



International
Institute for
Environment and
Development



Mining, Minerals and
Sustainable Development Project

A CHALLENGE FOR THOSE INTERESTED IN THE FUTURE OF THE MINERALS INDUSTRIES

OPTIONS FOR MOVING FORWARD

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THE NEED TO EXAMINE THE OPTIONS

A year of intensive work in the Mining, Minerals and Sustainable Development Project has confirmed four basic and fairly obvious premises:

1. The minerals industry faces serious fundamental difficulties in looking for an operating model more consistent with the concept of sustainable development. It is vitally important not just to the industry but to many actors affected by the industry that there be changes in the way these problems are addressed. Those concerned include local communities, labour organisations, national governments, indigenous organisations, NGOs of various orientations, and many others. Of course, companies and their associations at all levels will need to respond to MMSD in substance and to act on its findings as appropriate.
2. Progress can be made in finding a way forward through these difficulties, but real and serious change will not take place overnight. MMSD has generated a certain momentum for change but that momentum will have to be carried forward after the project ends.
3. If MMSD is to be successful, one of its outcomes must be to define a clear set of options for moving forward. A transition should start in the fairly near future, and be complete by September 2002. This implies starting to define a limited set of preferred options by October 2001.
4. It is not possible today to say with certainty which options are preferred by the various concerned individuals and organisations. However, we have already gained a good deal of clarity as to what some of those options are and what some of their advantages and disadvantages may be. Even if we cannot achieve complete clarity by October 2001, our objectives are to insure that by that time there is:
 - 1) An identification of the principal options for moving forward and the extent to which it will be possible to do so based on a understanding of the key challenges facing the mining and minerals sectors;
 - 2) An identification of the principal options for moving forward in cooperation with other actors;
 - 3) A thorough definition and evaluation of these options;
 - 4) A search for some agreement as to which of these options are most promising.

We challenge anyone interested in sustainable development and the future of this industry to suggest options, to critique options suggested by others, and to suggest which options are most worthy of exploration.

THE CHALLENGE

With or without the MMSD project, there are many important actors who believe that there is a need for some sort of structure to define expectations in the transition to a more sustainable society and what this means for the minerals industries. And there is increasing momentum toward some kind of a structure in which the many actors in and around the industry – who are often deeply in conflict – can, without sacrificing their objectives, have a discussion of how to go forward.

To varying degrees, the proposals on the table involve (1) new norms for conduct of industry and those with whom it deals; (2) administrative structures to create and give life to those norms; and (3) incentives for adherence to those norms.

A number of the existing initiatives are tied to the upcoming World Summit on Sustainable Development in September of 2002, and a number of proposals may be advanced in that process, such as those described below.

The MMSD project therefore challenges every interested organisation, whether a government, a community-based organisation, a mining company, an NGO, a labour union, or any other body interested in the future of the industry, to suggest a practical way forward.

This does not mean coming to a conclusion today as to which options are the best way to progress. It *does* mean taking a position on which options merit exploration and which do not. It does mean participating actively in the debate.

Having no position on mechanisms for moving forward, and being unwilling to suggest how to start developing one, is ultimately an endorsement of the status quo.

GLOBAL AND SPECIFIC OPTIONS

There are two different levels of moving forward which need to be examined. One entails specific attempts to deal with problems on a site-specific or issue-specific basis. These would include problems affecting one industry sector (e.g. the use of mercury by artisanal miners, so-called “conflict diamonds”, or the controversy over the use of cyanide), or one set of actors (health problems in mining communities, mine safety). They would also include geographically limited efforts such as the Australian Minerals Code

This paper focuses on *global options*: the possibility of creating a global framework to improve the performance of the minerals industries in general, with regard to the whole range of issues inherent in sustainable development.

A critical point is that we do not want, by focussing on the global options, to lose sight of the fact that there may be many valuable, immediate, effective and cost-efficient ways of moving forward on specific issues. Examination of global options should not cause us to lose sight of or downgrade these opportunities to move forward. MMSD certainly will devote much effort to examining them, and is already well developed in this process. It has published a draft Working Paper which deals at length with such options and will shortly publish a more advanced version.

THE OPTIONS

The global options which have surfaced to date seem to fall into two groups. The first group would look to government or international institutions to create the basic framework for progress. The second would be based on a voluntary initiative led either by industry or by a coalition of actors including industry.

Please note that these options are not mutually exclusive. There may be room for more than one of them. Indeed, they could even reinforce and mutually support each other.

A. Governments and International Institutions

The following are the principal global level initiatives which might serve as a structure for improving performance in industry and maximising its contribution to sustainable development.

1. An intergovernmental agreement on mining

Some governments are discussing the possibility of using the 2002 Earth Summit to launch negotiation of an intergovernmental agreement on mining. One vision of such a convention and what it might accomplish is presented in the attached paper by Richard Haworth of the Government of Canada.

2. A World Mining Forum

The United Nations Environment Program (UNEP) has suggested the formation of a World Forum, under UNEP auspices, which would serve as a neutral site for discussion of key issues related to minerals and sustainable development, open to all stakeholders. Again, this could be launched at the Earth Summit in September of 2002.

This process could lead to identification of specific issues which are ripe for progress and development of processes to deal with them.

3. Financing (Lending and Investment) Guidelines for the Mining and Minerals Sectors

Financial institutions are increasingly considering the broader aspects of environmental management, social responsibility and corporate governance in their lending and investment activities. Evidence is mounting that these broader factors of sustainable development not only affect the risks of ventures and the operations of companies, but also correlate well with shareholder value and overall financial performance.

The World Bank Group plays an important role in the minerals industries. Its policies and Operational Directives are the most widely used and comprehensive sets of guidelines related to sustainable development issues in general use in the world today. Many commercial lenders, insurance companies, and others use these World Bank standards to evaluate potential mining projects.

The World Bank is re-evaluating its role in the minerals sector as part of the Bank's ongoing Extractive Industries Review. While this review is explicitly aimed only internally, i.e. at the Bank's own role and policies, it has the potential – given the widespread use of the Bank's

guidelines in the finance community – to have a much broader impact. This does not necessarily have to be done by the Bank itself.

Conceivably this process could evolve into some on-going institutional form capable of bringing together a broad range of actors in the mining and minerals financing community to establish or put in place internationally accepted financing guidelines or standards for the mining and minerals sectors.

B. Voluntary Initiatives for Industry Performance

There is a wide variety of possible models on which the minerals industry, either acting principally on its own or in cooperation with other actors, could take the initiative to create a system for more effective promotion of more sustainable models for the sector. These could complement initiatives such as those described above, or exist independently of them.

All of these models have three basic elements: (1) some system of norms of conduct or best practice; (2) some administrative structure to carry forward the work of the initiative; and (3) some incentives to encourage participation and compliance.

These should not be construed as an alternative to government fulfilling its role as a regulator, but as a system capable of: (1) dealing with issues which governments, because of territorial limits on their authority, inherently cannot resolve individually; (2) creating a common platform which avoids some form of “race to the bottom” in which competition for private investment might drive the standard of performance lower; and (3) asserting some standard of conduct in situations where government currently lacks the resources, the will or the capacity to manage, until these deficits are addressed.

1. The ombudsman model

An example of such a structure is the International Finance Corporation which has a series of guidelines for mineral projects and an independent ombudsman’s office which can, where there is a substantiated complaint, conduct an investigation, perform a role of conciliation and mediation, and ultimately issue a report determining whether the guidelines have or have not been complied with. To implement this model, some form of norms would need to be developed, and an independent body capable of credibly housing the ombudsman function would have to be created.

2. Industry codes of conduct

An increasingly common starting point for promoting improved behaviour and performance to contribute to sustainable development is a statement of best practice or code of conduct formulated and/or endorsed by the industry. One such example at the national level is the code recently adopted by the Minerals Council of Australia. At the international level the industry-initiated ICMM/ICME Sustainable Development Charter is another example. A further example is the Global Compact, which has been initiated by the United Nations and involves a range of stakeholder groups and organisations.

3. The Responsible Care model

This model could take as a starting point the existing Responsible Care® program in the chemical industry. This involves a set of policies, guiding principles, specific codes of

conduct for environmental, health and safety, social performance and community relations, along with a verification system and industry-enforced compliance mechanism. It is described in the attached paper by David Rodier. While there is involvement of outside stakeholders throughout the programme, it is industry led, and the basic administrative tasks and oversight are undertaken by industry associations.

4. The Forest Stewardship Council model

The Forest Stewardship Council model is described in the attached paper by Stephen Bass. It is a shared process under which a governing entity selected by industry and other stakeholders makes the fundamental decisions in creating and administering a set of standards on which certification is based. Certification is verified by independent audits by entities accredited by the FSC. The principal incentive is based on the desire of customers to purchase certified products. A project by WWF Australia, Placer Dome Asia Pacific, and potentially others to explore this model in the mining industry is underway. (See the attached paper by Michael Rae.) There is an existing process for certification of origin of diamonds, based on concerns over their possible role in sparking political and military conflict in some regions. The Marine Stewardship Council is another similar model.

5. Certification tied to finance

Mineral products may be very hard to trace as they make their way through various complex transformations into consumer products. Large mineral consumers may not have the incentives to insist on certification. For this reason it has been suggested that the basic incentive for participating in some form of certification process in the minerals industry should not be customer acceptance but acceptance to financial institutions: lending banks, brokerage houses, “ethical investment” funds, individual shareholders, insurance companies, ratings houses, or others. It is conceivable, of course, that a system could be acceptable both to the financial community and to customers.

C. Other alternatives

The way is, of course, open to other alternatives, limited only by the creativity and experience of participants in the industry and those affected by its operations.

However, since the Earth Summit could mark a gravitation toward one or another of these alternatives, general assertions that “all alternatives have problems” or that there “must be a better option” are of relatively little use without some suggestion of a way forward.

WORLD, REGIONAL AND NATIONAL NORMS

One of the most fundamental issues in any proposal directed toward sustainable development is identifying the levels at which actions need to be taken and deciding which actions are appropriate to each of those levels. There are important differences in ecosystems, levels of economic development, cultures, and national priorities which may make a “one size fits all” global system inappropriate.

The options at the world or global level seem to be:

1. that there is no global set of norms, and the function is left entirely to regional bodies – perhaps linked to regional organisations such as the Southern African Development Community – or to national level bodies.
2. that a global body serve an accrediting function in which, based on a set of standards, it develops, certifies or accredits regionally or nationally developed norms.
3. that a basic “floor” of norms be set at the global level with regional or national supplementation.
4. that the norms be developed and applied on a global basis.

RELATIONSHIP TO GOVERNMENT

There are two fundamental questions relating to the role of government.

The first is posed by the tension between two ideas:

- If a company goes through the difficulties of developing compliance with a new set of rules, and being audited or certified, it is likely to feel that government bodies should in some way or another take account of its effort. If companies which certify are treated exactly the same as those which do not, a powerful incentive for the voluntary system is lost.
- Certain government functions are the responsibility of government. Protecting the well-being of citizens and the environment is a responsibility government cannot shirk, and cannot delegate to a private system of standards, no matter how well motivated.

The second is posed by WTO rules. Under current trade rules, governments cannot impose barriers to the entry of imported products based on the processes or methods by which they are produced. This would mean, for example, that a country could not exclude copper, coal, or gold based on concerns about whether the mines that produced them contributed substantially to sustainable development of local communities, or met water quality standards.

Private individuals and companies as consumers on the other hand are free to make the decision to buy or not to buy, on whatever criteria they choose. But this trade rule has caused certification bodies in some industries to avoid involvement of government for fear that the results could be construed as improper government-backed trade restrictions.

Yet government is a key stakeholder in these issues and any attempt to create a valid multistakeholder process is much restrained if government must be left out.

CONCLUSION

Surely this is enough for a start? Movement toward some of these alternatives is already underway. Those concerned about the future development of the minerals industry and sustainable development should be willing to stand up and be counted.