MMSD

Mining, Minerals and Sustainable Development

December 2001 No. 221

Report of the Workshop on Access to Information and the Mining, Minerals and Metals Sector

Thursday 29 October –
Friday 30 November 2001
Vancouver, Canada

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Mining, Minerals and Sustainable Development is a project of the International Institute for Environment and Development (IIED). The project was made possible by the support of the World Business Council for Sustainable Development (WBCSD). IIED is a company limited by guarantee and incorporated in England. Reg. No. 2188452. VAT Reg. No. GB 440 4948 50. Registered Charity No. 800066

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1 Workshop Objectives

The broad aims of the workshop were to facilitate discussion on the critical issues that surround the gathering, dissemination, evaluation, reporting and use of information in the mining, minerals and metals sector. It was convened to build on the progress made by the MMSD consultant workgroup, which has compiled several papers addressing key themes in this area. An earlier scoping meeting held in Toronto helped to identify specific gaps in knowledge and understanding around this topic and to define a small number of specific areas in which MMSD could conduct a limited programme of research and engagement.

A total of 30 people were brought together for this meeting from various countries, including industry representatives, community-based organisations, regulators, governments, research institutions and other non-governmental and international organisations.

An analysis of the commissioned work was used as the basis for discussion of the key challenges and opportunities facing the sector with regards to information production and use, and to address the specific actions needed to drive change. As part of the effort to capture the major issues for analysis around this topic, participants were invited to critique and comment on the background research, which will be developed to ensure that the MMSD Final Report, available in May 2002, reflects a diversity of viewpoints on this subject. The following MMSD Working Papers reviewed at this workshop included:

- Corporate Communications Standards – *Ian Thomson and Alistair MacDonald*;
- A Review of Systems for Making Information Available – *Dr. Sándor Fülöp and Dr. Csaba Kiss*;
- The Government Role – *Fernando Loayza Careaga*;
- Community Information Needs – *Ginger Gibson*;
- Gap Analysis to Inform an Experts' Workshop – *Ginger Gibson, Alistair MacDonald and Ian Thomson*.

The objectives of the workshop were to:

- Identify the roles, needs and resources of actors associated with the sector throughout the life-cycle of mined products.
- Evaluate current best practice in the light of information provided both by the commissioned work and the commentary of participants.
- Comment on the challenges and opportunities that arise in the area of access to information based on the knowledge gained from 1) and 2) above. A key question posed aimed to answer why the information needs of various actors are not being met.
- Identify mechanisms which will address the challenges outlined in 3) and take advantage of the opportunities present in current business and political environments.
- Formulate an action plan and strategy that would allow stakeholders to move forward with 'best bet' options for addressing key problems.

- Outline the actions that need to be taken by each set of actors to drive change towards a better and more information-rich mining, minerals and metals sector.

The written outputs of the workshop will feed into MMSD's Final Report, scheduled for completion in April 2002.

The Basis of Participation

Attendees were not regarded as representing any group (unless specifically mandated to do so), but instead as individuals who were able to speak to a wide range of experiences and knowledge of relationships with the sector. Further, attendance at the workshop was not construed by MMSD as support for the project or its objectives.

The principles that govern the running of this workshop and other project activities are outlined in an MMSD document entitled 'MMSD Principles of Engagement' available on the MMSD website. In particular, the workshop did not seek to generate consensus or present the commentary of the workshop as in any way representing the position of any particular community of interest. It was meant instead, to reflect the opinions of knowledgeable people on circumstances that prevail in different parts of the world. The overall aim was to assess the potential for improving the opportunities for stakeholders to interact equitably on issues of information generation and exchange in relation to minerals and metals exploration, mining, use and disposal.

2 Introduction

Frank McShane

MMSD is trying to capture 'leading edge thinking' in relation to how the minerals sector can contribute to the global shift towards a more sustainable society. The strategic vision, which MMSD hopes to map out for the industry's future development, is outlined in the form of Eight Challenges. The objectives of this workshop are linked directly to one of the challenges which asks: how can we keep pace with the information revolution and ensure meaningful access to information for all stakeholders?

Information is not knowledge or value-free. It can both empower and disempower. Increasingly, we are moving from a 'show me' world to a 'tell me' world, which has important implications for the way information is provided. Access to information will need to meet the requirements of a whole host of actors, as well as tackling issues of efficiency (cost and effectiveness) equity and transparency if a shared understanding of the role information can play in creating a solid basis for sustainable development is to be achieved.

Traditionally, there has been a lack of trust between actors in the mining sector and some of the key issues surrounding the need for information such as what information needs to be gathered in the minerals sector, who should gather it, with whom, and how, will need to be addressed if the goal of making access to information more equitable within the sector is to be realised. An understanding of the varying capacities of each actor, what resources they have available and their willingness to do so will also be examined as part of this debate.

Beginning with a discussion of the needs of actors through to considering potential strategies and actions for the future, this workshop was convened to reflect on MMSD's commissioned work in this area. A lot of important background work is already feeding into the MMSD process, such as the GRI initiative surrounding public reporting and best practice initiatives; legal consideration of the impacts of access to information; and a study on the links between mining development and finance.

Key issues raised during the workshop aimed to address the following questions:

- Why do we need information?
- What information?
- Who needs it?
- How is it provided?

The Workshop Process

Answers to the above questions were structured and framed in relation to the life cycle of a mining project. Gap analysis was used to identify unmet needs, related obstacles and challenges, before looking at examples of current best practice and moving towards suggested mechanisms for change and an action plan.

Day One was set aside to present the MMSD commissioned research on access to information and elaborate on the abstracts participants received before the workshop, and to discuss information needs for the sector and examples of best practice. Day Two was dedicated to examining potential action plans and mechanisms for change. Suggested responses for each category were developed and conducted through a combination of plenary and breakout sessions, the results of which are summarised in tables in Appendix 1. A 'roadmap' of some of the key issues that surfaced over the two days drawing on participants commentary and analysis, demonstrating the linkages and interconnection of ideas between each group can be seen in Appendix 2.

The meeting was opened with participants asked to articulate their vision of a 'perfect' world in relation to access to information. Responses are broadly summarised as follows:

- Open dialogue between actors
- A demonstration of transparency on the part of all stakeholders with an emphasis on ensuring equitable systems for dealing with information production and use. All actors need to be held to the same standards of accountability
- Communication which enables different groups to support each other through strong networks
- Combating misinformation
- Eliminating 'us versus them' barriers
- Communicating information in a way that is understood by all
- Identifying information that is needed for all actors to help further the relationship between communities, governments and companies
- Providing a clearer understanding of what is meant by democracy, particularly with respect to who chooses and disseminates information
- Clarifying how governments obtain and use the information they need, and how this can be successfully transmitted to communities
- Recognising information as a force that can level the playing field and bridge the gap between community and industry
- Ensuring there is two-way communication that respects community perspectives, mechanisms and needs
- For companies to be less defensive and more proactive
- Using information to facilitate a better understanding of community needs, including the specific needs and perspectives of indigenous communities
- Managing stakeholder expectations in the mining process
- Integrating traditional knowledge into relationship-building
- Building capacity amongst all stakeholders
- Not punishing anyone for sitting at any table
- Recognising information as a force that can both empower and marginalize, that can bring parties together or push them apart

3 Presentations of MMSD Commissioned Research

3.1 Access to Information: Corporate Communication Standards, Practice and Issues

Alistair MacDonald and Ian Thomson

Over 100 people were contacted to see how access to information unfolds in the corporate sector, with particular emphasis on the practices of Canadian companies. The focus of this research was to determine the capacities and incapacities of the corporate sector to communicate with other stakeholders; assess the gaps that exist between current and best practice and the reasons why they exist; and to consider what needs to be done in the future.

Key characteristics of the corporate sector:

- Mining is a production system that engages different corporate actors through the scope of a mining project life cycle
- Projects have distinctive life cycle phases that are seldom started and completed by the same company.
- The capacity to communicate varies widely at the global and project level

Access to information in mining

One of the main factors underlying current access to information in mining is that it is a compliance driven industry, with information needs primarily oriented towards meeting regulatory requirements. As a result, information flows to financial and governmental regulators and trickles through to less empowered groups.

The disclosure of much of this information depends on the 'material' impact it has on the value of a company. The question of materiality varies according to the size of a corporation and its 'drive' to communicate. For example, a junior company may be driven to provide detailed information at the exploration phase of a project which larger companies may not feel bound to report on at all.

Companies expressed a willingness to share their information with other stakeholders provided this would not undermine any commercial advantage. However, it was noted that there were often discrepancies between what companies were willing to report and what they actually reported. Information is regarded as a strategic asset by corporations, as well as a site of power and control. This can be gauged on two fronts:

1. where the timed release of information documents past events rather than provides real-time or forward looking reporting, and
2. where corporations retain control over information disclosure until *they* decide it is material, and are comfortable with sharing it with third parties.

While corporations have the capacity to collect and control data they may not have the skills to effectively communicate with other stakeholders, or indeed internally. This is partly

because information tends to be centralised through a separate communications department and not diffused through the organisation as a whole, which leads to a filtering of information between the firm and its stakeholders, and also between head office and the project level.

Main issues

A key issue that emerged from this research was the perception that mining companies feel burdened with having to meet information requests from all parties. They see this as steadily increasing, affecting their ability to engage interactively with both primary stakeholders (shareholders and investors) and also at the project level with locals and civil society.

- Culturally, companies feel they are better suited to collecting information rather than communicating. They also see their role mainly in terms of information providers rather than recipients.
- Small corporations and large corporations have different communication capacities, yet the same expectations govern both.

Form this research it was evident that engaging with stakeholders differed widely according to corporate sector capacities, and at each stage of the mine cycle. Suggested ways for overcoming *internal* barriers to change were to:

- Develop common goals and training
- Establish feedback mechanisms to see how others perceive the need for change
- Recognise the difference between information and communication
- View information as an investment rather than a cost

Some of the mechanisms needed to eliminate *external* barriers to change would be to:

- Streamline and ensure consistency in the application of regulations (both financial and governmental)
- Recognise that barriers to trust between mining companies and NGOs are created on both sides
- Invest in capacity building by enlisting the wider support of communities and non-governmental agencies. This may also help the industry to listen more closely, and move away from simply gathering and distributing information to a more communicative role. Also need to think about the information that companies provide in terms of language, medium etc.

Moving away from an 'information' culture to a communication culture needs to be built on many levels: at the community level, within the corporate community and in terms of the information that is provided, particularly on the reporting of 'hard' (scientific fact/ empirical data/ statistics/ financial data etc.) vs. 'soft' (qualitative data/ viewpoints/ criticism/ values) issues.

Best Practice

The need to develop a business case of 'best practice' in relation to access to information is essential, since ultimately shareholders and their demand for profitability needs to be met. Individual corporations lead by best practice, but it is only at the industry level that best practice can become the norm.

Current trends in best practice – open book, open door and open ears reporting – is an important recent development, because it recognises the value of continuous community consultation, active involvement in decision-making, multiple parameter reporting and independent verification, as well as the building of social and environmental risk/ impact assessments into project transfer between explorers and producers.

Future visions of best practice may lead to the codification of these policies by the industry. There is however a danger in standardising norms of best practice when they may not be reflective of best practice at all, emphasising the need to view this as an incremental and evolving area of practice. Implementing such standards would also have to consider:

- Whether there is a level playing field, and what incentive provisions exist for the industry to turn best practice into norms
- Whether this process can be achieved through industry self-regulation, and what leverage the industry has in maintaining such standards

Bridging the gap between current and needed best practices

- Industry research will need to invest in social development and bolster the business case for transparent information release and communication. This requires a shift in corporate culture that will have to be begin internally.
- Recognition of difference, and straddling the gap between feelings of us vs. them in order to build trust.
- Industry think-tanks and groups emerging out of the MMSD process will need to look as closely at cultural and social issues as they do environmental issues.
- Different actors external to the mining industry will need to shoulder some of the responsibility for making this process work.

Future challenges

- Small companies are going to have to work as hard as large companies to bring about change
- Assisting communities can be achieved through internal change and external funding processes. To bridge the us vs. them dichotomy, communities will need a conduit that will enable them to communicate effectively with mining companies.

3.2 *Information Availability - A Key to Building Trust in the Minerals Sector: Review of Systems for Making Information Available*

Dr. Sandor Fulop and Dr. Csaba Kiss

An overview of the main findings of this paper were presented by Frank McShane. This paper is principally concerned with examining the instruments that regulate access to information at the international level with the aim of providing a clearer understanding of existing and proposed mandatory initiatives for making information available to actors participating in or affected by the minerals sector. These measures were reviewed according to the planning, financing, permitting and operation phases of a mining project.

Key premises

- Access to information is seen as the cornerstone for establishing effective systems of public participation. This principle is recognised internationally as a basic right, including the right to access to information as well as the right to be informed.
- All actors need strong and respected systems to regulate the production, dissemination, use and evaluation of information implying a clear definition of roles for states, companies and communities.
- An environment of trust needs to be created and instruments need to be in place to ensure that information needs for all actors are respected.

Main findings

- Draws attention to the fact that legal requirements for the disclosure of information vary considerably between the home country of the company and the host country of a mining project.
- International governance is weak in this area and systems may not always exist to regulate or enforce access to information.
- Marked differences were found in terms of government capacity and political will to carry through any recommendations. Even where systems were in place, the level of mistrust between actors remained high.
- National level policies are mainly concerned with environmental outcomes. Obligations for disclosing environmental information differ according to existing mandatory instruments and the strength of monitoring systems.
- The voluntary nature of corporate commitment on information disclosure varies widely. Existing measures tend to be characterised by a lack of detailed rules for access to information for the public.

Best practices

For the purpose of this review, best practice here relates to best regulatory practice.

- Most regulations are driven towards meeting public information needs on request. More sophisticated regulations are tailored towards considering the communication and information needs of all stakeholders during each phase of the project cycle, including the need for clear and transparent processes of communication.
- In terms of the availability and accessibility of information, basic levels of regulation declare a simple readiness to communicate, while other regulations are more progressive and clear about the systems and mechanisms they would use to ensure that information can be readily accessed by the public. In this context, use of the Internet holds a special relevance, though access to this medium of communication is mainly confined to audiences in the North.
- The issue of costs and charges in relation to access to information is another key factor in determining whether a particular country has an inclusive system of access. Research findings varied according to the regulations in place, though most contained little provision for free access to information.
- The user-friendly nature of an access to information system can also be evaluated in terms of best practice. This can be according to the availability of information in other languages, whether it is delivered in a culturally appropriate manner, whether it is clear and comprehensible; whether information disclosure is timely and tailored to the needs of an applicant, and whether links to other references and databases are included. Again wide variation exists in regulatory practice.

Conclusions

- Granting public access to information varies widely. Few legal systems are committed to ensuring the practical provisions contained within legal declarations are adhered to in order to make disclosure of information a regular and real practice
- Voluntary corporate self-regulation policy for making information available is too general to provide effective access to information. It marks a seachange however in the way companies are beginning to address issues of accountability, transparency and environmental and social performance.
- Legislation encourages the use of modern methods of communication. This is far removed from the everyday reality of communities where access to technology is limited and where high rates of illiteracy prevail, particularly in areas where mining activities take place
- A possible framework for establishing effective communication between stakeholders could be developed by establishing contact points for the exchange of information with civil society. The corporate sector would need to be actively involved in this process which would also require the representation of affected communities. State approval could be endorsed either through granting special rights and privileges to companies undertaking such initiatives or simply through recognising these companies as models of responsible corporate citizenship.

For a detailed summary of the mandatory and voluntary instruments that govern the different phases of the mine life cycle, please refer to the MMSD Working Paper.

Response

Gary McDonald

The following points were raised:

- Mining is by nature mechanistic. This has implications for the way that social and environmental issues are dealt with. Often gaps exist between what companies think communities know and understand, and what communities actually understand. Communities often assume that companies have a greater capacity for generating information than they actually do, when frequently they aren't in possession of the information required either.
- Conflict can arise from poor information disclosure. Companies are beginning to take steps to ensure that communities are informed of the potential impacts a mining project can have on local development before it comes into operation. However, this should not be seen as strictly a matter of corporate responsibility, but one shared by civil society and governments too.
- There is a need to recognise some of the difficulties involved in breaking down barriers between companies and communities. For example, companies negotiating Impact and Benefits agreements with communities had problems identifying who the community was, and whether signing such agreements contravened existing regulations at the local and national level.
- At the corporate level there is a need to manage the flow of information between head office and the project specific level, and to recognise that differences exist between project groups themselves. It is also useful to look at how incentives built-in to mining projects can encourage people to respond in different ways.
- A study will soon be made available that looks at the issue of consolidation. The effect of smaller companies being taken over by bigger corporate players will undoubtedly affect the landscape governing corporate/ social relations, and is anticipated to significantly influence the way people will communicate in the future.

3.3 Access to Information: The Government Role

Fernando Loayza

The role of government needs to be seen within the context of a rapidly changing policy environment during the 1980s, which saw the rise of the global market economy. The introduction of measures designed to encourage private initiative and investment led to the retreat of state intervention in the economy, allowing the private sector to assume the lead role in resource allocation.

- The minerals sector, through its ability to generate foreign exchange and economic surplus, create employment and develop infrastructure was seen as an important driver for growth in countries with high mining potential.
- Creating an enabling investment environment became a key policy objective and led to policies aimed at attracting capital, technology and entrepreneurship and structural reform of the sector, in the belief that this would maximise the contribution of the mining industry to the national economy.
- New legal and regulatory frameworks were introduced, which led to a changed role for the state in terms of providing the legal, institutional, fiscal and environmental requirements that would allow a privately owned mining industry to flourish.

Through this process, it was implicitly assumed that benefits would accrue at the local and community level. However, the concerns and aspirations of local and indigenous communities seeking to avoid negative impacts and maximise the benefits from mining were overlooked. The lack of proper mechanisms to enable local people to influence the way mining activities are carried out and share in the benefits generated, has emerged as a core issue for the successful implementation of mining reform.

The consultation dilemma

Because of its importance for sustainable development, consultation has been identified as the proper means for involving communities in the decision-making process around mining development. A distinction is made here between two types of consultation:

- *Prior* consultation – the consultation of communities prior to mining development
- *Private* consultation – where communities are informed and their views considered by mining developers

However, the consultation process creates a policy dilemma, since the consultation of communities prior to mining development suggests that they have the right to accept or reject a mining development. This implies a shift in the way mining rights are granted by states, and conflicts with the legal framework that primarily invests the right to mine with a mining concession. The effects of this could even discourage mining investment because of weakened legal security in mining titles.

Private consultation provides an alternative means for accommodating community consultation within a reformed legal framework, sealing the relationship between mining

companies and communities. However, this approach assumes a level playing field and the ability of different stakeholders to engage on an equitable and collaborative basis. As stakeholders do not have the same power of influence and to prevent the co-opting of community interests by mining companies, there is a clear need for government involvement in protecting and defending the interests of weak or poor stakeholders.

The key challenge is therefore seen as one of defining an efficient, effective and appropriate way for state involvement in this process, and to identify the key types of information needed by the government to enable effective interaction between stakeholders.

The Third Way: Public Consultation

Public consultation provides an alternative to both prior and private consultation models. To facilitate active stakeholder engagement, the type of policy framework required will need to ensure that public consultation is central to this process, which also needs to promote local and community level development. The main features of this framework proposes the need for public consultation to:

- Be regulated but flexible. Community rights of access to information need to be enshrined in law, with the state working to ensure this is accommodated in such a way that provides sufficient detail and is easily understood by all. However, this approach should avoid being overly prescriptive.
- Include the right of local and indigenous communities to partake in benefits from mining activities. An assessment of the nature, scope and impacts of the project and issues of landownership rights as well as the need for companies to maintain their economic competitiveness will need to be addressed.
- Be transparent and accountable. A community development plan that would oversee the distribution of benefits and allocation of resources which communities would also be expected to contribute to, could be one way of achieving this.
- Ensure that prior consultation is a requisite for mining development in socio-cultural 'hot spots'.

The state has to act as both regulator and facilitator in this process, to establish the basic rules that govern mining company and community relations and to prevent conflict between these actors by promoting win-win arrangements.

As regulator, governments require clear information on:

- environmental and social impact assessments;
- the plans and agreements reached between mining companies and communities;
- land rights and boundaries (while respecting the rights of culturally specific communities to intellectual property rights over tenure relationships);
- monitoring of compliance with environmental and social regulations and agreements.

As facilitator, governments need to develop and awareness and understanding of the interests of all parties, including 'non-public' agendas. Fulfilling either of these roles will require a strengthening of key government agencies.

Conclusion

Public consultation is central to achieving effective communication and information exchange between mining companies and communities, which is a core issue for future policy and mining development. If this issue is not properly addressed, the implications will be manifold. A key challenge is to determine the type of information that matters in this process.

3.4 Access to Information: Communities

Ginger Gibson

This presentation is based on research conducted with communities and community-development experts throughout the mine life cycle, drawing on case studies from Bolivia, Nicaragua, Peru and Canada.

A number of important principles emerged from this research, emphasising the rights of communities to:

- be informed of and decide on development before mine operations begin;
- seek multiple accounts of the effects of mining in their areas;
- ensure that if development takes place it builds on their strengths and needs;
- insist on communication going both ways.

Communities are extremely diverse, however for the sake of this discussion community will be treated as a homogeneised concept.

In terms of identifying unmet needs, this was examined from two main perspectives:

1. where a complete lack of information exists at the local level, and
2. where there is little recognition of community information.

Key barriers that prevent information needs from being met and affect the process of communication relate to:

- Information vacuum
- Incompatible time frames
- No point of contact. Communities are often frustrated by the change of personnel in companies and conflicting messages received by different staff.
- Change in companies

- Confusion of roles - eg which government actors are responsible for mine permitting and compliance checking, who makes the decisions?
- Format and channels for communication. A number of factors will influence how different members of a community understand or use information, eg language, gender, culture. Need to assess what the main cultural gaps are in terms of how traditional knowledge sits with scientifically constructed knowledge, and what the community's preferred medium for communication is. Materials and communication plans need to be tested and developed appropriate to the local context.
- Access to technology. For example, regulations, annual reports, rights; ability to work with technology
- Exchange of information – communication usually flows from companies to communities, but not back the other way.
- Information overload

Communities require multiple sources of information from a whole host of stakeholders to reach an informed understanding of what the impacts of mining are likely to be. These information needs will be site specific and vary according to the different phases of mining. For example, during the exploration phase of a mining project, communities will require information on the:

- proposed mine site
- nature of the deposit
- scope of the project
- critical decision junctures.

During the development, permitting, construction and operation phases of a mining project, communities will also need information on:

- Geological potential
- Development plans, production, processing options
- Financing
- Equipment and technologies
- Mining impacts
- Company track record and information on its policies
- Economic options and anticipated benefits eg compensation schemes, infrastructure such as health clinics, schools etc., local hiring and skills development, use of local products/ businesses etc.
- Closure/ post-closure plans
- Government policy eg mining legislation, tax incentives, profit expatriation. Also, in terms of government decision-making - who is responsible for and how do decisions get made.

- Rights eg labour codes and practices, land tenure, access to legal recourse etc.

From their research it became clear that there needs to be a major concerted effort by all stakeholders to ensure his information is made available. It is not solely the responsibility of communities to keep themselves informed, or strictly the role of companies to provide and communicate this information. Everyone has a role to play.

Bridging the gaps between current and needed best practices calls for:

- Mechanisms and networks that encourage the sharing of information eg local resource centres, access to independent expertise
- Capacity building, including the need to develop technical capacity that will enable communities to engage with the rules of the game
- Clearing houses and databases to provide information on mining activities around the world, including access to impact and benefit agreements and social and environmental impact assessments (but these may be proprietary and communities may not want others to know the detail).

But, the needs and considerations over community intellectual property rights where communities may not want others to know the detail must be respected.

Mechanisms for achieving this include:

- Building information disclosure into regulatory mechanisms
- Encouraging and fostering ways for communities to share and exchange information with each other
- Encouraging communities to teach governments and companies about their needs

Challenges for the future

- Discussing cultural 'hotspots'
- Developing social action plans
- Capacity building
- Ensuring that rights are respected at community level
- Recognising power imbalances that exist between communities and other actors
- Facilitating conversation

Response

Danny Gaudet

Emphasized that when looking at the relationship between mining companies and communities it is equally as important to consider what happens when a company is no

longer around. Sees a clear role for government in ensuring that mine operations are carried out with respect for the local environment and its people.

In Canada, it has taken almost 50 years for the government to officially recognise that mining has inflicted serious environmental and social degradation in Deline in the Northwest Territories. While recognising the need for more research and analysis, one of the problems experienced by his community was the lack of available information to facilitate a proper assessment of the scale, magnitude and effects of mining impacts.

While some progress has been made, the effects of dealing with uranium radiation in his community requires a better system of monitoring than is currently available. While high rates of cancer were evident, causality was not easily established because of a lack of information. A system designed to measure impacts over a longer timeframe in order to assess what approach is needed to clear a contaminated mine site is therefore essential, and information is critical to this process. Equally as important is the need to build capacity at the local level to enable communities make decisions about how this should be done.

Following a period of negotiations with the government, it took almost a year for local concerns to be fully understood. The mine no longer exists, but the tailings left behind provided sufficient evidence to conduct a number of risk assessments. These were grouped and examined under distinct areas of scientific enquiry eg wildlife, health, water etc. and the results analysed. A workshop hosted by the community led to the publication of a report documenting these findings. Since then, the community has made concerted efforts to gather the information that was missing in order to help the government make a decision over what action needed to be taken. Through their investigations, the community also discovered that the mine had never been decommissioned in spite of assurances by the Canadian government that this was the case. They also learned that it had only ever been commissioned as a silver mine and not a uranium mine. The cost of gathering this information totalled approximately $6.7 m dollars.

When dealing with issues such as these, there is an obvious need to share knowledge. Companies are still able to make profits and have viable projects with community involvement, but nobody wins without trust and information is key to this process. Communities are not opposed to mining per se, but the result of experiences like this have undoubtedly affected their views. Companies need to understand that the implications of not involving communities will prove more costly to them in the long-run.

3.5 Gap Analysis

Ian Thomson

Gaps occur where information needs by stakeholder groups are unmet by the information that is available or accessible. The scope of this presentation offers a gap analysis on the 4 project papers commissioned by MMSD, covering the main issues surrounding access to information in the mining and minerals sector. The issues that need to be addressed are wide-ranging, though many of the gaps are interconnected (see Appendix 2). The main challenge is to examine what the root causes are, and what long-term measures are needed to deal with these gaps to bring about change.

1. A starting point for discussion is the fundamental premise that the corporate sector bears the weight of information release. Information flows are primarily directed towards regulators and shareholders, with information trickling to less-empowered stakeholder groups. This creates a gap where the groups that tend to be most affected by mining projects are the ones with the least access to information. Equally the gaps in project level communications between head office and the workplace where exploration or mine sites operate in entirely different jurisdictions to the head office need to be considered.
2. Another gap points to the lack of standards that governs the disclosure and release of information. There is little guidance on basic information needs and processes between stakeholders at the legislative level, and little standardisation of mandatory instruments across national and international boundaries. Analysis of these issues feeds into a broader consideration of government regulation and the role of international regulatory bodies. Specifically, the following questions will need to be addressed:
   - Are international conventions applicable?
   - Can legal systems be strengthened?
   - Do voluntary initiatives offer the way forward?
   - What is meant by best practice?
   - Can this add value?

1. **Regulation of access to information by intervention**. Policies which intervene in relations between mining companies and other stakeholders are seen to provide the 'sticks'. Currently, gaps exist in terms of what is considered best practice and for ensuring compliance. The need to provide 'carrots', in terms of demonstrating the benefits that industry would derive from meeting standards of best practice is another key area of analysis.

2. **Best practice is not the industry norm**. There are processes and procedures recognised as being exemplary, but the key challenge is how to incentivise governments and other players to meet these standards so that best practice becomes the norm while striving to raise the bar on existing levels of performance. Currently, addressing stakeholder information needs is seen as more of a cost than a benefit to mining companies.

3. **Information is not knowledge**. Analysis of the gaps between the information that is required and the information that is provided, ties in with a broader discussion of the capacity of various constituencies to absorb and deal with this information. A disconnect occurs where communities are unable to capture or understand corporate or government information because of the way it is communicated.

4. **Information disclosure**. Much of the information released by companies operates under regulatory mechanisms and is communicated through press releases and annual reports, to shareholders. A shift to electronic reporting by companies is currently underway in Canada. Mechanisms such as this

may limit rather than facilitate access to information, and may require mediators to help filter this information through in a non-unidirectional process. Participatory mechanisms could also provide the means that would enable information to flow back the other way.

5. **Information is not communication**. There are important differences in the way that governments, companies, regulators and communities view information needs. Companies usually require factual information and data, whereas communities tend to appraise a situation. This highlights the need for different types of information and raises questions about the relevance, quality and type of information that is generated.

6. **Timing of information release**. This is an issue linked to information control as a measure of corporate power. Materiality is a key determinant of information disclosure, which varies by company and according to when a company chooses to release information based on how it defines its material needs. Communities on the other hand, demand information on all aspects of a mine project as it affects them.

7. **Information is power**. Companies and those with whom they share their information hold all the power. This has the potential for conflict. Governments are very much taking on the role of regulator, but need to become facilitators operating within a regulatory framework. Is there a greater role for government? Does this imply a change of roles?

8. **Use of information**. Another overarching issue, is the shift that has taken place in the relationship between mining companies and communities. This raises questions beyond the scope of access to and quality/ quantity of information issues, to how information is actually used by stakeholders.

9. **Perceptual issues – the cultural void**. For companies, their understanding of change, timelines, culture and values are rooted in a financial imperative that lies at the heart of corporate culture. For communities, this is just one part of their broader social, environmental, political and cultural concerns.

10. **Capacity building**. Capacity building is a key requirement of change. The gap here occurs in the sense of being able to create capacity amongst all stakeholders to enable them to work together and build positive relationships. The challenge is how to build capacity with stakeholders, and what are the costs involved?

11. **Optimizing of roles**. Roles are not optimized at every stage of the mine cycle. Need to remove inconsistencies, and understand what they are. Who are the key players? And how can the delivery of information be better

facilitated? What are the roles and responsibilities of different stakeholders in this process? Also need to consider at what stage does the relationship go wrong and why? And to what extent does information or lack of it play in this process?

12. **Information needs**. Linked to this is the need to adequately define the needs of stakeholders. There is a demand for information, but what information do people really need? Some people decide what is important once they have been presented with all the information; others demand specific information. How then to define stakeholder needs for information?

Comment on the Gaps

Helen Cheney

As part of her research for CSIRO, community perspectives on mining were looked at in 3 communities in the state of Victoria, Australia. This material was put together for a paper called 'People, Power, Participation: Local Community Perspectives on Mining' for MMSD.

Specifically, the aim of the research was to learn more about:

- How companies see their relationship with communities
- How communities see their relationship with companies
- Community experience of participation in terms of their perceptions and feelings
- Issues of power and trust – why some communities see themselves as being powerless
- The changes people want to see
- Understanding of participatory democracy and community concepts
- Community development frameworks and how companies might begin to address this.

Access to information was identified as a critical issue throughout. An understanding of the formal and informal mechanisms that people use to exchange information emerged as a key issue, and central to understanding community perspectives and their relationship with mining. Trust is an essential feature of this process and looked at in terms of how information affects and generates mistrust.

At the site level, similar attitudes to information were found as those revealed by the gap analysis. Conflict however, is another major area that was felt needed to be included in this analysis, requiring an assessment of stakeholder capacities and the types of mechanisms that are in place for dealing with situations of conflict. Specifically, what to do in situations of conflict? What is the role of a company? And will the information that companies release be trusted?

Another aspect of CSIRO's research focused on information flows, often assumed to be unidirectional flowing downwards from the corporate to the community level. The need to recognise that information flows back the other way but is often distorted because of unequal power relations was emphasised. Consequently, companies tend to receive only the information they want to hear.

On the role of government, CSIROs research found that the government wanted to withdraw from intervening in company/ community relations. While companies see themselves as being pushed into what was once the preserve of government, research from Australia shows that representative and participative democracy are entirely different approaches that need to be examined fully in the context of the changing relationships between these actors.

This shift in government/ corporate roles was also seen to have important implications for self-regulation. For example, how do companies punish poor performance as companies and not governments? What is the legal justification or ability for them to do so? Issues surrounding self-regulation needed to be examined in relation to the adequacy of current legal systems, and also in terms of what is needed to ensure they operate effectively before moving towards systems of self-regulation.

The subject of community development also raised other important considerations. Plans for community development are often conceived differently by governments, companies and communities and are a potential source of conflict.

Feelings of powerlessness reflected another area of concern that surfaced in CSIROs research and particularly relevant to the experience of Australian Aborigines. The barriers encountered by indigenous peoples in Latin America which prevented them from realizing their information needs (*see MMSD paper on 'Community Information Needs'*) points to the synergy of experience that exists between Aboriginal people in Australia and indigenous peoples elsewhere. This is another area that warrants specific analysis.

The need to think about how well the papers reflected the experiences, issues and gaps relating to access to information was also highlighted for further consideration.

Discussion

Gap analysis

- From an industry perspective the gaps were well described, reflecting broader concerns over the need to construct a well-defined business case relating to information access. Ultimately, companies are reliant on a social license to operate and are concerned with performing well and being able to differentiate themselves from other companies that behave less well. The need to demonstrate to shareholders that communities have been properly consulted and given their consent to mining operations underlines the need to validate such claims.
- From another perspective it was felt that companies are already beginning to take the lead on some of these issues. One company representative provided an example of their

geologists engaging with communities at the exploration phase, but it was also recognised that some projects had been more successful than others in dealing with local communities. The disconnect arising between the communication of mining project impacts to a community and their understanding of the issues raised was highlighted as one of the main difficulties. Capacity building was seen as an area that needed to be supported and the intervention of NGOs seen as credible intermediaries eg the Antamina project.

- Rent distribution was another area where it was felt action needed to be taken to strengthen community development. By ensuring that infrastructure is in place to enable communities derive benefit from local royalties, it was believed this would help them to sustain their development once mining operations cease.

Regulation

- Both governments and companies were seen to play a vital role in addressing the gaps, although it was emphasised that regulatory initiatives should not become too bureaucratic or overly cumbersome.
- However, notions of good governance and democracy need to be examined in the context of the reality of developing countries, particularly for those countries hindered by geopolitical constraints.
- Evidence suggests that mining companies are increasingly moving their operations to places where permitting laws are quicker, not where environmental regulation is lacking but where this process is less stringent and over-regulated, the implications of this also need to be considered.
- Given these limitations, a discussion of incentives was considered essential since there were problems in relying upon regulatory approaches as an effective mechanism for change. Coming up with viable alternatives was seen as the main challenge, and self-regulation a key way to address this gap.

Trust

- How do you map trust?
- Participation tends to include peoples expectations about information that can also generate mistrust. Governments need to make clear what is happening to the information that is being collected and how this may not even be used.
- Similarly, there is a danger in seeing information as a cure for all ills. Examples of best practice and areas where information is not lacking also need to be examined and analysed within a broader development framework.
- But, examples of best practice may not really be examples of best practice where they are not the industry norm.
- Ultimately communities need to be able to communicate. Foreign investors should forge partnerships with local partners from the outset, which may help to overcome problems of mistrust.

3.6 *Information for Mining Challenges for the Future*

Craig Andrews

Information management: Four points – one challenge

- ***Technology*** – technology has important implications in the way information is collected, processed and delivered. However, the availability of technology is mainly confined to the world's elite. Two thirds of the world's population live on less than $2 a day and many developing countries lack the necessary infrastructure to ensure access to information via this medium.
- ***Availability*** of information. Once the technology is available, all kinds of information will become available to different groups of people. This means a surplus of information will be generated as well, requiring extra care in assessing the relevance of different types of information.
- ***Stakeholders*** – a greater number of stakeholders are likely to become involved in this process, implying shifts in roles towards multiple and complex relations on an international scale.
- ***Challenge*** – the challenge for the mining sector is to ensure that policies, procedures and institutions are in place to enable stakeholders maximise the use of the information that will be available to them.

The World Bank is beginning to respond to the diverse information needs of its various constituents through its role as:

- a development organisation
- an organisation owned by governments
- a borrower, and
- an employer

In client countries, the aim of the World Bank is to create and enhance people's well-being. It is important to note that governments and not the World Bank execute projects. For the mining sector, the aim is to ensure that within the countries where they operate laws, regulations and the capacity to adequately administer the programmes that the World Bank has financed are in place and adhered to. It is also concerned with the responsible allocation of funds and information is critical to its role as a borrower on international markets.

Information needs and requirements vary throughout the project cycle. The different phases identified by the World Bank are:

- Country strategy and project identification (exploration)
- Project appraisal (permitting - feasibility)
- Project implementation (operations)
- Project completion review and performance (closure)

New information disclosure legislation introduced on 1 January 2002 means that for the first time World Bank Operational memoranda will be made publicly available, subject to a policy of presumption in favour of disclosure.

At the country strategy and project identification stage, documents used to identify the development priorities for a particular country and its poverty alleviation strategy will be released after issuance to staff or disclosed to in-country audiences. Such documents are the product of in-depth consultation with stakeholders and their release is intended to provide a platform for further discussion.

At the project appraisal stage, a rating system is used to evaluate World Bank projects. Those with an A grade classification require full environmental and social impact assessments (including resettlement and indigenous peoples development plans where applicable) and audits of original country studies. Full community consultation with all stakeholders over a long period of time is required and must be disclosed prior to appraisal, a process which also helps to identify key vulnerable groups. Previously it was unclear when to disclose this information, and what to disclose. Now the World Bank has moved to make disclosure a prerequisite of its final feasibility study.

During the project implementation phase the World Bank produces a number of important documents to assess the progress that is being made. Under new regulations, information such as procurement or financial audits will be disclosed to in-country audiences.

Project completion review and performance documents will also be made available, including the project completion report reviewed by the World Bank's Quality Assurance Group which is accountable to the President's office to verify that neither the government or bank staff have embellished project outcomes. It also contains information about how the project was managed in line with other development priorities, what lessons can be learned and how to build on existing initiatives and carry these forward.

The issue of information management and community relations raises other important questions:

- Who participates and when? The answer depends very much on the type of project. In terms of technical assistance, need to involve and gauge how often and which government bureaus participate.
- What is the information supplied and by whom?
- Who checks and validates information?
- What items and issues are open for discussion?
- How much time is allocated for discussion and revisions?
- Can the local community say no?
- Who speaks for the local community?

- How much does the consultation cost and who pays?

Of particular relevance to the mining industry in working with local communities, is whether a community can actually say no to mining operations. If so, does this conflict with constitutional issues and who owns the resources? Who speaks on behalf of the local community – this is an area where caution needs to be exercised.

Salient issues:

- ***Demise of national borders***. It used to be the case that national governments determined what information was made available to whom, how and when. Increasingly, international organizations are influencing information requirements eg World Bank regulations surrounding information disclosure are now accepted as international standards, even though they were originally designed by World Bank staff for its own monitoring purposes.
- ***Quality, timeliness, authenticity of data***. The use of these *de facto* standards which are not subject to international screening, raises concerns over the quality, authenticity and validity of the data being generated. Who certifies this, and what procedures are used?
- ***Transparency of the process***. Need to ask whether the process is transparent. Disclosure regulations go some way towards this in World Bank practices, but also need to question whether the science is 'good' – is it universally accepted?
- ***Ultimate accountability***. Who is ultimately accountable for the regulations being set? And can rules be appealed? Given current trends towards international standard setting for example, is a government able to appeal against the judgements of a World Bank Environmental Impact Assessment? Unclear whether they can do this or not and what leverage they would have over this process.

Discussion

'Good' science

- The question of whether the science is good may conflict with competing truth claims eg engineering science vs traditional knowledge. Concern was expressed that adopting a normative approach to scientific enquiry assumes there is one good science that predominates. Mining is seen to rely heavily on technical disciplines and less on the social sciences, which has important implications for the type of information that is considered useful and relevant. This will also be reflected in terms of the quality and level of information generated.

International standards

- On the issue of World Bank standards becoming international standards and the impact this is having on mining development, under 50% of mining projects around the world are directly financed by the World Bank. This is an area that requires further research, particularly where companies claim to be adhering to World Bank standards.
- The issue of 'presumption in favour of disclosure' was seen by some to effectively sanction the non-disclosure of information. Moves to consider what mechanisms

needed to be in place to prevent other parties (eg private financiers) from using the same means to retain information that should be in the public domain were considered as part of this discussion.

4 Breakout Groups – Day 1

Participants divided themselves into 4 breakout groups to discuss the specific and critical information needs and gaps during each phase of the life cycle of a mining project. Some of the key discussion points are summarised below and the results more clearly detailed in the tables in Appendix 1.

Group 1 - Exploration

- Much of the discussion in this group centred on the need for appropriate social profiling to enable exploration companies gain a better understanding of community needs and priorities, values and essential social structures. Conflict and misunderstanding was believed to stem from poor and inadequate profiling strategies. This raised the question of how profiling ought to be carried out and by whom.
- The need for conflict impact assessments to determine how power imbalances occur in a community with arrival of a mining company was another point highlighted for discussion. The identification of potential sources of conflict was believed to assist mining companies gain a better appreciation and insight into local realities.
- Examples of best practice were also considered and the Antamina project in Peru was cited as a positive example.

From the floor the suggestion was made that good profiling strategies do exist and must be shared. Participatory community methodologies provide communities with the opportunity to define their own terms of development and engagement, and it should not always be assumed that external actors are the ones best placed to profile local communities. Instead, the social profiling of communities should be seen as a two-way process that will enable communities gain a better understanding of company needs, goals etc. by allowing them to profile companies as well. This would also facilitate their own capacity for participation.

Group 2 - Development, Permitting and Construction

Situated their analysis within a broader discussion of development, before identifying the following information gaps:

- Lack of standards for addressing social issues.
- Gaps in terms of conflict negotiation and how to address this.
- Land title issues for the individual, community and state. Unmet needs here were identified in relation to recognition of rights, valuing of rights and mechanisms/ structures for compensation.
- Lack of community involvement at the planning phase of mine projects and understanding of why communities reject mining projects. This was attributed to a lack of understanding of community needs, but with so many different practices operating

on different levels the group found it hard to conceive what level of standards would be required to address all stakeholder needs.

- Marked variations were also seen to occur at the local level in terms of how communities define the standards they see as being acceptable. The need to develop a shared understanding was regarded as an essential first-step before moving towards defining standards of best practice.
- Ownership of information. Traditional knowledge was identified as a key issue that companies need to learn to value. The introduction of a code of conduct that companies would need to abide by was seen as one way of ensuring local knowledge would be properly recompensed and not misappropriated.
- Transparent consultation frameworks and mechanisms for listening to communities and seeking prior informed consent. To strengthen the consultation process and a respect for community rights and entitlements, it was suggested that legal consultation frameworks should span the life cycle of a mining project. In this regard, it was hoped MMSD would come up with a code of conduct for industry.

Group 3 - Operations

- Discussion focused on the lack of standards governing access to information and the need for all stakeholders to reach a shared understanding. A main challenge was to move beyond standard-setting to securing the implementation and enforcement of standards. The need for an institutional body was identified, drawing on the example of the Diavik socio-economic monitoring board as a way of reviewing mining impact benefit agreements and monitoring legally binding agreements. While still relatively new, this forum provided an example of how such issues could be tackled.
- Information needs were regarded as being ill-defined and poorly assessed, emphasising the need to build capacity for all stakeholders to determine their needs. Gaps were identified not only at the corporate level but also within governments and communities. Particular emphasis was given to how mining company management and corporate culture is driven by the need to keep costs down, making it difficult for them to relinquish the control that is needed in dialogue with communities and governments.
- Information release was also discussed and seen mainly as a unidirectional process.
- Voluntary initiatives were seen as needing to be strengthened and implemented based on a shared understanding of different stakeholder needs for information.

Group 4 - Closure/ Post-closure

- In their discussion the group found it hard to separate access to information issues from other substantive issues confronting the mining sector whether financial, social or environmental. They concluded that plans for closure and post-closure needed to be addressed at the project feasibility phase and included in environmental impact assessments.
- 'Stick' measures to ensure that social impact assessments become mandatory and included in baseline studies of proposed mine projects were recommended. The

proposed means for enforcing this requirement was through linking these measures to bonds paid by mining companies as surety against future environmental impacts. But, how to define performance indicators for social issues? This constituted a major gap, though recognition was made that 20-30 years ago environmental issues were faced with the same challenge. A key question considered by the group was one of how to accelerate this process so that social issues are treated on a par with environmental concerns.

- The need to provide 'carrots' was regarded as an essential driver of this initiative, and the idea of a voluntary tripartite group was suggested. This would need to involve governments, companies and communities, but raised questions over the need for representatives to be respected and trusted by all parties in order for this process to work. How and who would develop the social indicators needed fed into broader concerns of trust and legitimacy, particularly on the issue of collecting and gathering qualitative data. The lack of agreement amongst researchers on data for abandoned mines provided further evidence of this.
- In terms of the role of government, the need to strike a balance between the priorities and needs of North/ South governments was emphasised. Focusing on abandoned mines creates a policy dilemma in the sense that it could be regarded by the developing world as a 'Rich Man's Game'.
- For communities, issues of autonomy and control were discussed in relation to land use. Whereas Alaskan native funds provided a positive example of this, the Navajo Indians had been less successful in influencing mine development on their lands.
- The 'Big Ticket Item' proposed was for a closure task force. But a key question raised was whether it was feasible at the project/ corporate/ national and international level? And how to provide incentives for best practice? And whether it was possible for best practice to become the norm?

Discussion

Social indicators

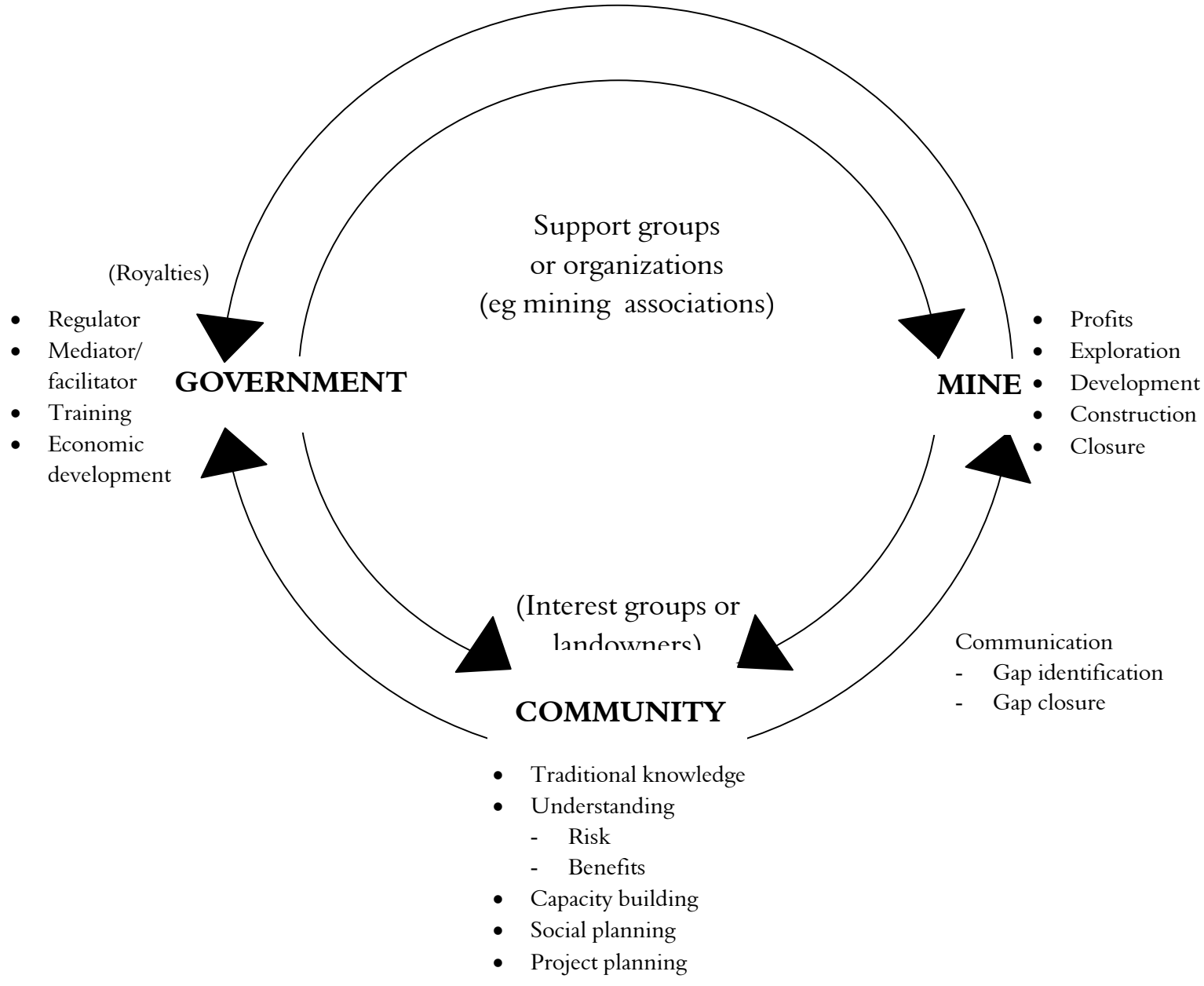
- The importance and relevance of social indicators was identified as an emerging issue for the sector. However, beyond producing a set of indicators was the need to firstly establish a case that would convince all stakeholders of the benefits of this approach.
- Issues surrounding authentication, verification and auditing of data, quality of data, and how people would use this data were identified as some of the core concerns that companies and governments were likely to raise. Monitoring processes are also extremely costly and need to be factored in as part of this analysis.
- The challenge was seen as one of ensuring that the information produced and generated addresses the needs of users. However, given the diverse interests of all stakeholders it was recognised that this would be a complex process and would require thought as to whether a generic checklist of indicators would be useful to all parties and whether there would be a way for establishing standards.

- A suggested approach for managing this task was to think about whether outcomes would have been different if people had been forewarned of possible negative impacts, and what information would have been needed to prevent some of these occurrences.
- Diavik are using social indicators in their work, and social, spiritual and cultural indicators have also been developed in Alaska, demonstrating the shifts that have already taken place in this direction and way of thinking.

5 Breakout Groups – Day 2

Participants returned to the same working groups using the matrix (Appendix 1) as a tool for assessing mechanisms for change and identifying priorities for action. Danny Gaudet gave a brief presentation using the following diagram as a model for thinking about how mechanisms for change could promote ways of bridging and closing the information gaps between stakeholders, and what this would mean in terms of their roles and responsibilities. Specifically, how to combat misunderstanding and balance the capacities of different stakeholders to build effective partnerships and enable them to reach a shared understanding.

Communicating information minimizes conflict and provides for role identification resulting in partnerships



Group 1 – Exploration group

- Trust was identified as a priority issue, particularly in terms of how it is acquired and retained throughout the life cycle of a mining project from the exploration phase through to post-closure. By focusing on ways of developing links between countries, individuals, communities and organisations and mechanisms for creating capacity and expertise in trust building at all levels, this approach led the group to consider the need for a globally accepted policy or code of conduct.
  The following questions were raised as part of this process:
  – How do you capacity build?
  – Who's going to do it?
  – Who will provide the tools and expertise?
- Recognising that implementing a policy or code like this would run the risk of becoming too regimented, the need for a multistakeholder forum to oversee and continually re-evaluate planning, policy and review processes was identified. Social mapping methods would be used to select appropriate community representatives.
- The overriding conclusion was that in order for the policy or code of conduct to be effective, it was essential that all three parties buy-in to this process from the start. It was recognised this would take time to develop since trust is not automatically acquired.

Plenary discussion

On the issue of selecting representative community groups, the tendency to favour and chose pro-mining groups as part of these initiatives was raised. To avoid the possible marginalisation of dissenting voices, it was suggested that the selection process would need to be properly evaluated in terms of how conflict is managed and what to do in situations where the community is divided between those in favour of a mining concession and those who reject it outright. Access to information becomes a secondary concern once the decision to mine has been taken.

Group 2 – Development, permitting and construction

- In terms of this group's recommendations, their focus was on strengthening tripartite relationships.
  – The role of government was looked at in terms of building capacity and improving mechanisms for rent distribution;
  – the industry role was examined in relation to developing and implementing codes of conduct and improving senior-junior level relationships;
  – community institution building processes were considered at the local level.
  Efforts were made to simplify these components, but discussion was broad ranging.
- Discussion also focused on the need to enshrine in law the rights of communities to benefit from natural resources in their area and the need for communities impacted by mining development to be compensated in ways that would lead to the future sustainability of the community. ILO Convention 169 was discussed in relation to these issues.

- Another key area of discussion was the concept of land title. Currently, there are no mechanisms in place to resolve overlapping rights issues and conflict over land which it was felt needs to be addressed when looking at competing claims over rights, titles, privileges and processes of compensation.
- In terms of developing codes of practice, norms would need to be established at the international level to ensure a level playing field. Responsibility for communication around markets would also need to be ensured. Governments would need to put in place enabling legislation to facilitate community development and assist with community institution building processes. This would help communities develop their own guidelines and information sharing protocols on a case-by-case basis.

Plenary discussion

The point was made that much of the uncertainty that accounts for the apparent erratic behaviour of companies is generated by market conditions in general rather than the unwillingness of mining companies. This point is evident in copper where price fluctuations have had major effects on communities and generated uncertainty in cyclical price fluctuations where copper mines close. Initiatives in this field are to try and keep copper companies solvent and try to minimise the impact this has on communities by keeping social benefits flowing into communities even when the price of copper falls such as British Colombia, Canada.

On the issue of revenue sharing, a paper by the UN Group on Mineral Resource Sector released in January attempts to define commonly accepted principles for revenue sharing taking into account existing jurisdictions and models of revenue sharing.

Group 3 – Operations

- This group focused on two main areas for action: community needs and corporate culture, which they reviewed in terms of the gaps already identified, specifically:
  - The way information is perceived by companies and communities and within communities themselves. Communities are extremely diverse and process. information in different ways which needs to be better understood and researched
  - The legacy of mistrust. Trust is not easily built, and information sharing has to begin at the exploration phase.
- In order for trust to be created it is essential that communities are truly representative and mechanisms for achieving this were discussed. Currently, little research is available on community needs during the operation phase, and sometimes the information that exists is often distorted by value judgements. Academic institutions were regarded as having a key role to play in this process.
- Best practice was reviewed in terms of participation agreements and impacts and benefits agreements and how they differed in relation to the mechanisms that were in place to support these types of agreements. The role of social monitoring boards was considered. although there was also felt to be a need for independent community-based

organisations to build bridges between governments, communities and companies. There was a call to governments to treat local communities as partners, and demonstrate their support for communities by introducing adequate systems and structures.

- The need for all actors to place traditional knowledge on an equal footing with Western science was also emphasised.
- In terms of corporate culture, ways for improving *internal* capacity building processes focused on:
  - recognising and valuing the importance of social science disciplines;
  - improving education in non-technical areas;
  - working with multi-disciplinary teams; and
  - combating the perception that working with communities is a means to organisational ends.
- For *external* processes, the need for an industry initiative to collect and disseminate examples of best practice and promote cultural training for companies was highlighted.

Group 4 – Closure and Post-Closure

- Re-examined the idea of a closure task force and the need for social indicators. This was looked at from three main perspectives: which indicators, how to measure them, and who would monitor the results?
- The idea of creating a database to facilitate information exchange was suggested as a way of systematising the different methodologies for measuring social indicators. It was recognised that data can be measured in a number of different ways, and the idea was not to prioritise one method over another, but use this system as a way of harmonising this process. It would evolve gradually over the long-term and would be used to facilitate comparisons and establish international standards.
- The following action plan was proposed:
  - For an organisation to co-ordinate, research, develop and monitor this process in consultation with all stakeholders
  - Develop methodologies for measuring social indicators
  - Establish international standards
  - Develop a database of how these indicators can be measured and where they have been measured. This would be made available to all groups who wanted to use the system.

Closing Comments

David Rodier

Found the workshop to be constructive in terms of looking at how to improve on existing practices and to think about new ways forward. The main lessons that surfaced were:

1. The need to foster tripartite relationships to facilitate dialogue with proper open-ended procedures. A key message that emerged out of the group discussions was the prime

interface that exists at the level of corporate/ community relationships. The government has an important supportive role to play, but there is a need to ensure that information flows between companies and communities are kept as simple, open and transparent as possible.

2. Capacity building issues. It is important to find ways that will enable communities to determine their own information needs and to decide for themselves how these are best met.
3. Site-specific issues also need to be taken into consideration. Codes that are drawn up tend to focus on generic issues, but these need to be locally relevant if community issues are to be addressed.
4. There are no shortcuts to building relationships and addressing these issues. It is a process that requires time, effort and resources.
5. The developed world should not dictate to the developing world how to solve their own problems.
6. Codes developed by industry are a valuable resource because they take less time to develop and implement than national level policies. However, their use raises concerns over sovereignty, particularly where an industry code becomes a driver for change and is adopted as an international standard, as is the case with World Bank standards.

Craig Andrews

Emphasised that while much of the discussion had focused on community and social issues, the information needs of a broader set of stakeholders including shareholders, financial institutions and the public at large also needed to be taken into account. To this end it is important to establish basic fundamental parameters before moving towards developing precise sets of indicators. While the needs of certain groups are more clearly defined than others which may require small advances, it is equally as important to think big. Participants were encouraged to be more specific in terms of the processes they would like to see that would allow communities themselves to develop these kinds of indicators, and also to think about next steps in terms of specifying what types of information are required, by whom and how this could be provided. The time needed to develop such initiatives was identified as a critical element, and ICMM were seen to play a key role in this process.

Joey Freeze

Saw lots of ways of progressing with the issues raised here during exploration activities. Ultimately, developing appropriate social indicators is not an easy task and while recognising the need to establish guidelines and policies, she emphasised that these must be flexible and not overly prescriptive. Sustainable development only works when strong relationships are built with host communities and with governments and trust is an essential element of this process. However, trust has to be earned, it can be easily lost and hard to regain once it has been lost. Measures therefore have to be taken from before the exploration stage at the first encounter to gain trust.

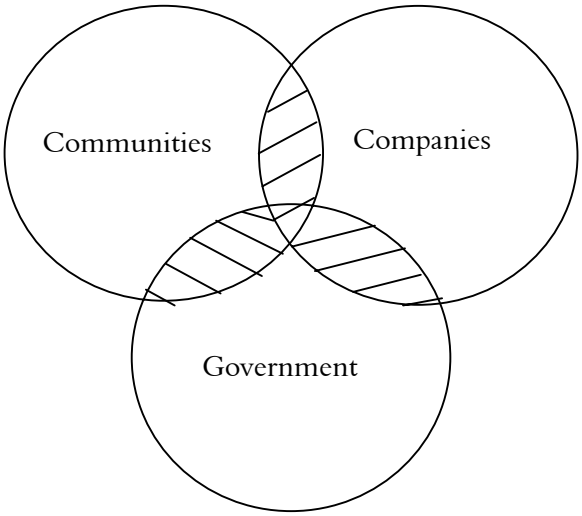
Viviane Weitzner

Saw the workshop as raising important issues on this topic, underlining the importance of process and trust-building with regards to access to information. Suggested however, that formulating an action plan in such a short space of time was overly optimistic. More time, increased stakeholder engagement and vigorous research would be required for this process to work. Expressed her concerns with the MMSD process and emphasised that trust begins to happen only when communities see their concerns incorporated into the decision-making process.

She referred to the same frustrations expressed by another workshop participant, with processes such as Canada's National Round Table on the Environment and the Economy's Task Force on Aboriginal Communities and Non-Renewable Resources Development which culminated in 5 very simple and doable recommendations, none of which had been implemented. In light of this concern, it was proposed that the results of the MMSD process be evaluated and monitored independently.

Beatriz Alvarado

Suggests that to understand the different information needs for each actor, it is important to look at the space that exists between these groups. Generally, NGOs fill these gaps by working at the community level and building local capacity in these areas. Sees the key challenge as one of recognising areas of common interest between the 3 main actors and facilitating improved dialogue by working towards increasing the spaces of communication between them (see diagram below).



Her own experience of working for an NGO in Peru, highlights the difficulties in working for an organisation that is reliant on corporate funding to carry out its work with local communities. Her organisation has managed to gain the trust of the local community through the work that they do. Central to this is the need to establish greater coherence between what an organisation says it will do and what it actually does. For example, in dealing with issues of transparency, it's been a case of not just talking about transparency but demonstrating this through its actions. A key lesson learned is that it is possible to use corporate funding to work with communities, but the guidelines and mechanisms for participation need to be clearly defined. It is also important for an organisation to open itself up to criticism and to continually strive towards improving on existing practices. After having been forced to leave the area at one stage, her organisation has since been able to develop good community relations and are now looking for independent sources of funding to help finance other projects.

Discussion

- Trust emerged as a key issue, but what it means for non-democratic regimes was also raised.
- Another point of consideration was whether it was in breach of national sovereignty for another sovereign nation's legislation to regulate for companies working overseas? In the Philippines, there is evidence to suggest that where levels of mistrust are high and because of issues of conflict with indigenous peoples moves like this are broadly welcomed.

Can communities say no?

- It was felt that the legal framework underpinning a communities ability to say no was in need of revision. However, it was also recognised that strengthening legislative processes did not necessarily translate into action at the community level eg Colombia. International pressure and the mobilising of public opinion were regarded as equally important means for change. The absence of effective mechanisms for saying no, meant that communities had to resort to these kinds of spaces to apply pressure. However, this

raises questions in terms of who represents a community? Who speaks on their behalf? And how does a community arrive at a decision?

- The right to say no was also seen as inextricably linked to issues of land title and existing legal frameworks.
- The notion that rejecting a mine operation in one locality could affect communities elsewhere, was raised as an issue that required thinking beyond ways of restricting local level impacts to how benefits for the wider community can be harnessed.
- A suggested way to evaluate this was through effecting a cost/ benefit analysis. Benefits are normally a short-term gain and the costs of mining equivalent to longer-term impacts, therefore the timeframe is an important consideration. Striking a balance between the right to say no against the provision of benefits requires analysis of the following:
  - Whether benefits outweigh the costs
  - The distribution of benefits and who adjudicates over this process
  - Alternative structures for delivering benefits
  - Is it possible to plan for uncertainty?
  - Whether there are alternative forms of development to mining.
- Compensation is often articulated as a benefit to offset future losses. But an assessment of how social impacts are quantified in the compensation process, particularly land, time and loss of future livelihoods also needs to be determined.
- The need to consider the quality of decision being made when saying no, and on the basis of what information such judgements are made was also raised. The notion of informed decision-making is often assumed, but what constitutes informed decision-making? On the business side this tends to be well regulated, and in the environmental domain similar guidelines apply to those of industry, but in the social domain this remains unclear. Tentative claims are often made and there is a need to research, learn and ask what precedents are being set around the world, and how can this be captured? All this needs to be seen as part of an evolving process.

Appendix I

GROUP I - Exploration Group

Unmet Needs	Related Obstacles and Challenges	Current Best Practice	Recommended Mechanisms for Change	Action Items
Lack of standards or principles for access to information	• No formal system for providing information to communities - Who? What? When? • Difficult to know which community is affected by exploration. • Local communities do not know/ understand exploration process.	• Open/ simultaneous reporting to community (Community Relations Guide in Peru) • Facilitation by NGOs • Information provided proactively by: - Government (Peru); - NGOs; - Companies (but is this information trusted?)	Local contact to ensure that communities gain access to information through someone they trust	
Perceptions - cultural void	• Company contractor personnel lack knowledge/ sensitivity to local culture, customs and community	• Training • Policies Is it company's responsibility to educate people?		
Government regulator/ facilitator	Local communities do not know/ understand exploration	Role of government to inform population of rights and responsibilities and process of exploration - help manage expectations		
Information provided vs needed	Need to know/ understand community	Community profile Community Relation Communication Programme		

GROUP 2 - Development, permitting and construction

Unmet Needs	Related Obstacles and Challenges	Current Best Practice	Recommended Mechanisms for Change	Action Items
Issue of title for: • community • crown • individual Needs here relate to structures for compensation, clarity, recognition of rights and valuing of rights.	– lack of clarity – no role for community in planning process – valuing rights and compensation – lack of responsiveness of governments towards communities.	No examples of best practice. So many practices out there operating on many different levels, makes it hard to determine what kinds of standards would like to see being applied. Also need to take into account at the community level what kinds of standards are acceptable to them.		
Informed consent and ownership of information.	– Traditional knowledge is an issue that needs to be captured. – Confidentiality and ownership are two other key areas. The information that a community provides comes at what price? → informed consent.			
Legal consultation framework - needs to be a code that industry will be able to follow		Legal in part. Code of practice?		
Social development community planning	Lack of standards on social issues			
Negotiation and conflict resolution	Not handled well.			
Issue of emergencies, worker safety also needs to be highlighted				

GROUP 3 - Operations

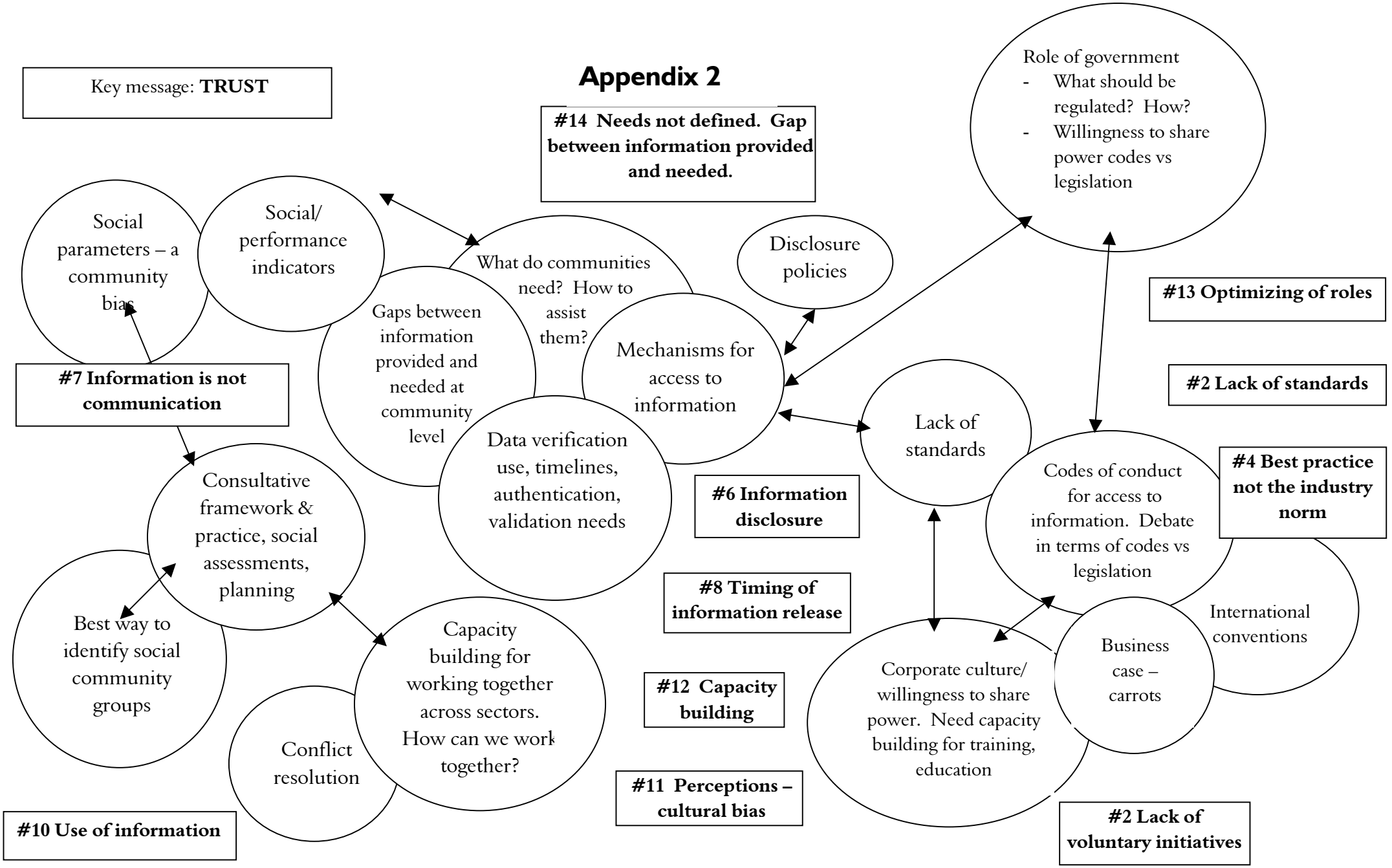
Unmet Needs	Related Obstacles and Challenges	Current Best Practice	Recommended Mechanisms for Change	action items
Lack of standards for access to information and also overseeing body → diversity. Need for shared understanding.	Diversity	Daivik beginning to look at impact of mining benefit agreements. Outcome as yet unclear, but provides space and forum to surface new issues.		
Needs for information not adequately assessed or well-defined.		Social Impact Monitoring Board example.		
Information release and how this relates to needs assessment. Issue of capacity building also linked to this.	Does not inform the wider community.			
Capacity building.	Shortfalls exist on all sides - within corporations, but also communities and governments.			
Government: regulator or facilitator - best practice not norm	← both → no company collaboration			
Mining company management culture impedes the process and makes it difficult to have this kind of communication. Line manager mentality of needing to produce ounces at lowest cost, and how this restricts ability to relinquish control which is				

needed in dialogue between companies/ government and communities.				
Lack of understanding of need to implement voluntary initiatives. Comes back to issue of impact mining agreements.				
Perception	• Companies are caught up on issue of power and control • Government is not assuming its responsibility, neither are communities			
Timing	• Corporate competitiveness • 'Mine manager' syndrome			

GROUP 4 - Closure/ Post-closure

Unmet Needs	Related Obstacles and Challenges	Current Best Practice	Recommended Mechanisms for Change	action items
Lack of standards for access to information				
Lack of voluntary initiatives relating to access to information	No industry-wide mechanism for measuring (indicators and importance and	Site specific basis Little uniformity across national some companies live up to agreement	Create industry-driven or tripartite 'Closure Taks Force'	
Community level: preparation for 'post-industrial geography'	Education			
Community autonomy and capacity building		Alaskan Native Funds and cooperative ownership over resources	Autonomous funds from mine revenues mandates	

Appendix 2


Key message: **TRUST**
#14 Needs not defined. Gap between information provided and needed.
Role of government
- What should be regulated? How?
- Willingness to share power codes vs legislation
Social parameters – a community bias
Social/ performance indicators
What do communities need? How to assist them?
Disclosure policies
#13 Optimizing of roles
Gaps between information provided and needed at community level
Mechanisms for access to information
#7 Information is not communication
#2 Lack of standards
Lack of standards
Data verification use, timelines, authentication, validation needs
Codes of conduct for access to information. Debate in terms of codes vs legislation
#4 Best practice not the industry norm
Consultative framework & practice, social assessments, planning
#6 Information disclosure
#8 Timing of information release
Best way to identify social community groups
Capacity building for working together across sectors. How can we work together?
International conventions
Business case – carrots
#12 Capacity building
Corporate culture/ willingness to share power. Need capacity building for training, education
Conflict resolution
#11 Perceptions – cultural bias
#10 Use of information
#2 Lack of voluntary initiatives

Appendix 3 - Workshop Agenda

Thursday 29th November

Theme One
Information and the Sector: Needs, Resources and Challenges

8.30-09:00 COFFEE AND REGISTRATION

At registration, participants will be asked to provide two single sentence comments on best practice with regard to access to information which will be used during later discussions.

09:00 – 9:30 Opening of the workshop

Welcome and framework for day one ***Malcolm Scoble***
MMSD current status ***Frank McShane***

09:30 –10:00 Introductions ***Kathy Pomeroy***

Participants will be asked to introduce themselves, to comment on their reasons for attending and to suggest one gap which they see as significant in the area of access to information.

10:00-11:00 Presentation of MMSD Commissioned Research

Alistair MacDonald
Corporate communication: Standards, issues, and practice.
Speaker for Sandor Fulop
Review of systems for making information available.
Ginger Gibson
Community information needs.
Fernando Loayza
Review of government systems.

11:00-11:15 REFRESHMENTS

Gaps Analysis Session

11:15-11:30 Gaps analysis: presentation of commissioned work
Ian Thomson

11:30-11:45 Response: Helen Cheney, CSIRO, Australia
Public Participation and Information: the experience in Victoria

11:45-12:00 Response: Danny Gaudet, Deline Uranium Project

Title to be announced.

12:00–13:00 Discussion

Objective: to critically evaluate identified gaps and suggest others:

- What is missing from the papers and gaps analysis?
- Are the right issues/questions being highlighted?
- Are there others which need to be addressed?

13:00-14:00 LUNCH –

SPEAKER: IAN MARSHALL, TRANSPARENCY INTERNATIONAL

Access to Information and The Fight Against Corruption

14:00-14:15 Working groups - Introduction ***Kathy Pomeroy***

Following the discussion during the morning sessions, participants will be divided into four groups to address various aspects of the mine life-cycle, including exploration and construction, operation, closure and commodities production and disposal. The groups will be expected to address three key questions:

- What are the information needs and resources required at each stage of the cycle?
- Why are these needs not being met?
- How far does current best practice go towards meeting these needs and where does it fail?

14:15-15:30 Working groups – Discussion of Key Questions

15:30-15:45 REFRESHMENTS

15:45-16:30 Plenary Session: Working groups report back

16:30-17:00 Comments and discussion

17:00-17:15 Evaluation of the day, plan for Day 2 ***Kathy Pomeroy***

17:15 Close of day

19:30 CONFERENCE DINNER

(Please complete enclosed menu options sheet and hand to Andrea Steel at the Workshop)

Friday 30th November

Theme Two – Mechanisms and Actions

8.45 COFFEE

09:00-09:15 Welcome and framework for the day ***Malcolm Scoble***

09:15-09:55 Speaker Session

Objective: to highlight mechanisms for access to information

09:15-09:35 Dr. Craig Andrews – The World Bank

Broad Topic - Multilateral Institutions and the need for Information in the Mining Sector – Comment on Existing Mechanisms for Access to Information (Exact title to be announced).

09:35-09:55 Iain Watt – The Global Reporting Initiative

Access to Information, Public Reporting and Disclosure: Key Issues

09:55-10:00 Working groups - Introduction ***Kathy Pomeroy***

Objective: to identify key mechanisms and actions needed for the sector to overcome the challenges identified in day one; to propose strategies that can move us forward from current best practice to envisioned future practice.

Outcome: proposed list of mechanisms and actions for stakeholder panel consideration.

In the break out groups, people will work to identify the key issues and recommendations for action by government, companies and communities to ensure appropriate access to information.

Participants are encouraged to look at the concrete links between issues and mechanisms, and where possible identify:

- Action strategies
- Funding mechanisms to support implementation of these recommendations.

10:00-11:00 Working groups

11:00-11:15 REFRESHMENTS

11:15-12:15 Plenary Session: Working groups report back.

12:15-13:30 LUNCH

13:30-14:30 Summary of mechanisms and actions for the sector ***Malcolm Scoble***

Objective: to review and discuss the proposed mechanisms and key actions evolving from the day's earlier sessions

14:30-15:00 Response Panel ***Kathy Pomeroy***

A panel of selected members will be asked to comment in brief on the mechanisms presented by the working group – these comments will open the way for a broader discussion amongst participants

Response panel: each member is allocated 5 minutes to respond to the summary of mechanisms and actions

Craig Andrews – World Bank
Betty Alvarado – Generacion de Capacidades
Viviane Weitzner – North-South Institute
Helen Cheney – LaTrobe University / CSIRO
Brenda Radies –Placer Dome
Norm Ringstad – Environmental Assessment Office, B.C.

15:30-16:00 General discussion of panel comments

The floor is open for discussion between the panel and participants in general regarding the mechanisms and actions for pursuit of more open systems around access to information in the mining sector.

16:00- 16:15 Summing up ***Malcolm Scoble***

This session will be used to summarise the day's presentations and focus in on key issues.

16:15 Meeting close and thanks from MMSD

List of Participants

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