previously disadvantaged groups)
- The role of municipalities in the administration of the bill; and the impact of the bill on existing arrangements regarding royalties
- The use of royalties for local development
- The role of traditional leaders; the transfer of land rights to chiefs; and the impact of the bill on existing arrangements regarding royalties
- The role of women in the new dispensation (as a previously disadvantaged group)
- Financing mechanisms
- Local skills development
- Capacity building among mine workers
- Marketing mechanisms
- The constitutionality of the Bill, especially with regard to compensation for mineral rights held under the existing regime

A strong concern was raised by the participants from Northern Province that the abolition of the Lebowa Minerals Trust (a trust formed in 1987 to hold all mineral rights in the former Lebowa homeland) had prevented the restoration of mineral rights to chiefs. It was conceded that this issue should be addressed in the Bill in terms of how the communities affected would be compensated. The chiefs occupy 13 percent of the land presently held in trust and must have their rights restituted in areas where they lost land in terms of the past racial laws, and must gain secure tenure and redistribution of land as part of redressing the past imbalances. The Department of Minerals and Energy and the Department of Land Affairs must co-ordinate their policies on land tenure rights, particularly in terms of the Extension of Security of Tenure Act. The Bill must clarify the position of land claimants and their rights in land which is being mined or which is subject to existing or new mineral leases or mine development (both under the existing regime, and under the proposed minerals regime) and specify how dispossessed communities will benefit.

As with the Green Paper process the views of participants differed on the issue of mineral rights ownership. Communities who already had exclusive rights to minerals want the status quo to remain while other communities want the state to be a custodian of all mineral resources.

When issuing prospecting permits the Department of Minerals and Energy should also take into consideration long-term development objectives for the local communities. Companies who are given prospecting licences and later the mining licences should have plans which contribute to the long-term sustainability of the local communities. This would include diversification, supporting and encouraging development of other sectors like agriculture.

2.4.4 Transformation and Down-scaling of the Minerals and Mining Industry

Social Plan

Participants suggested that the Social Plan required from a prospective mine should be negotiated with the communities which it would affect before being presented to the government for approval. As it stands now in the Bill, a company can just present its social plan to the government and does not have to consult with the community that will be directly affected by the consequences of that company's social plan. Social plans should have elements of local upliftment and development. The whole idea behind a social plan is to have sustained local economic activities even well after mining has ceased operations, therefore the design of a social plan should have this as the primary focus. Social plans should not be tools used to only manage retrenchments and mine closures but should be used as proactive measures to plan for inevitable mine closure even before a mine starts to operate. A concern was on whether government has the capacity to monitor all the requirements that companies are supposed to meet for an example, Skills Development Act, Social Plan Act, Employment Equity Act, etc. Future planning forums only involve workers and management in decision making. They should also include members of local communities and the local government so that whatever development plans that are made can also be implemented in the local communities.

Transformation

One of the objects of the acts section 2 (e) *refers to expansion of opportunities for historically disadvantaged persons to enter the mining and minerals industry.* In this respect transformation of the industry is a key issue. Redress of past injustices and acknowledging the role mineworkers have played in the development of the minerals and mining industry is necessary. It was proposed that the Bill include a requirement for every new entrant into the mining sector who gets a mining licence to give first preference when hiring new workers to retrenched mineworkers. Some participants feel that local communities should be given first preference while hiring to allow benefits to flow directly into the communities and minimise negative social impacts of mining.

To assist in transformation of the sector and noting the high financial barriers preventing entry into the mining sector and the long lead time between commissioning operations and starting to make profits on a mine, the Bill should provide for the establishment of a Minerals or Mining Bank based on the same principles as the Land Bank to facilitate for easier access to finance particularly for new entrants.

Transformation and downscaling of the minerals and mining industry is one of the functions of the Minerals and Mining Development Board specified by section 77 (d). A committee of the board that will address the following issues is important:

- monitoring the implementation of the other government acts which influence the mining industry such as the Skills Development Act, Social Plan Act, Employment Equity Act, etc.
- researching what capacity is lacking in the mineral and mining industry, and how it will be built, how long it would take and how it would be paid for
- establishing a program to develop and build capacity among the previously disadvantaged. This program should be designed to fast-track the development of these sectors of the population in the technical aspects of the industry. Training targets should be set which will prioritise technical skills to be focused on and set targets (e.g. 100 geologists in 5 years, 150 mining engineers in 7 years, etc.).
- establish a commission to promote new technologies, and ensure that consultation is thorough and that information is readily available.

The advisory body should have regulatory powers and should have powers to sanction offenders if they do not meet requirements that the body was set up to monitor

The poorest of the poor (e.g. artisanal miners) do not feature in the Bill. The Bill should make provision for the different categories of miners. As it is the bill does not accommodate diggers and their special needs. There should be an annexe in the bill, which should deal specifically with diggers. The bill should cater for special areas which should be proclaimed for specific use by diggers. Local councils in those areas will then be required to help the diggers with application requirements like the social plan and environmental management plans. Diggers should also be educated about tourism and how to treat tourists as the nature of their activities can be used as a tourist attraction and therefore contribute to integrated land use.

The Bill should encourage joint venture establishment between big mining companies and small operators. This will facilitate skills transfer, will reduce entry costs for the smaller operators, and will also address issues of empowerment.

Section 24 A mentions promotion of mineral beneficiation within the republic. Beneficiation forums whose mandate will be to encourage and assist companies to beneficiate their products should be established. There should be a moratorium on the export of unprocessed minerals to facilitate for more local beneficiation.

The Bill should encourage the decentralisation of decision making in the Department of Minerals and Energy (DME). Local government structures should be involved in the process of granting all types of licences as there are sometimes instances where licences are granted by the DME for places which are designated as residential areas by the local councils.

Companies should be obliged to have capacity building plans in the applications for licences. Company assistance in the form of bursaries and all other types of training should come with an assurance for full employment after training.

Mine employees should be involved in company share schemes which should be linked to their pensions so that if or when they get retrenched there is a pension to fall back on.

Miners' tacit skills should be recognised by the Mining Qualification Authority (MQA). A system should be put in place by the MQA where if an illiterate miner has ten or twenty years mining experience, there is a way in which that miner can be given a certificate detailing their experience and that they can use to market themselves in case they get retrenched.

2.4.5 Small Scale and Junior Mining

Access to land and mineral resources

Section 3 provides for state custodianship of minerals resources on behalf of the people. It further states that preference will be given to historically disadvantaged persons. This was hailed as a very good development for the sector.

However, it has to be noted that small scale mining has unique characteristics, which include: lack of finance, lack of technology and lack of technical expertise. It will be appropriate according to the participants that government takes separate and specific measures to address the problems of small scale mining sector. The Bill should make provision for creation of a specific section on small scale mining instead of just lumping the group as disadvantaged. In actual fact there is no mention of small scale mining in the Bill. The draft Green and White Papers however devoted extensive coverage to this aspect of the mining economy.

To allow the small scale miners to participate fully and benefit from the state custodianship of mineral resources the following provision should be made to small scale miners:

- accessible infrastructure
- make geological data freely available
- create one stop shop (will discourage the duplication of permits)

Section 36 (a) says that the holder of the prospecting right must commence with the prospecting activities within 30 days from the date on which the right was granted. The group propose that 3 months be allowed for small scale miners to make provision for the miner to source the required finance to start with prospecting. Unless the miner has the prospecting right on a particular property, potential partners and financiers are not interested in their proposals.

One month could be maintained if government have support structures which allows for:

- risk capital to be provided within one month

- large companies are encouraged to support the growth of small scale mining with their technical expertise, machinery and finance, and that government compensate them through tax incentives

Access to finance

Section 16 provides for the provision of financial assistance to persons from historically disadvantaged groups, and it provides for cost recovery. This was welcome by the participants. The state initiatives to support small scale mining and junior mining were discussed. It is proposed that the small scale miners be represented on these initiatives like Bakubung and National Steering Committee of Service Providers (NSC) as they are the people who know and understand their own needs. It should therefore be spelt out clearly how the small scale miner will be financially supported.

Sustainable development

The participants in both provinces welcomed the provisions made in section 62 to assist first time entrepreneurs to comply with regulatory standards. However, concerns were raised on how this could be done. It was proposed that the R50 000 environmental levy imposed by the DME be reviewed as it prevents entrance of small scale miners who have very limited resources.

In addressing the small scale mining the Bill should focus on the following areas:

Financial Issues

The participants noted that section 16 of the Bill is not explicit enough on how funds should be disbursed. It was noted that large companies are in a better position to access funding than are small scale mining groups. Government or government driven funding agencies designed to assist the small scale mining sector are difficult to access. Examples were given of government agencies like IDC, Khula and Ntsika where access to resources appeared to be slow.

State regulation of mineral rights is likely to yield royalties from companies reverting their mineral rights to the state. Government would need to build capacity to administer the additional funds available and channel some money for small scale mining development work.

A proposal was that a “mineral bank” be formed similar to the “land bank” which would function as a source of loans for the small scale-mining sector. Seed capital for the bank could come from royalties released from minerals held by large companies. Another source of finance can be from the budgets of large companies who can make available funds as part of their corporate social responsibility programmes to assist small scale miners.

Training Issues

It was felt that the National Qualification Fund was geared towards employees within companies and could not benefit those outside of formal employment. Big mining companies could directly benefit people in the vicinity of these mines particularly with training and capacity building. The state needs to make available the services it offers in terms of making training more visible so as to make access easier.

Lack of Access to Mineral Rights

One view is that state control of mineral rights is going to make access harder rather than easier – this will particularly affect tribal groupings who already have mineral rights. This grouping feels that the Bill as a whole does not provide easier access to the small scale mining sector at all- for example easier permitting requirements and easier environmental regulations are not covered. People with no prior access to mineral rights felt that the state custodianship of the rights will increase their access to the resources.

Another view is that ministerial discretion is going to hinder small scale miners as it is perceived to hinder large companies. “Imbalances of the past” have not been catered for in assisting previously excluded groups to enter the sector by creating a one stop shop to speed up application process. There is a need to tighten up on illegal activities so as not to disadvantage legitimate small scale mining operations. It is proposed that the state encourage the illegal miners to register as they are mostly mining illegally due the inefficiency of state to provide claims or assist the small scale miners to negotiate for non-viable deposits for the large scale companies but adequate for small scale miners.

Lack of technology

The Council for Geosciences is seen as too remote and a more accessible body should be provided by the Department of Minerals and Energy. Technical help was also viewed as a great problem. It was proposed that the NSC engage more consultants to speed up delivery. One view is to farm out delivery mechanisms to the private sector, another is that some aspects must be handled by the state as the private sector will not enter certain areas. Government should give incentives to large companies to assist small scale miners with the technical aspects of their operations.

2.4.6 Mineral Resource Management and Regulatory Bodies

Establishment of the Minerals and Mining Development Board

The participants raised the possibility of the Board been just a weak structure with no powers to force the Minister to take their views and recommendations serious.

There was concern over the Board being chaired by a Government official, which would affect the commission's independence from the Minister and the Ministry. There was also concern that the National Board as proposed lacked structured relations with provinces. This will weaken the ability of the Board to fulfil its mandate and respond to developments and concerns from the provinces.

Recommendations were that:

The Board should remain advisory but the Bill must emphasise that the Minister cannot unreasonably overlook its recommendations.

The Board is a supportive structure to the Minister, but must also involve stakeholders in decision making processes. The Board must be designed to constitute the voice of the wider community. Its duties must be more than advisory and there is a need to strengthen its muscle. The Board must have one sub-structure with Provincial Representatives from the industry/sector. This will make sure that Provinces have a way to influence the work and decisions of the Board. The composition and organizational arrangements of this structure can be covered in the terms of reference of the Board.

Small scale miners must be recognised in the Ministerial Advisory Board. There was also a proposal that the envisaged advisory board should be based in provinces. Each province or mining region will have an advisory board comprising of people from labour, business, NGOs and CBOs and all other affected parties represented. These regional boards may forward two of their members to sit on the national board, which advises the Minister. In this way there is surety that the boards represent all affected constituencies and that the issues they take up are real issues, which affect people on the ground. The board as it is envisaged in the draft bill seems toothless whereas it ideally should have real powers to influence the Minister's decisions.

2.4.7 Diamond Control

There were concerns raised about the Small Scale Mining sector's access to global markets. Qualifying criteria limit new entrants' ability to access start up funds. Applications should be processed within a specific time frame. Legal trading should not be restricted to registered premises. Reasons for rejecting applications should be provided. Adequate authorised diamond evaluators should be available in diamond regions. Provision should be made for registered mineral collectors to possess rough diamonds as mineral samples up to a prescribed value.

2.5. Key Strengths and Weaknesses of the Bill

The major achievement in developing an inclusive policy process in South Africa was ensuring that all stakeholders were accorded an opportunity to make inputs into the Minerals and Mining policy process. This was made possible by the bilateral agreement between South African Government and the Canadian government through Canadian International Development Agency funds. The Parliamentary Portfolio Committee on Mining and Energy also played an active role by participating in workshops and undertaking tours of small scale mining activities and of communities negatively affected by the environmental impacts of mining.

The South African government recognized communities as a key stakeholder in the development of minerals resources and accorded them an opportunity to express their interests and concerns. The Bill has also taken into consideration the needs of the local communities to be consulted in all stages of mining development in line with National Environmental Management Act (NEMA). Security of tenure is very important for the minerals developers and foreign investors. It is therefore quite vital that development is planned with all stakeholders to avoid disruptions of the mining activities in the long run. The Department of Minerals and Energy viewed this in a serious light.

The Bill however, still lacks to clarify how the above process will take place and how the immediate communities affected by mining activities can benefit from development in their vicinity. This issue if well defined may resolve the dissatisfaction by most rural traditional communities on reversion of mineral rights to the state. Holding of mineral rights has through the years been seen as a way of accruing royalties and therefore local wealth. Through out the policy inputs, communities have raised the issues of local benefits. The Bill proposes working with the local government to address issues of rural development. This if

not closely monitored can create friction between traditional authorities and local government authorities as depending on local priorities, funds generated from mining may be used for development elsewhere leaving the immediate communities with no benefits.

Small-scale mining was identified as one of the areas which need development. Although the Bill does not mention this subject, unlike in the Green Paper and the White Paper where the sector was specifically mentioned, the sector has been given recognition by acknowledging that certain categories of the previously excluded groups will need assistance in entering the minerals and mining sector. The Department of Minerals and Energy has taken the small scale and junior mining sector seriously. The National Steering Committee of Service Providers to small-scale miners has been established and funds were allocated to it to promote and support small-scale mining initiatives in South Africa.

Unlike the previous Minerals Act which allowed development of mining to take precedence over other development plans, the Minerals Development Bill made emphasis on sustainable development of all natural resources. The emphasis on integrated local planning ensures that mine planning take into consideration the future developmental needs of the local communities and the country at large. Minerals development will be subjected to NEMA like any other industry.

3. Conclusions

Overall, communities would like to be taken more seriously by government in the areas of social and economic empowerment. This can only happen through community participation and consultation in all aspects of mining. Community participation and consultation was recognised as being crucial to the implementation of the new proposed Act on minerals and mining.

Calls were made for government to ease community access to land, minerals rights, finance, and technology as a way of facilitating the participation of communities. Community capacity building for environmental management was also recognised as being important. A critical concern was raised regarding the capacity of the Department of Minerals and Energy to effectively implement the new proposed law.

The success of the Bill was also seen as depending to some extent on the reconciliation of the land reform policy of the Department of Land Affairs (DLA) and the new minerals and mining policy direction of the DME, otherwise there will be contradictions between the two policies and continued confusion in the communities. This point becomes more important in the light of suggestions from communities that mineral rights restitution should go hand in hand with land restitution. Although restitution of mineral rights happened in some countries like Australia, South Africa has not yet had any test case, especially on the restitution of land and mineral rights where the land is held in trust for communities. If such case is taken to court and is successful, the government principle of use it and keep it will also apply.

The current permitting process was heavily criticised as being too complicated, and calls were made to simplify the process. Downscaling was seen as needing strong interventions to reduce its impact on the economy, employment, and communities. Some proposals were made on how to address the issue of downscaling. The use of Fanakalo is resisted by communities, and housing and living conditions on mines are seen as needing a greater degree of integration into local communities. Migrant labour is seen as requiring regulation, although the rights of migrants are acknowledged. To minimise the impacts of downscaling there were suggestions that social plans should include communities instead of workers only.

It is important to note that the provinces represented in the workshops have varying experiences of mining, with KwaZulu-Natal being the least informed and the Northern Cape region and Gauteng & Free State having the most intimate knowledge of the sector. This clearly influenced the degree and levels of participation. In general, communities were happy to have been consulted during the formulation of the new minerals and mining policy, and hoped that their comments would be favourably considered by the DME in developing a new Minerals Development Act for South Africa.

Bibliography

1. Department of Minerals and Energy (December, 1997), Green Paper for Public Discussion, A minerals and Mining Policy for South Africa, Pretoria
2. Department of Minerals and Energy (October, 1998), White Paper , A minerals and Mining Policy for South Africa, Pretoria
3. Department of Minerals and Energy (December 2000) Minerals Development Draft Bill, Pretoria
4. KWAGGA, Minerals and Energy Policy Centre (14 February 1998), Green Paper workshop, Northern Cape
5. KWAGGA, Minerals and Energy Policy Centre (21 February 1998), Green Paper workshop, North West Province
6. KWAGGA, Minerals and Energy Policy Centre (28 February 1998), Green Paper workshop, Northern Province
7. KWAGGA, Minerals and Energy Policy Centre (07 March 1998), Green Paper workshop, Mpumalanga
8. KWAGGA, Minerals and Energy Policy Centre (14 March 1998), Green Paper workshop, KwaZulu-Natal
9. KWAGGA, Minerals and Energy Policy Centre (18 March 1998), Green Paper workshop, Namaqualand
10. KWAGGA, Minerals and Energy Policy Centre (21 March 1998), Green Paper workshop, Gauteng & Free State
11. Minerals and Energy Policy Centre and Group for Environmental Monitoring (18 March 2001), Minerals Development Bill Workshop, Gauteng
12. Minerals and Energy Policy Centre and Group for Environmental Monitoring (24 March 2001), Minerals Development Bill Workshop, Northern Cape

APPENDIX A: Mineral Rights

	<i>Kimberley</i>	<i>North West</i>	<i>Northern Province</i>	<i>Mpumalanga</i>	<i>KwaZulu-Natal</i>	<i>Namaqualand</i>	<i>Gauteng & Free State</i>
<i>State ownership of mineral rights</i>	Yes – unconditionally so. (Preferential treatment to be given to communities – access to royalties.)	Majority view: mineral rights should be held privately (first preference to be given to communities living in areas where there are minerals). Minority view: mineral rights should be held by state – it will alleviate the problem of going from one office to another in order to locate the mineral rights holder.	Majority view: mineral rights should be owned by state – mineral wealth belongs to the people. Minority view: mineral rights should be privately owned – benefits of state owned mineral rights are not obvious. State can still play watchdog role without owning mineral rights.	Yes – state ownership will benefit the nation and not just a few individuals.	Yes – government should promote access to mining through black economic empowerment (would lead to the development of small scale mining).	Yes – it will address issues of race discrimination (certain people have been excluded from mining because of their race).	There were 2 contending views which were supported thus: Yes – it will break current monopolistic control, improve access and lead to employment. No – government should not take away mineral rights that are already in black hands and those that will be gained through land restitution.

	<i>Kimberley</i>	<i>North West</i>	<i>Northern Province</i>	<i>Mpumalanga</i>	<i>KwaZulu-Natal</i>	<i>Namaqualand</i>	<i>Gauteng & Free State</i>
<i>Access to mineral rights</i>	<p>Applications for mining rights from foreign companies should be advertised for public scrutiny prior to consideration.</p> <p> Holders of mining rights should be adequately protected from outside intrusion and interference.</p>	<p>Policy proposals are concentrating on compensating holders of mineral rights, what about dispossessed communities?</p> <p>Local mining communities should actively participate in mining activities from mine opening until closure.</p> <p>Royalties should be negotiated by holders of mineral rights, not by the state.</p>	<p>A royalty percentage should be established.</p> <p>State setting royalties is in contradiction with the policy of 'open market' (a minimum royalty percentage can be considered).</p>	<p>New system should try to make mining more accessible.</p> <p>One stop shop – efficient administration is key.</p>	<p>State-owned mineral rights could lead to job creation as access to mineral and mining rights is improved. Royalties will then accrue to the government and not to private individuals.</p>	<p>No input</p>	<p>Policy proposals do not put forward specific measures on how access will be expedited for previously disadvantaged people.</p>
<i>Prospecting information</i>	<p>No input</p>	<p>All prospecting information should be made available to the public as soon as it is obtained.</p>	<p>There is a need to understand the current system and how the system will benefit communities.</p>	<p>How can geological information be better available to communities?</p>	<p>Exploration information should be made available to the public.</p>	<p>State should promote exploration.</p> <p><i>Prospecting information should be made available.</i></p>	<p>Exploration information should be made available.</p>

	<i>Kimberley</i>	<i>North West</i>	<i>Northern Province</i>	<i>Mpumalanga</i>	<i>KwaZulu-Natal</i>	<i>Namaqualand</i>	<i>Gauteng & Free State</i>
<i>Database on mineral rights</i>	Should be given priority and to be directed from each premier's office.	No input	No input	No input	Database on mineral rights holdings should be made available.	<i>No input</i>	Database of mineral rights should be available and accessible.
<i>Mineral tax</i>	Effective mechanism to monitor tax should be introduced.	No input	No input	No input	Support mineral tax.	<i>No input</i>	Support mineral tax.

APPENDIX B: Small-Scale Mining

	<i>Kimberley</i>	<i>North West</i>	<i>Northern Province</i>	<i>Mpumalanga</i>	<i>KwaZulu-Natal</i>	<i>Namaqualand</i>	<i>Gauteng & Free State</i>
<i>Intent</i>	Small scale mining should be promoted so that it can optimally contribute to local and national economy.	No input	No input	No input	No input	No input	Proposal accepted
<i>Mineral rightst</i>	Relevant legislation and measure should encourage mineralisation (at least cost to small scale miners) of areas that are not being utilised.	<p>Policy needs to address the needs of previously disadvantaged communities.</p> <p>Participants proposed that free access to mineral rights be granted to small scale miners.</p> <p>Once accessed, those mineral rights should be held in perpetuity by those communities.</p> <p>Land restitution should go hand in hand with mineral rights restitution.</p>	<p>Unused mineral rights owned by private companies should be ceded to the local communities.</p> <p>DME should set up offices in areas where there is a high concentration of small scale mining.</p> <p>These offices should meet all the informational needs of small scale miners.</p>	<p>The policy should state how and where information on mineral rights and deposits will be obtained.</p> <p>This information should be made available through a one-stop-shop for all small scale miners to benefit.</p> <p>Dormant state-held mineral rights should be given priority when identified by small scale miners.</p>	<p>Sterilised mineral rights should become state-owned to enable small scale miners to access them.</p> <p>Small scale miners should be afforded opportunities to buy mineral rights.</p>	Local authorities must have the right to deal with traditional land applications.	Surface rights owners should be given first priority when applying for state-owned mineral rights.

	<i>Kimberley</i>	<i>North West</i>	<i>Northern Province</i>	<i>Mpumalanga</i>	<i>KwaZulu-Natal</i>	<i>Namaqualand</i>	<i>Gauteng & Free State</i>
<i>Access to finance and technology</i>	<p>All stakeholders should ensure the establishment of training facilities for SSM in South Africa and the region as a whole.</p> <p>The DME minister should regularly consult with MECs for Economic Affairs to discuss development issues related to SSM at the local level.</p>	<p>Government should intervene to compel national financing institutions to adopt preferential interest rates when granting finance to small scale miners.</p>	<p>Participants would like to see some form of technology transfer from big mines to SSM in local communities.</p> <p>Labourers should also be trained to perform specialised tasks.</p>	<p>Access to finance and technology should be facilitated through appropriate institutions based on the economic viability of a project.</p> <p>The cost of state advice to small scale miners should not be weighed against the application of such advice to other mining or non-mining activities.</p>	<p>Government should give financial assistance to small scale miners because of difficulty of accessing finances through commercial banks, which have stringent requirements.</p> <p>There is a need to bring together small scale miners for smoother running of loan schemes to SSM.</p>	<p>5% of income derived from mines on traditional land must be invested in local authorities.</p> <p>Markets and marketing information must be available to local authorities so that they can promote local minerals.</p>	<p>The cost of state advice and support for Small scale mining should be weighed (in consultation with SSM) against the benefits of the application of such support to other mining and non-mining activities.</p> <p>DME should likewise co-ordinate needs-driven research by the Science Council and ensure that this information and technology is available to small scale miners</p> <p>Line function of the DME should include support to small scale miners, as well as the involvement of local authorities.</p>

	<i>Kimberley</i>	<i>North West</i>	<i>Northern Province</i>	<i>Mpumalanga</i>	<i>KwaZulu-Natal</i>	<i>Namaqualand</i>	<i>Gauteng & Free State</i>
<i>Regulation and administration</i>	Appropriate health and safety standards should be maintained in small scale mining	No input	No input	Interim permit cards should be issued to small scale miners whose applications are being processed to avoid police harassment.	An independent and vibrant small scale mining sector should be promoted. Small scale mining permitting process should be expedited.	Local DME and town council must be given the authority to issue permits. A simplified and quicker approval method for permits must be devised. A mineral development commission must be formed, made up of all stakeholder groups.	Proposal accepted

	<i>Kimberley</i>	<i>North West</i>	<i>Northern Province</i>	<i>Mpumalanga</i>	<i>KwaZulu-Natal</i>	<i>Namaqualand</i>	<i>Gauteng & Free State</i>
<i>Environmental management</i>	No input	Rehabilitation fees are too high. Participants proposed a system of instalments	Proposed to pay rehabilitation fees in instalments, and that these payments start after profits have been generated from mining activities.	State funds should be provided for environmental management where there is a high concentration of SSM	State should provide assistance with environmentally friendly technologies which make rehabilitation easier. Funds paid in by small scale miners as rehabilitation deposits should be used to train small scale miners in other activities other than mining. Small scale miners should be required to rehabilitate the land anywhere, irrespective of whether or not they get assistance.	No input	Proposal accepted. Additionally, government should support provision of training skills development for small-scale miners in environmental management.

	<i>Kimberley</i>	<i>North West</i>	<i>Northern Province</i>	<i>Mpumalanga</i>	<i>KwaZulu-Natal</i>	<i>Namaqualand</i>	<i>Gauteng & Free State</i>
<i>Mineral beneficiation</i>	<p>DME, DTI and Provincial departments of Economic Affairs should be better co-ordinated around minerals.</p> <p>Science Councils and Government departments should undertake joint-venture research and training programmes to develop skills required for mineral beneficiation developments.</p> <p>All legislation that constrains the development of the local minerals should be reviewed.</p>	No input	Minerals mined within a particular province should be processed in the same province to ensure that profits from local minerals actually accrue to the provincial economy. This can also create employment locally.	No input	<p>Government should collaborate with other institutions in order to provide financial and marketing skills to ensure sustainability of small scale mining.</p> <p>Local information and marketing centres should be established.</p> <p>Government should provide training that covers beneficiation of other minerals.</p>	Local authorities must establish a trust fund to deal with the question of rehabilitation. No input	<p>Proposal accepted.</p> <p>Additionally, participants proposed that Science Councils and relevant institutions should do research and training in order to produce skilled and productive manpower required for mineral beneficiation developments.</p> <p>Beneficiation will be based on the economic viability of a project.</p> <p>DME should consult SSM and relevant stakeholders to review all legislation that restricts the development of the local jewellery manufacturing industry.</p>

	<i>Kimberley</i>	<i>North West</i>	<i>Northern Province</i>	<i>Mpumalanga</i>	<i>KwaZulu-Natal</i>	<i>Namaqualand</i>	<i>Gauteng & Free State</i>
<i>Minerals marketing</i>	Government must commit itself to developing markets for SSM products. A government controlled institution should market the SSM products. Government should be responsible for setting up this institution.	No input	Proposed a marketing institution to market the products of SSM. This institution should be private sector driven and controlled.	No input	Government should create an environment whereby SSM can sell their produce without fear of being arrested. A moratorium on arresting SSM before the finalisation of the policy should be introduced. Government projects such as housing and other construction should give preference to using SSM products such as bricks.	A representative body must be established to deal with promoting and marketing pegmatites and industrial minerals.	No input

APPENDIX C: People Issues

	<i>Kimberley</i>	<i>North West</i>	<i>Northern Province</i>	<i>Mpumalanga</i>	<i>KwaZulu-Natal</i>	<i>Namaqualand</i>	<i>Gauteng & Free State</i>
<i>Health & safety</i>	<p>Commission of enquiry should be established to compensate injured ex-mineworkers</p> <p>Government and private sectors should establish a trust fund</p>	<p>Health and Safety should include environmental issues.</p>	<p>Health and Safety should include environmental issues.</p>	<p>A trust fund should be established for health and safety.</p> <p>Government should take a more active role in environmental controls e.g. polluted air in mining towns.</p>	<p>Government regulations should include health and safety in the vicinity of the mine</p> <p>Government should regulate HIV on mines</p>	<p>The tripartite approach is supported in health and safety.</p> <p>There should be compensation for ex-mineworkers affected by unsafe work practices</p>	<p>Trust fund for ill or injured miners</p> <p>Compensation to be paid to communities who experience housing damage caused by blasting</p> <p>Compensation should be enforced if a illness is mining related (irrespective of whether or not it is compensatable)</p>
<i>HR development</i>	<p>Improved life skills and understanding of mining skills needed for mine workers.</p>	<p>More black advancement into management</p> <p>Phasing out of Fanakalo</p>	<p>Mining houses should provide management training for artisans</p> <p>Training should be multi-lingual</p>	<p>Need for flatter management structures</p> <p>Banning of Fanakalo</p>	<p>Government should enforce ABET on all mines</p> <p>English to replace Fanakalo</p>	<p>Training should be joint venture between government and industry.</p> <p>Phasing out of Fanakalo.</p>	<p>Government should link ABET to language competencies.</p> <p>Training should not only occur between shifts but should be given special times.</p>

	<i>Kimberley</i>	<i>North West</i>	<i>Northern Province</i>	<i>Mpumalanga</i>	<i>KwaZulu-Natal</i>	<i>Namaqualand</i>	<i>Gauteng & Free State</i>
<i>Housing and living conditions</i>	Mine policies on housing should be incorporated into national Housing Act.	Housing subsidies should be standardised for managers and workers. Hostels should be integrated into the local housing infrastructure. Mines should compensate communities for damage to housing caused by blasting.	Housing subsidies should be standardised. Housing should be integrated into local communities	Standardisation for managers and for workers Hostel planning should include education, health and recreation	Government/ employers/ employees to contribute to a trust fund for housing. Government to implement a policy of building family units.	Hostels to be converted into single quarter accommodation. Housing subsidies to be introduced.	Mines should offer their vacant land for housing Government should consider using the provident fund for housing Vacant hostels should be converted into suitable housing.
<i>Migrant labour</i>	Health check-ups should be compulsory	Definition should include other provinces as well as other countries.	Migrants should be regulated in future.	Acknowledging that migrants are part of the international community, they should however be regulated.	Contractors who exploit migrants should be penalised.	There should be a balance between employing migrants and local workers.	No input
<i>Industrial relations</i>	Job grading should be linked to minimum wage.	No input	IR climate should be monitored by the Dept. of Labour.	Bargaining council should set guidelines on promoting good IR practices.	Sunday work should be reviewed on the principle of the forty hour week	Mines to conform to national and international standards.	No input

APPENDIX D: Downscaling

	<i>Kimberley</i>	<i>North West</i>	<i>Northern Province</i>	<i>Mpumalanga</i>	<i>KwaZulu-Natal</i>	<i>Namaqualand</i>	<i>Gauteng & Free State</i>
<i>Retrenchments</i>	Government has a duty to co-ordinate retrenchments	The group accepted the proposal on downscaling with reservations. They felt that there should be a distinction between profit and profit maximisation.	There was debate around migrant workers. Should they be reduced to stop retrenchments? No consensus was reached.	Downscaling was accepted; however it was noted that mining needed to remain labour intensive and not capital intensive.	Downscaling in the Green Paper does not address how rural communities will be affected and what steps should be taken.	Respondents indicated that the proposals in the Green Paper on retrenchments were too vague: e.g. How will the government implement them? Who is responsible? How will it be managed?	There is a lack of clarity in the Green Paper as to who should contribute to retrenchments.
<i>Retraining</i>	Retraining of retrenched mineworkers should be in conjunction with mining companies, government and the NUM.	The group felt that there were inadequate details on the implementation of downscaling.	No input	It was felt that retraining should form part of the business plan of the mine and include information on small business development. Mining companies should also provide start-up finance for retrenchees.	Retraining should also focus on small scale miners and training in business skills.	No input	Green Paper was criticised for being vague. It was suggested that workers should be retrained long before they were retrenched. Training should be nationally recognised. Certificates should be issued to retrained workers.

	<i>Kimberley</i>	<i>North West</i>	<i>Northern Province</i>	<i>Mpumalanga</i>	<i>KwaZulu-Natal</i>	<i>Namaqualand</i>	<i>Gauteng & Free State</i>
<i>Advisory boards</i>	<p>A national statutory commission downscaling be set up. Part of the mandate would be to assist retrenched homeowners manage bonds.</p> <p>Regional commissions should examine the problems at a regional level.</p>	<p>There should be an advisory board led by the state but comprising all stakeholders. There should be a twelve month period to assess the situation.</p> <p>Notification on 20% (as outlined in Green Paper) should be reduced to 10%</p>	<p>All agreed that the state, management and labour be included in the composition. Also a call for community representatives was made.</p> <p>Notification threshold should be reduced from 20% to 10%.</p>	<p>Social plans should be submitted as soon as a worker joins the mine.</p>	<p>Government should entrust the advisory boards with monitoring retrenchments. Should also monitor rehabilitation of closed mines.</p>	<p>A social plan should include analysis of the annual report and business climate. The government should make proposals to improve the business climate. A permanent secretariat should be put in place for the social plan and the process. An audit should be called when downscaling is more than 10% of the workforce.</p>	<p>No input</p>
<i>Trust funds</i>	<p>Funding should come from government, industry and a smaller part from workers</p>	<p>Social Trust Fund should be established and administered by all the stakeholders' representatives. There should also be amalgamation of other funds into the Trust Fund.</p>	<p>All agreed on the establishment of a Social Trust Fund; however, community representatives should not be given any participation. No comments on mechanisms of funding.</p>	<p>Government should provide assistance to mines and regions faced with downscaling.</p>	<p>Trust funds of companies should be on a tax free basis, similar to environmental rehabilitation funds.</p>	<p>The Social Plan Fund should have contributions that are both national and regional. Government should force mining companies to co-operate.</p>	<p>The government proposal on a social plan fund was accepted. Trust Fund should come from 90% government and industry and 10% from workers.</p>

	<i>Kimberley</i>	<i>North West</i>	<i>Northern Province</i>	<i>Mpumalanga</i>	<i>KwaZulu-Natal</i>	<i>Namaqualand</i>	<i>Gauteng & Free State</i>
<i>General</i>				Counselling of retrenched workers should include how to spend retrenchment packages.	Beneficiation e.g. jewellery making should be considered by government.		A Gold Summit should be convened. There should be counselling of retrenched workers especially in financial management.

APPENDIX E: Mining and Environment

	<i>Kimberley</i>	<i>North West</i>	<i>Northern Province</i>	<i>Mpumalanga</i>	<i>KwaZulu-Natal</i>	<i>Namaqualand</i>	<i>Gauteng & Free State</i>
<i>General input into the chapter</i>	<p>Definition of environment should be included at the beginning of the chapter, to be in line with National Environment Policy definition. This should include plans for implementation of policy.</p> <p>There is a need for a glossary and definition of terms.</p>	<p>Environmental management accountability should lie with the mineral rights holder.</p> <p>Mineral rights holders should compensate surface rights holders for environmental impacts suffered during mining, until rehabilitation has been done satisfactorily.</p> <p>Social rehabilitation of ex-mine workers should be undertaken by mines. Social impact management should be part and parcel of the EMPR (at all stages).</p>	<p>Government should make an inventory of all mineral resources of South Africa to assist in community planning for development.</p>	<p>SA should be flexible in adopting international standards. Local needs should take precedence over international obligations.</p> <p>DME should not be lead agent.</p> <p>Tripartite structure excluded communities (this is an anomaly).</p> <p>The distance between mines and communities should be considered in planning decisions.</p>	<p>Dust pollution due to untarred access roads.</p> <p>Suggested that mining companies should maintain access roads, particularly those that pass through residential areas.</p> <p>Water pollution by mining activities was an area of concern.</p> <p>In the short term mines should provide communities with clean piped water, and in the long term should treat and rehabilitate all land and water polluted by their activities.</p>	<p>No law in Green Paper to address environmental management in the mining sector.</p> <p>Government should take black empowerment of small scale mining seriously.</p> <p>An umbrella body consisting of all mining houses should pay for EMPR costs.</p> <p>Need to know how government will regulate itself with regard to DEAT and DME's roles in environmental management.</p>	<p>Communities affected by mining should be watchdogs of the environment.</p> <p>Air and water pollution should be seriously addressed.</p>

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<i>Accountability</i>	<p>Distinguish all levels of accountability.</p> <p>Need time frames within which a miner is to be held responsible for environmental management after closure.</p> <p>Generally proposal acceptable.</p>	<p>DME should be lead agent, but the DME capacity is of concern</p> <p>Proposal accepted in general.</p>	<p>Clarity sought on who should monitor the accountability of the mining industry.</p> <p>Guidelines for relocation compensation should be developed, and relocation forums formed</p> <p>Proposal accepted in general.</p>	<p>No input</p>	<p>Proposal accepted, provided that mining companies are held responsible for all their impacts.</p>	<p>No input</p>	<p>Proposal supported in general.</p> <p>Size of buffer zones should be established.</p> <p>Mines should be responsible for the health of contract workers after they leave the mine.</p> <p>Mining areas should be fenced off.</p> <p>Need impartial watchdog of the accountability of government.</p>

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<i>Polluter Pays Principle</i>	<p>Government should be held responsible only as a last resort.</p> <p>Harsh penalties should be introduced for defaulters.</p> <p>How will government deal with environmental management for small scale miners who might not have deposits to pay up-front and capacity for EIAs and rehabilitation?</p> <p>Self regulation should also be considered, as well as incentives.</p> <p>Combine state regulation and self regulation.</p> <p>DME has no capacity (emphasised)</p>	<p>Proposal supported.</p> <p>The state must accept responsibility for rehabilitation.</p> <p>Make use of the public protector if state fails.</p> <p>Rehabilitation of closed mines should be prioritised, starting with those that are an immediate danger to communities.</p>	<p>Pollution levels should be monitored to ensure that they do not exceed acceptable levels.</p> <p>Proposal accepted.</p>	<p>DME should not enforce this proposal because of conflict of interest.</p> <p>Disagreement on whether the mine or government should be responsible for long-term rehabilitation.</p>	<p>This was seen as a very important proposal.</p> <p>Penalties should be enforced on all mines that fail to comply.</p> <p>State should support small-scale miners with rehabilitation.</p> <p>Mining companies and the state should assist communities to monitor pollution levels.</p>	<p>No input</p>	<p>Final responsibility should rest with government, but all options must be exhausted first.</p> <p>Beneficiaries of rehabilitation should not be made to assist in the rehabilitation of land where they are going to benefit.</p>

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<i>Identifying environmental impacts</i>	Need for DME to undertake an educational and awareness campaign among small scale miners, industry and communities, particularly in rural areas on impacts associated with mining and how to identify them. DME lack of capacity in this area again of concern.	All miners need to be educated about environmental issues, irrespective of size. Promotion of SSM of minerals that have a low impact on the environment should be done. The cumulative impacts of open cast mining should be addressed prior to mining. DME needs extra capacity.	Communities need guidelines on how to manage impacts once they have been identified. Mines to be held responsible for final management	No input.	Community capacity building should be done to enable communities to implement environmental management standards in their areas independently (proactive approach).	No input	Proposal accepted

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<i>Consistent standards</i>	<p>Definition of large, medium and SSM should be included in document.</p> <p>Consistent standards should be applied.</p>	This proposal was accepted.	Proposal should be clearly stated in simple language with use of examples.	No input	<p>2 views emerged:</p> <p>1. Owners of mineral rights should be held responsible for environmental management.</p> <p>2. Small scale miners should not be expected to meet the same environmental management standards as big mines.</p>	Small scale miners should have good environmental management, but not to the same standards as big mines.	<p>Proposal accepted.</p> <p>SSM should be assisted with environmental management.</p> <p>Proposed that small scale miners form an association for environmental management in order to share ideas and resources.</p> <p>Small scale miners should be encouraged to register so that their activities are monitored.</p> <p>Small scale miners should get technological and educational assistance.</p>

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<i>Public participation and consultation</i>	<p>Need to take public views into account.</p> <p>Consultation should go hand in hand with negotiation with stakeholders affected by mining.</p> <p>Room for appeal should be created if social impacts are ignored.</p> <p>Consultation with other departments should occur.</p> <p>Some stakeholders will be site specific.</p>	<p>Proposal accepted.</p> <p>The word “community” should replace “grassroots”.</p>	<p>Capacity building should be done so that communities effectively participate in decision-making processes.</p> <p>A trust fund should be set up to benefit relocated communities (to develop new settlements).</p>	<p>Stakeholder participation should be promoted with those both directly and indirectly affected).</p> <p>The implication that public participation will lead to sterilised decision-making should be taken out .</p>	<p>This proposal was seen as very important.</p> <p>Communities should be involved in planning of mine projects and monitoring of water pollution.</p>	<p>No input</p>	<p>Communities should be capacitated and be consulted in decision making processes.</p> <p>The implication that public participation will lead to sterilised decision-making should be taken out</p> <p>There should be one environmental policy that is cross-cutting.</p>

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<i>Integrated environmental management</i>	<p>Reference and adherence to other government departments policies crucial. DME accountability to other departments should be clarified. DME should accept that it can not be watchdog and promoter of mining at the same time.</p> <p>Capacity for IEM should be at government and community levels.</p> <p>Court appeal or arbitration should be used. Need clear mechanism of recourse.</p>	Proposal accepted.	Proposal accepted	Proposal accepted	Proposal accepted	No input	<p>Mines should enhance economic development in surrounding areas.</p> <p>Need to refer to the Security of Land Tenure Act which also deals with environment.</p>

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<i>Multiple land use</i>	<p>Need intergovernmental consultation in planning.</p> <p>Complained that mining is taken as the priority land-use. Need to re address this.</p> <p>Mining is basically unsustainable.</p> <p>Take cognisance of the fact that mining places a limit on other land uses even after rehabilitation.</p> <p>Need to plan for communities sustenance after mining stops.</p> <p>Need for community trust fund for community development.</p>	<p>Proposal acceptable in general, but differing views on the sustainability of mining.</p>	<p>Criteria for cost-benefit analysis should be developed and detailed to communities.</p> <p>Proposal accepted.</p>	<p>Precedence should be given to communities not mining.</p>	<p>This principle should be site specific.</p> <p>Inventory of quality and quantity of minerals in an area should be done so as to guide the assessment of development options early on..</p>	<p>No input</p>	<p>Life-span of mines and minerals should be determined prior to mining in order to assist in planning land use options.</p>

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<i>Waste minimisation and management</i>	<p>Treatment of waste should also be encouraged.</p> <p>Definition of waste should include derelict mine equipment.</p> <p>Reference should be made to other to relevant legislation.</p>	<p>Proposal accepted.</p> <p>Need to emphasise that the mineral industry must be committed to waste minimisation, as compared to being encouraged.</p>	<p>Proposal accepted</p>	<p>Reference should be made to the Integrated Pollution Control Policy.</p> <p>The mining industry should be subjected to strict environmental regulations.</p>	<p>Proposal accepted.</p> <p>Need waste management guidelines for small scale mining, particularly hazardous waste.</p> <p>Community reuse of waste should be encouraged.</p>	<p>No input</p>	<p>Proposal accepted.</p> <p>Community re-use of waste should be encouraged.</p> <p>Preference in reworking mine dumps should be given to communities as a form of job creation.</p> <p>Mines should recycle and treat waste water.</p>
<i>Streamlined environ. approval system</i>	<p>Need to clarify “one-stop shop”.</p> <p>DME should justify why it has to be the lead agent.</p>	<p>The proposal was accepted without amendments.</p>	<p>Proposal accepted</p>	<p>This proposal should be taken out.</p> <p>DEAT should be the lead agent.</p>	<p>No input</p>	<p>DME should not be the lead agent (one cannot make wolves shepherds of sheep)</p>	<p>Proposal accepted</p>

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<i>Further discussion</i>	<p>The issue of sustainability is not adequately dealt with.</p> <p>Cost benefit analysis of mining should be done.</p> <p>Issue of state and community mineral rights should be addressed.</p> <p>Need to address environmental management for small scale miners, skills development in mining communities, need help for small scale miners with rehabilitation. costs.</p>	<p>Participants commented that they felt empowered by the public participation process undertaken by KWAGGA.</p> <p>Requested capacity building and awareness sessions before the white paper is released.</p> <p>Lack of participation by women in the mining industry was raised as a point of concern.</p>	<p>Need for procedures and channels to communicate community concerns.</p>	<p>Paper should be more gender sensitive.</p> <p>Cross referencing between chapters is recommended.</p>	<p>Need state assistance for capacity building for communities (in environmental management, not just small scale miners.</p>	<p>Small scale miners should get assistance for environmental management.</p> <p>Communities should get help for them to access and rework mine waste.</p>	<p>Mines should pay a deposit to be used for rehabilitation of mines after closure.</p> <p>Mines should contribute to the costs of health care facilities as a way of addressing the health impacts of mining.</p> <p>Concern was raised as to how communities will participate in the implementation of this policy once it gets finalised.</p>

APPENDIX F: Land Restitution

	Kimberley	North West	Northern Province	Mpumalanga	KwaZulu-Natal	Namaqualand	Gauteng & Free State
<i>Mineral rights ownership</i>	<p>All minerals should be owned by the state and registered accordingly.</p> <p>Ownership of land rights should mean ownership of mineral rights as well.</p> <p>Compensation for lost land should include compensation for mineral rights where minerals existed.</p>	<p>Mineral rights should accompany restitution of land rights (i.e. before the state takes full ownership and controls the exercise of prospecting and mining), so that communities will benefit from payment of compensation.</p>	<p>The state should allow communities to lease mineral rights (from the government) if the land they occupy has mineral deposits.</p> <p>The state should compensate owners of mineral rights when the new system is in place.</p>	<p>State ownership of mineral rights was supported, with the exception of land owned by the “tribe”.</p> <p>There should be a partnership between the government and land owners in issuing mineral leases for the purpose of community economic development.</p> <p>Current mineral right holders or permit holders should be compensated should the state seek to take over the mineral rights.</p>	<p>Mining rights should be attached to land rights.</p> <p>Land owners or communities who have been involved in mining should be considered first in issuing mining leases.</p>	<p>The state should be the principal owner of mineral rights and assist small scale miners with the necessary resources to start mining.</p> <p>Government should make use of land reform policies to ensure that people gain access to land and mineral rights.</p> <p>Government should give communities access to minerals on the land that has been specifically allocated to them in terms of the land claims received.</p>	<p>Land rights should mean ownership of mineral rights where there are minerals.</p> <p>If the state is going to be the owner of mineral rights then local government as a sphere of government should have the right to own minerals.</p>

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<i>Capacity building / Community involvement</i>	<p>The state should build the capacity of previously disadvantaged sectors.</p> <p>State should simplify access to mineral rights.</p>	<p>Mining has an important impact on land rights in terms of planning – information around planning for the future should be shared with claimants as part of resolving a claim.</p> <p>Government should assist in capacitating communities with negotiation skills e.g. in cases where communities are faced with relocation when a prospective miner wants to mine through leasing of private land.</p>		<p>Full disclosure and dissemination of intentions and purposes (to land owners or community) must be made in relation to possible future and present mining activities.</p> <p>Local government and community structures must be part of the data or information collectors and monitors.</p> <p>Communities should be capacitated in technical skills to maintain employment and be in a position to lease and mine on their own.</p>	<p>Mining houses should consult communities as surface rights holders in relation to mining activities.</p>	<p>Government must give communities access to capacity and resources, e.g. information and funds to communities without land and mineral rights</p>	<p>Communities or land owners of land that is successfully claimed must be trained on land suitability for productivity in order to avoid danger in areas where mining took place.</p>

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<i>Benefits</i>		<p>Mining houses or companies should contribute a prescribed (legislated) fee to a local Community Development Trust.</p> <p>Companies should (through legislation) become involved in programmes aimed at social upliftment of communities affected by mining operations e.g. water for mining should be extended to the local communities and other land needs such as agriculture.</p>	<p>Mining houses should enter into agreements with communities in relation to social benefits and developments such as job creation, roads, housing and water reticulation. Local government must play an important role in this.</p>	<p>The community should receive royalties and these should be used for the purpose of addressing socio-economic imbalances.</p> <p>Local government must be involved so as to incorporate the resources in the local development plans, as required by the Development Facilitation Act.</p>	<p>Mining houses should provide capital outlay for basic services to the local government for development. This partnership will yield tax benefits that will in turn benefit workers.</p>	<p>The government must see to it that benefits derived from the mining companies are distributed in an equitable manner.</p>	<p>A trust should be set up by the mining permit holder and administered by local government, it will take care of social responsibilities like Building of clinics, schools, houses, roads.</p> <p>Water reticulation should be extended to neighbouring communities.</p> <p>Electricity for the mining company should be bought via the local government so as to boost its income.</p>

APPENDIX G: Geographic Map of Workshop Locations

