



Mining, Minerals and  
Sustainable Development

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# Workshop Report on Voluntary Initiatives for the Mineral Sector

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## Background

This one-day meeting brought together 26 participants from the mining industry, labour, NGOs, research institutions, government and natural resources law to generate informed discussion and gather different perspectives on voluntary initiatives for the mining and minerals sector. The meeting, which took the form of short presentations and panel discussion on specific topics, had three main objectives:

- To review the experience with the past and current voluntary initiatives and consider their applicability to the mining and minerals sector;
- To discuss the considerations, drivers, constraints, concerns of stakeholders, general design features and options for the global voluntary initiative to improve industry performance in support of sustainable development in the mining and minerals sector;
- To determine possible actions that might prove useful next steps in the assessment of optional approaches and the development of a voluntary initiative which could be taken up when MMSD ends in 2002.

Presentations were made by several participants to stimulate discussion and provide input to MMSD's work. These presentations covered voluntary initiatives in other sectors including the forests and chemical industries, multi-stakeholder voluntary initiatives under development in the mining sector, initiatives to address specific issues such as conflict diamonds or mine development in certain regions, initiatives by mining industry associations on sustainable development at the international and national levels, and perspectives on other related topics including stakeholder participation and the relationship between voluntary initiatives and international and national law.

## Summary of Conclusions

- **Objectives:** Voluntary initiatives should be designed to improve industry/sector performance over and above requirements set by international agreements and by national law and regulation. They need to strive for continual improvement and, rather than serving as a barrier to participation by a large portion of companies in the sector, they should provide incentives for participation.
- **Flexibility:** The importance of flexibility in how different companies and operations achieve sustainable development objectives was highlighted, although some participants felt that there need to be common norms which cover a range of 'whats' and apply to all 'wheres'.
- **Consistency:** there is a need for consistency in approach across the sector to improve performance. This might take the form of sustainable development principles and a code of conduct which includes process or management norms and some form of performance norms. Concern was expressed over the uniform application of global standards in all countries, given the range of local economic, social and environmental conditions, and the diversity of company size. There was also concern expressed that global standards might be seen to impinge on the right to development for developing countries.
- **Level of application:** Voluntary initiatives also need to be designed at the appropriate level – some issues can and should be addressed globally through such approaches, while others need either to have separate voluntary initiatives, or involve country- and site-specific application of broad norms at the local level, taking account of the need for greater efficiency, local sensibilities and culture, and the sovereign power of nations.
- **Range of approaches/instruments.** Given the complexity of sustainable development issues faced by the mining and minerals sector, voluntary initiatives can form only part of the picture for improving performance in the sector. International cooperation, national policy, law and regulatory instruments and other approaches will be necessary to complement and, in some cases, parallel voluntary initiatives. MMSD should map out this broader range of options, based on global as well as regional/ national/community sustainable development objectives and pursue each of them as appropriate in its recommendations.
- **A set of options for voluntary initiatives.** MMSD should draft a 'straw' proposal outlining a set of options for voluntary initiatives. This proposal should focus on initiatives which are 'doable', should draw on existing national-level programmes and on recent 'pre-

feasibility' studies of various instruments and approaches, and outline pre-feasibility elements for new initiatives. The set of options should then be tested with stakeholders at the global and regional levels. These options may be complementary and would be useful to pursue into feasibility analysis and design in the follow-up to the project.

- ***Timeline and milestones for a cross-cutting voluntary initiative.*** It would be helpful for MMSD to outline a proposed schedule for the development and implementation of a mining and metals industry 'voluntary code', to which the industry would be invited to commit. This might include specific elements for, say, cyanide handling and for tailings management, over the next two years, and implementation of an overall industry code of conduct over 5 years.
- ***Voluntary initiatives for specific sets of issues.*** The set of options should include voluntary initiatives to address issues beyond environmental management, including social and ethical issues, and labour rights and relations. It may be more effective to start by developing and implementing some of these, such as for labour rights, in parallel to development of an overall industry code, and then to incorporate these into the overall code in the future.
- ***Voluntary 3<sup>rd</sup> party verification.*** A key element of voluntary initiatives, including an industry code, will be the design and application of some form of 3<sup>rd</sup> party verification and possibly certification of adherence to the norms and process provisions of the code. This is essential to gain the widest possible acceptance of the programme by both companies and stakeholders, and to provide public legitimacy to its implementation.
- ***High-level fora to support MMSD follow-up.*** There will be a need for some form of on-going high-level multi-stakeholder forum at the global level where the heads of organisations and corporations, who are in a position to deliver on initiatives aimed at improving sustainable development performance of the mining and minerals sector, can engage around the issues raised by the MMSD report and commit to act on its outcomes. It may be best for such a forum to be convened by a balanced group of interests, providing a neutral place for both dialogue and design of voluntary initiatives. It also may be useful to have a parallel United Nations forum for governments, for example, to build on non-sector specific initiatives such as the Global Compact.

# Challenges and Experiences with Voluntary Initiatives

## *Voluntary initiatives in other sectors: options and alternatives*

### **George Greene, Stratos Inc.**

George Greene began by outlining the various types of voluntary initiatives currently in existence. These include:

- **Guiding principles:** e.g. Global Compact; ICMM Sustainable Development Charter;
- **Management systems (process standard):** e.g. ISO 14001; World Commission on Dams decision-making criteria;
- **Performance systems (site and product standard):** e.g. Forest Stewardship Council; Marine Stewardship Council.
- **Integrated systems:** e.g. Responsible Care (chemical industry).
- **Other models:** government challenges; industry-community agreements.

Examples of voluntary initiatives were considered in turn.

**ICMM Sustainable Development Charter:** a broad international code of conduct, underpinned by the principles of environmental and product stewardship, community responsibility and corporate responsibility. It was prepared by the Association, and adopted by CEOs and member companies. It suffers from three main drawbacks: there was no formal stakeholder involvement in its preparation, there is no direct evidence of its impact on performance, and because it has not been widely communicated, it has had little recognition.

**ISO 14001:** a process-based environmental management system standard established by the International Technical Committee (TC) under ISO. It provides third party certification by accredited independent organisations, with no requirement for stakeholder input or public reporting. It is internationally recognised in 30 countries and 30,000 companies. Its main drawbacks are its lack of inclusiveness and reporting, which limit credibility, and little evidence of improved performance.

**World Commission on Dams – decision-making criteria:** a set of principles, criteria and guidelines for the decision-making process in the sector. Prepared by a high-level expert/stakeholder commission, albeit with weak government input, this initiative has met with a mixed acceptance by the dam building industry and governments, particularly less developed country governments, although it has high credibility with NGOs. The norms are not widely applied in the absence of an administrative structure and adherence programme.

**Forest Stewardship Council:** a set of principles and criteria for ecologically sustainable and socially acceptable forest management, set by an international stakeholder Council, which also accredits certifiers. It sets measurable site performance standards at national and regional level from certified forest through to product. Developed through wide

stakeholder consultation, with attention to interest and north-south balance, it currently covers 20 million hectares over 20 countries, but has had variable industry uptake and this mostly in the North. While its ecosystem-specific application increases its relevance, it makes for weak quality control, and will run into competition from similar schemes without collective industry action.

**Marine Stewardship Council.** Initiated by WWF and Unilever, the MSC oversees a set of international principles and criteria for sustainable fisheries, including ecological, social and economic factors. The elected Council is made up equally of environmental, industry and social/economic interests. Under the scheme, there are now three certified fisheries, 12 in process; and 50 companies with a chain of custody certification. As an industry-NGO partnership, it has proved effective to launch, and its science basis and community/social considerations have lent credibility.

**Responsible Care®.** This is a set of national policy principles and codes of practice designed for the chemical industry. Applied to the site and the product throughout its life cycle, the code is set by an Association which sets norms and verifies sites through a process of national stakeholder input, with community advisory panels for individual companies. It is currently applied in 42 countries, but its rigour varies significantly by country. As an industry-led programme, it has gained community support, but lacks credibility with NGOs and has had little impact on public opinion. Collective industry action will be essential to improve performance in this sector.

### **Key Lessons**

- There is **public demand** for industry action on performance;
- **No single scheme** is directly transferable, but provides elements to build on;
- **Each sector crafts its own programme/system** based on business case and challenges faced by the industry/country; and stakeholder and regulator expectations;
- **Proliferation of competing schemes** devalues result and limits performance;
- It takes **3-5 years to develop, build credibility and ensure significant uptake**;
- **Significant investment** is required in design and implementation involving CEO leadership and financial and technical resources and effort.

### **Project design**

- **Performance 'standards'** underpin credibility and effectiveness; management system standards are insufficient;
- The management system and performance-based system are **complementary**;
- **Life-cycle schemes** are feasible, but have had limited impact to date on wide industry performance;
- **Tradeoffs to balance:**
  - credibility (transparency and involvement)
  - effectiveness (industry uptake and performance)
  - efficiency (time and effort)

- **Pressure and incentives** must be built into the design for full participation.

### ***Involvement***

- Stakeholder involvement (is essential in:
  - the design of the process and norm setting;
  - implementation.
- **Government involvement** is a complex issue; because government is formally outside WTO/non-tariff barriers, less involvement is implied; however, government is the sovereign decision-maker on new projects, and direct or complementary involvement by government is necessary to ensure public acceptance.
- Public reporting and accountability is essential to credibility.

### ***Key questions for a voluntary initiative in the mining and minerals sector***

- What type of norm is needed?
  - performance
  - management system/process
  - organised by sustainable development principles or business functions;
- How to gain broad industry participation?
  - incentives – positive and negative
- What governance and administrative structures are needed?
  - who initiates and designs?
  - Who takes decisions during implementation?
  - Public reporting.
- What form of stakeholder and public involvement should there be?

### ***Desired results for a voluntary initiative in the mining and minerals sector***

- Agreed ‘norms’ for industry sustainable development performance;
- Improved sustainable development performance across the industry;
- Differentiate good performers; identify free riders;
- Build credibility:
  - stakeholder, public confidence in industry
  - communication of compliance with commitments

### ***Considerations for an integrated performance management system***

This should include:

- Principles (sustainable development; corporate responsibility);
- Performance-based standard/code of practice/criteria/guidelines;
- Management system standard;
- Incentives for participation;

- Conformity assurance programme;
- Public reporting and accountability.

### ***Who Pays?***

Some existing initiatives, such as ISO, are fully commercial. Responsible Care<sup>®</sup> is paid for by the industry through association fees and individual contributions of time and money. The FSC was started through seed and core funding from several governments, and also receives funding from foundations. Revenues are currently raised from accreditation licences and there are plans to raise further revenues from licensing certificates. However, few full system initiatives have raised sufficient revenues to be self-sustaining to date.

### ***Panel on some existing mining industry voluntary initiatives***

The discussion on existing initiatives was led by a panel of three: Richard Wells, Executive Director of the Mining Council of Australia, Jim Cooney, Placer Dome, and Ralph Hazleton, Partnership Africa Canada.

Jim Cooney made the point that, the best case scenario would be for the national government to be able to regulate its own mining operations. However, in the current environment of increasing doubt over the ability of governments to deliver, voluntary initiatives were needed as interim structures.

Reporting on the Australian experience, Richard Wells noted that voluntary initiatives have become increasingly important tools in encouraging improvement in the performance of the minerals industry in a range of areas from environmental performance to reporting resources, but that they are not an end in themselves, and are not panaceas for the challenges before the industry.

## ***The Australian experience***

### **Richard Wells, Mining Council of Australia**

The Australian Minerals Industry Code for Environmental Management was formally established just over four years ago. Its appearance represented an important milestone in the pursuit of demonstrable improvement in environmental management and performance.

The concept of an environmental management code was first raised during the National Strategy for Ecologically Sustainable Development process in 1990/91 (a worthwhile initiative, albeit more appreciated in retrospect), but despite a number of subsequent initiatives, there was an insufficient sense of urgency to galvanise real action within the industry.

That changed in 1995, with the public furore surrounding the environmental management of the Ok Tedi mine in Papua New Guinea. It was the catalyst that forced the Australian minerals industry to confront the downward spiral of negative community perception of mining and create a climate of community confidence and approval, not just at that time, but for future decades and future generations.



In August 1995, much of the industry, through the Minerals Council of Australia, established a working group to develop a code of environmental management and practice. Consultants were employed to review existing literature, identify models, consult – initially mainly with industry – and to prepare a first draft of such a code.

The cornerstone objectives were:

- To facilitate industry-wide improvement in environmental performance;
- To provide a transparent and consistent framework for environmental management;
- To strengthen relations with stakeholders; and
- To enhance the community credibility of the Australian minerals industry.

It was also important to avoid creating a set of quasi-regulations duplicating government requirements and to establish a process and framework that could be universally applied.

Early in 1996, the Executive Committee of the Minerals Council of Australia, made up of industry CEOs, approved a framework and approach for an Australian Minerals Industry Code. By March, a draft had been drawn up by a Code Working Group and approved by the Executive Committee for use in consultations. In April of that year the process of stakeholder consultations began, involving minerals companies, industry bodies, state and federal government agencies and peak non-government organisations – including conservation groups, overseas aid organisations and Aboriginal interests – on the content and application of the Code. When the Code was officially launched on 10 December 1996, 18 companies indicated their commitment to it.

The Code embodies the commitment of the Australian minerals industry to continually improve its environmental performance, and to being open and accountable to the community in the way it manages its environmental performance. In keeping with that key theme of continual improvement, the Code itself underwent a substantial review in 1999, to ensure that it remained relevant to the needs of the community, the needs of those who regulate the industry, and the needs of the industry itself. In recognition of this, the review process was characterised by extensive outside consultation.

As at the end of June this year there were 41 separate signatories to the Code, representing about 85 per cent of Australian minerals production.

Code 2000 is built upon seven key principles, aimed at bringing about positive change in values and behaviour of the industry:

- Accepting environmental responsibility for all its actions;
- Strengthening its relationships with the community;
- Integrating environmental management into the way it works;
- Minimising the environmental impacts of its activities;
- Encouraging responsible production and use of its products;
- Continually improving its environmental performance;

- Communicating its environmental performance.

And the Code requires signatories to make a number of commitments:

- Application of the Code wherever the signatory operates;
- Progressive implementation of Code principles;
- Production of an annual public environment report within two years of registration;
- Completion of an annual Code implementation survey to assess progress against implementation of Code principles; and
- Verification of the survey results, by an accredited auditor, at least once every three years.

#### ***What has the Code achieved so far?***

One of the most tangible outcomes of the Code has been its outstanding success in driving what is now a thriving tradition of public environmental reporting. The industry has led the way in this area.

The Code is not a PR exercise. It is a huge incentive for getting it right, and a huge disincentive for poor performance. The response it inspires is better environmental behaviour as a safeguard against the risk of failure, for the price of failure will be far higher than the costs of compliance.

The Code works because it gives the industry flexibility in the way it goes about achieving excellence in environmental behaviour. Rather than setting a minimum level for companies to meet, it motivates them to look beyond the minimum and strive for better results. It also encourages competition amongst companies to out-do each other.

#### ***What the Code is not***

- The Code cannot, in itself, prevent environmental accidents from happening; but then neither can the most stringent of government regulations.
- It is not there to judge how companies perform, and has no capacity to apply punitive measures when they fail to measure up.
- The Code does not replace legislation or the role of governments and regulators to ensure compliance with key parameters.
- The Baia Mare incident has revived calls from many quarters for the Code to be strengthened or replaced by legislation covering the environmental behaviour of Australian minerals companies operating overseas.

#### ***Lessons: are codes the only vehicle?***

Whilst the benefits of a Code in terms of providing the impetus for industry to improve its environmental performance are clear, the potential to achieve this goal by other means should not be discounted.

Irrespective of whether the decision to integrate a principles-based framework into industry activities is via a Code of Conduct or by other approaches, issues of implementation arise. Ingrained corporate culture and a lack of appropriate governance structures and training may lead even the most well-intentioned company to fail to live up to their own Code of Conduct.

What is needed is a comprehensive principles-based framework, underpinned by effective governance structures which meet the needs of both internal and external stakeholders. In addition, stakeholders need to be engaged in the development of such principles, and to ensure that these principles stay in tune with community expectations.

By taking such an approach, the benefits of a leadership initiative in this area could be achieved without creating the platform for external criticism that is generated by a Code.

Codes, by their nature, do imply a greater level of commitment and compliance to interested stakeholders, and can enhance the credibility of that commitment if the governance and transparency provisions are understood and accepted by stakeholders.

### ***Next Steps***

In the aftermath of the Romanian tailings incident, the Australian minerals industry has been represented in the media and by other stakeholders as deficient in its environmental management, applying different (and mostly inferior) standards overseas from those applied in Australia.

Much of the debate has construed the Code as an ineffective quasi-regulatory framework which is incapable of preventing environmental harm, and which should be strengthened or replaced with legislation governing the activities of Australian mining companies off-shore.

It is clear from this reaction that the Code's unique ability to bring about change across the industry is misunderstood, or in some cases, deliberately misconstrued by some stakeholders. Some of these stakeholders also seek to use the Code for their purposes, which are not in tune with its original objectives.

In response to feedback from stakeholders the industry has identified a suite of issues of key concern, and opportunities for the Code to better deliver on its objectives. The industry has embarked upon a number of key initiatives to further strengthen the Code. These include:

- A formalised governance structure for the Code which provides workable solutions to the issues of performance monitoring and Code compliance;
- Verification of environmental performance;
- Encouraging leadership across the industry in pursuit of continual improvement in environmental management;
- Creating mechanisms to foster the exchange of information, experience and 'lessons learned'; and
- Ensuring excellence and innovation in environmental performance are recognised and rewarded.

The Code has taken much of the learning from the development of the 'Responsible Care' programme, which has been successful in improving performance in the plastics and chemicals industry. Some of the people involved in the establishment of Responsible Care have also been involved in the Code's implementation. It is generally accepted that the Code has reached a more advanced stage of acceptance and implementation after four years, than had been achieved by Responsible Care in that period.

### ***Evolution of a diamond certification system***

#### **Ralph Hazleton, Partnership Africa Canada**

The development of an international diamond certification system started in 1999. In that year Global Witness, a British based NGO, published a critical study on the relationship between conflict and diamonds in Angola. In early 2000 a Canadian NGO, Partnership Africa Canada, published an extensive critical analysis of the role of diamonds in the Sierra Leone conflict. The Sierra Leone study was followed closely by a study by a United Nations Security Council expert's panel on Angola. The UN study focused on an investigation of the effectiveness of UN sanctions on Angola and dealt in detail with the role of diamonds in the Angola conflict.

As a result of the three studies, the diamond industry as well as many governments came under extensive fire from the media and the United Nations. The unusual happened, a chord was struck with the media, many governments, the United Nations and the general public. Thus the term 'conflict diamonds' was born.

The real impetus for a certification system came out of a meeting that took place in Kimberley, South Africa in May of 2000. The meeting was organised and hosted by the Government of South Africa for the purpose of looking at the issue of conflict diamonds, largely motivated by a number of southern African governments who were interested in protecting their industries. The Kimberley meeting was attended by government representatives, representatives from the diamond industry, civil society organisations and trade union representatives. This first meeting in Kimberley started the ongoing Kimberley Process. Meetings have since been held in South Africa, Namibia, the UK, Belgium and Russia.

At the latest Kimberley Process meeting in Moscow in July 2001, representatives from 34 countries approved the basics of a certification scheme to end the trade in conflict diamonds. After a very long drawn out process there now appears to be extensive progress in defining minimum acceptable standards for an international certification system, aimed at helping track sales and exports of diamonds, and at stopping trade in stones from countries at war. The draft proposal, while not yet agreed upon, includes a proposal for government agencies to be responsible for confirming the legitimacy of diamonds and for producers to be required to give guarantees to their governments.

The basic elements of the system will be further elaborated between now and the next meeting of the Kimberley Process which takes place in London in September 2001.

### *The process*

Faced with the international character of the illicit trade in diamonds, a global response to the problem has become indispensable. It has been shown in the case of Angola that individual country certificates of origin can be abused if there are no international agreements and monitoring. For example, prior to the beginning of the Kimberley Process many diamonds were being exported from Zambia with certificates of origin, but no diamonds are mined in Zambia.

It is more or less agreed that a certification system should be based on the following elements:

- Certificates of origin should be issued by authorities of producing countries and be based on standard international norms, which should be agreed at the international level. The importing countries would forbid the import of diamonds which do not carry this certificate.
- A single national authority should be responsible for centralising all lots of diamonds imported to or exported from the country.
- Import confirmation certificates and a system enabling the sealing of the lots or parcels of diamonds should be in place.
- A system of electronic exchange of information between the diamond exporting country and the diamond importing country should be put in place.
- Monitoring of the whole system, which could take the form of an international organisation responsible for assuring the functioning of the established mechanism is required. This organisation could have an institutional link with the United Nations. Various possibilities might be envisaged. It is also essential that the monitoring organisation be flexible and that its tasks be clearly defined.
- Detailed statistics by every country on imports and exports of diamonds should be published.

A comprehensive system of control would then be based on the following main principles:

- Certificates of origin issued by the authorities of the producing countries based on standard international norms.
- Import confirmation certificates
- Systematic exchange of information on transactions between the importer and exporter.
- Publication of detailed statistics
- Establishment of a centralised office for each country which will be responsible for all procedures concerning imports and exports.
- International supervision closely linked to the United Nations

The certificate to be used would not be a 'country' certificate, but what is presently being referred to as the Kimberley Process Certificate. Those countries agreeing to the Kimberley Process would be bound by the following undertaking (in the new draft):

Each participant undertakes:

1. Not to allow any consignment of rough diamonds to be exported unless accompanied by a Kimberley Process Certificate issued by its competent exporting authorities.
2. To allow a Kimberley Process Certificate to accompany any consignment of rough diamonds only if the exporting authorities are satisfied that, with respect to the consignment of rough diamonds for which the attachment of a Certificate is requested, no violation has taken place in respect of the laws, regulations, rules, procedures or practices referred to in Section V (Undertakings Regarding Internal Controls).
3. Not to allow any consignment of rough diamonds to be imported unless properly accompanied by a Kimberley Process Certificate issued by the competent exporting authorities in accordance with the provisions set out in Annex I (Technical characteristics of the Certificate).
4. To verify the conformity with the provisions of this scheme of the Kimberley Process Certificate accompanying a consignment of imported rough diamonds.
5. Not to allow any set of rough diamonds to be exported if destined to a non-participant.
6. Paragraphs 1-4 of this section do not apply in cases of transit, if the competent authorities of the participant through whose territory a consignment passes, ensure that the consignment leaves its territory in an identical state as that in which it entered.

### ***Concluding remarks***

The Kimberley Process has been an uneven and uncertain process, and a large amount of patience and compromise has been necessary. At certain points it seemed the process would unravel. However, after the recent Moscow meeting it appeared that a certification system would eventually be put in place.

Whatever the nature of the final certification process, it will not be foolproof. Diamonds are too valuable, too easy to smuggle and there are too many international criminals involved in the illicit trade to completely stop it. However, with more attention focused on the problems and the industry interested in minimising the illicit trade, it is a strong and positive step forward.

## ***Discussion – Strengths and weaknesses of voluntary initiatives***

### ***The voluntary principle***

Many NGOs argue for mandatory approaches to meeting environmental goals and standards, claiming that unless 100 per cent of the industry is covered by a voluntary initiative, it is ineffective as a tool in driving improvement in the industry's environmental performance.

Counter arguments state that the voluntary principle is a major strength for three reasons: firstly competition encourages individual companies to set new boundaries for what can be considered good environmental practice, an attitude which, according to Richard Wells, leads to continual environmental performance; second is the element of choice in whether or not to become a signatory. This requires a company to make a specific commitment to the initiative; finally, while it would be desirable for the industry as a whole to be signed on,

the overall industry benchmark for environmental and social performance is rising, thanks to the leading performers, and this is having a positive impact on the non-signatories who are improving their performance to keep pace with industry change. Competition as a motivation for adhering to voluntary initiatives was mentioned by a number of other participants during the discussion.

### ***The focus***

It was pointed out that existing initiatives tend to focus on large mines, rather than small-scale or artisanal mines. Because of the very different issues faced by the two types of mining, it would be difficult to develop a single initiative that would be applicable in both situations.

There is also the question of scope. The Australian Minerals Industry Code has been criticised for not going far enough to address broader social issues such as human rights. In response to this, the 2000 Code introduces the overarching goal of sustainable development, recognising the need to integrate economic, environmental and social considerations into decision-making and management. This Code could be further strengthened by placing greater emphasis on the importance of community partnership when addressing the environmental impact of mining and minerals processing operations on the community.

### ***Reporting and verification of performance***

Transparency in the documentation of environmental and related social impacts is an important tool in gaining the confidence of local communities and other stakeholders. External verification of company reporting is of key concern to some, as is an ability to compare environmental performance across the industry. This would require more consistency in the indicators used. The discussion revealed mixed views on the importance of translating principles into measurable standards.

In presenting the Australian Code, Richard Wells argued that the absence of prescriptive requirements for reporting under the Code enabled signatories to present information in ways best suited to their operations. It is this flexibility of reporting which drives companies to continually seek new and better ways of proving information on their environmental performance, which is relevant to stakeholder concerns.

### ***Flexibility in approach***

Principle-based frameworks have been criticised on the grounds that a generic set of issues which are flexible in their implementation allows for minimal changes to be enacted in the name of the initiative, leading to minimal environmental and social improvements.

The counter arguments focus on the need to accommodate the diversity of activity within the industry, the range of company size, and the differing cultural and community circumstances in different countries. By maintaining flexibility and focusing on principles for achieving continuous improvement in performance, rather than seeking to prescribe, such initiatives, it is argued, encourage creativity amongst companies to develop workable solutions to complex problems.

### ***International Compliance***

The issue of international compliance was raised in relation to initiatives such as Responsible Care, which are implemented at a national level. The point was made that companies value being able to work according to cultural traditions. However, in certain contexts, this might mean undermining human rights e.g. trades unionists. ICEM is involved in negotiations with Responsible Care to establish international standards, but their proposals have been vetoed by two American companies. The UN Security Council was mentioned as a suitable mechanism for addressing conflict and human disasters.

## **Considerations for a Voluntary Initiative for the Mining and Minerals Sector**

### ***What does the reordering of the industry associations mean?***

#### **David Colton, Phelps Dodge**

The mining industry is currently characterised by increasing consolidation, where mid tier companies are being consumed by larger ones, and commodity prices are at their lowest ever. There is a great need and an opportunity for a mining industry association, creating a much sharper focus, greater communication within the industry and an industry voice on sustainable development.

The vision of such an organisation would be: 'To lead the world's mining, minerals and metals industries as they contribute to meeting the challenges of sustainable development in the 21<sup>st</sup> century', and its key features would include:

- Assisting the mining and metals industries to contribute to the transition to sustainable development;
- Greater level of senior executive leadership and involvement;
- More effective network of national, regional and commodity associations;
- Inclusive and representative of the industry;
- Platform for collaboration on generic issues;
- Location: London;
- Governance.

#### ***Areas of activity:***

- Broader than the current ICME;
- Follow-through of MMSD;
- Contribution to sustainable development: land access; environmental performance; economic contribution; social change.
- Chapter Charter responsibilities.



### ***Challenges and opportunities***

- Industry alignment
- CEO participation
- Association alignment
- Sustainable development alignment;
- Best practice;
- Research;
- Stakeholder participation.

In the discussion that followed, it was agreed that the mining and minerals industry needs its own association with a structure in place to engage with other stakeholders; it needs a mechanism for establishing how decisions are made and who pays for what; and it needs to be held accountable. ICEM, for example, needs to have a credible platform to deal with. It was felt that starting a new organisation would provide the perfect opportunity for starting to do things effectively.

### ***Alternatives for a voluntary initiative for the mining and minerals sector***

#### **Luke Danielson, MMSD**

Luke Danielson started by recalling the four pillars of sustainable development:

- Economic development
- Social and cultural development
- Environmental protection
- Governance systems which promote these values

Globalisation has posed new challenges, particularly for governance. National governments have limited territorial jurisdiction, and have yet to develop the capacity to manage many aspects of the global economy (e.g. electronically driven financial markets; environment; human rights). While sovereign national governments and their subsidiarity levels, and international organisations established by governments have a role to play, there is a growing recognition that these institutions alone cannot bring about sustainable development.

Various alternative structures are being discussed in the minerals sector, including treaties, the UN system, the World Bank and private voluntary initiatives. The latter have emerged in various proposals, but need careful crafting.

#### ***Elements of a system:***

- Norms: a set of rules which define appropriate practices;
- Organisational structure: administrative system for making the norms operational;
- Incentives: a set of rewards for complying with the norms or penalties for non-compliance.

### ***Norms:***

Can take many forms: standards, guidelines and statements of best practice, and codes of conduct. Is there an advantage if the norms deal with the whole range of sustainable development issues? There is a need for balance, e.g. of North-South concerns.

### ***Administrative structure:***

Possible roles for administrative structure:

- A non hostile forum for discussion;
- Developing norms;
- Continuing improvement and development;
- Verifying compliance with norms;
- Investigation, mediation and conciliation.

Does the industry do this alone, or with other actors? How is the relationship among the different stakeholders structured? Global units should not impede specific initiatives on particular issues or at a national or regional level.

### ***Incentives***

- *Financial:*
  - Debt: greater lender acceptance; quicker approval; lower transaction costs; lower loan rates;
  - Equity: greater acceptance by individuals and institutional investors concerned about environmental and social issues could be linked to acceptance criteria of ‘ethical’ funds;
  - Ratings: acceptance by Dow Jones sustainability index, new FTSD rating system, Innovest etc.
  - Insurance: lower cost, quicker approval.
- *Markets:* distinction between products that comply and those that do not:
  - ‘Green’ labelling, e.g. tuna labelling;
  - Certification of origin e.g. diamonds;
  - Required by large customers, e.g. ISO 14,000 certification.
- *Reputation:* improved reputation and acceptance, making it easier to recruit talent; more community acceptance and more confidence from regulators.

### ***A potentially powerful system***

- Multinational companies could face significant pressure to comply;
- Could significantly improve company performance in a number of important areas such as environment, labour, rights, community development, human rights, corruption;
- Could provide an effective set of rules in areas where national governments have not developed the capacity to be effective counterweights to the power of multinational companies;

- Consistent with the UN Global Compact.

### *Issues*

- Not everyone has the same capacity to participate:  
A recent study of 178 countries measured public ‘voice’ and accountability of government using as indicators civil liberties, political rights, the transparency of the political system, and the existence of independent media. These were found to be strongly associated with high per capita income, low infant mortality and high adult literacy;  
Kaufman, Kray and Zoido-Lobaton 1999.
- Action at many levels; participation at many levels:  
We cannot progress without coordinated efforts at many different levels – global, regional, national, local, community, household and individual. The emphasis depends on the principle of subsidiarity.
- How to account for deficiencies in national and regional priorities?
  - National or regional systems only;
  - National/regional systems accredited by a global body;
  - Global norms supplemented by regional/national norms;
  - A unified system of global applications;
- Who convenes the process?  
Someone with convening power must propose the first step. However, because universally accepted wise neutrals are in short supply, it may need to be a balanced group of convenors. This requires some degree of pre-existing relationships and trust.
- How is the system legitimised?
  - The structure of the system;
  - Broad policy decisions and ongoing governance;
  - Case-specific decisions.
- How is the system governed?  
This might be one stakeholder in a management position e.g. as for the World Bank guidelines, an industry-run self-certification system, or through shared control and management by multiple stakeholders.
- How is the mandate maintained and renewed?  
The mandate of those who run governments and those who run NGOs has a limited lifespan. They need to put themselves up for reaffirmation; how long should this be done in the kind of structure we are talking about?
- How is this paid for?  
It needs to start with some relatively ‘neutral’ funding. Ultimately it could be a ‘tax’ or ‘charge’ e.g. a fee for certifying products.
- What is the government role?  
Government is a critical stakeholder; failure to involve government weakens the outcome. However, under WTO rules, a government-backed system (particularly one such as certification which uses the market as its driver could be seen as an unfair trade restriction).

## Considerations for a Voluntary Initiative: Moderated Plenary Discussions

### *What are the drivers of a voluntary initiative?*

Led by Paul Robinson, Southwest Research and Information Centre, and David Rodier, Noranda Inc. the discussion made it clear that drivers need to be considered from different points of view, including that of corporations, governments and communities.

#### ***Industry***

From an industry point of view, the key drivers for using voluntary initiatives to improve sustainable development performance are:

- The need to maintain long-term access to mineral resources and land, and access to markets for metals;
- Ensuring an on-going licence to operate.

Action may also be spurred by the need to respond to crises in the industry, as has been the case for the mining sector in Australia, which led to the Australian Minerals Code, and the situation a number of years ago in the chemicals sector in Canada, which led to the adoption of Responsible Care.

Furthermore, the driver for using voluntary initiatives as opposed to other regulatory structures, is their flexibility. This encourages innovation and allows leaders to show progress made.

#### ***Government***

- A crisis such as a mining environmental or safety disaster might drive governments to develop a range of instruments from policy to regulation, to support for voluntary initiatives;
- The need to provide economic development opportunities and to address issues of equity in distribution of benefits from mining;
- The fear of litigation and the threat of regulation by governments, and increasingly NGOs or communities is a driver for improved industry performance;

Action through voluntary initiatives represents a better investment and may be more effective than expenditures on legal fees.

#### ***Community***

- Increased public and individual awareness of issues in the mining and minerals sector, which creates social pressure for dialogue with industry and for action to address community concerns;
- Issues of equity within and between communities, and between communities and the national government, may also put pressure on governments and companies to address

social and economic sustainability in minerals developments, and specific application of broad norms at the local level, taking into account the need for greater efficiency, local sensibilities and culture, and the sovereign power of nations.

- Internal and transparent verification (Responsible Care example).

### ***Environmental community***

- The need to conserve and manage resources responsibly;
- The need for protection of environmentally significant land resources and recognition and protection of aboriginal lands.

### ***What scope should be addressed by a voluntary initiative for the mining sector?***

Fred Higgs, General Secretary of ICEM, and Fernando Toledo, Codelco, led the discussion. Participants stated the need to see sustainable development in the broad context of both national development needs and local community interests. There is a tendency to frame sustainable development issues and possible solutions around the industry needs and points of view. Ultimately what is needed is mineral development which meets sustainable development objectives of communities and countries, and the scope needs to be defined by all the stakeholders: governments, industry, labour, communities and others. Through discussion the following were identified as areas to be addressed by voluntary initiatives:

- Set of principles to encourage poverty alleviation
- Environmental management
- Social and ethical issues
- Labour rights and relations
- Crisis prevention

At the moment systems tend to encourage lowest cost. People tend to go where they can gain competitive advantage.

### ***Who can convene?***

Peter Eggleston of Rio Tinto highlighted the need to for different players at different levels to address the complexity of sustainable development. Industry cannot deliver by itself. He suggested that the development and implementation of a voluntary initiative be carried out through different stakeholder fora with linkages between them. These fora would be convened on an ongoing basis to discuss the different issues at stake; to develop a new approach and to catalyse different initiatives, thus providing a major learning opportunity.

He cautioned against neglecting small-scale miners in favour of focusing on the corporate level.

A number of players is already emerging to look at voluntary initiatives:

- CEOs: already have a framework to do this;
- ICMM: gearing up organisationally to face some of these initiatives;
- WBCSD can provide useful links to other industry sectors;
- WB and IFC are reviewing their approach to investment in the mining sector.

Alice Palmer, FIELD, focused on the role of government, and, in particular, the application of international trade rules to a voluntary initiative.

She noted that several presenters have already referred to the deliberate exclusion of government from some voluntary initiatives as a means of avoiding conflict with the rules of the World Trade Organisation (WTO). However, there are at least two reasons why avoidance of international trade rules would not alone be an appropriate reason for excluding government from either the development or implementation of a voluntary initiative for the mining sector.

First, even if government is not involved in its creation, a voluntary initiative developed by industry alone or in co-operation with other non-government stakeholders could still be subject to the provisions of the WTO Agreement on Technical Barriers to Trade (TBT Agreement) that apply to voluntary technical standards developed by non-government bodies.

Secondly, industry does not operate in isolation and, whether by default or design, government is likely to be involved in the implementation of a voluntary initiative. Indeed, if the voluntary initiative is going to have any teeth, it might be desirable to involve government through a system of incentives (such as tax benefits, government procurement or other preferences) for companies or products that have complied with the voluntary initiative. Government incentives conditioned upon compliance with a voluntary initiative would then be subject to WTO scrutiny.

If international trade rules are to apply to any voluntary initiative developed out of the MMSD project, it would be best to address issues raised by the WTO agreements at the outset rather than trying to avoid them through the exclusion of government from a multistakeholder process.

### ***TBT Agreement overview***

The TBT Agreement is one of a package of agreements negotiated during the Uruguay Round of international trade negotiations that created the WTO in 1995. Like many of the other agreements negotiated during that Round, the TBT Agreement targets non-tariff barriers to trade, in this case in the form of technical requirements. In particular, the TBT Agreement is concerned with situations in which technical requirements governing product characteristics or their related processes and production methods (PPMs) – such as certification or labelling – act to hinder trade across international borders. Technical requirements might act to hinder trade expressly – by favouring domestic producers – or indirectly, by setting standards with which foreign producers cannot, by definition or in practice, comply.

### ***Substantive rules under the TBT Agreement***

Technical requirements are nevertheless permitted by the TBT Agreement provided they do not discriminate between domestic and foreign products and provided they do not create unnecessary obstacles to international trade. Technical requirements must be based on international standards except where it would be ineffective or inappropriate to do so.

Determining what constitutes ‘discrimination’, an ‘unnecessary obstacle to international trade’ or ‘ineffective or inappropriate’ requires an extensive analysis which is beyond the scope of today’s discussion. The main *substantive* rules prescribed by the TBT Agreement involve not creating unnecessary obstacles to international trade, the use of international standards and non discrimination.

### ***Mandatory regulations and voluntary standards***

The TBT Agreement distinguishes between technical regulations and technical standards. As defined by the TBT Agreement, compliance with technical *regulations* is *mandatory* in contrast to compliance with technical *standards* which is *voluntary* (Annex 1). WTO Members’ obligations with respect to mandatory regulations and voluntary standards differ under the TBT Agreement.

In relation to mandatory technical regulations, WTO Member governments must ensure that they do not discriminate between domestic and foreign products or create unnecessary obstacles to international trade. Technical regulations create ‘unnecessary obstacles to international trade’ if they are more trade-restrictive than necessary to fulfil a ‘legitimate objective’. ‘Legitimate objectives’ include protection of human health or safety, animal or plant life or health, or the environment (Article 2).

With respect to the preparation, adoption and application of voluntary technical standards, Members must take ‘such reasonable measures as may be available to them to ensure that... non-governmental standardising bodies ..., accept and comply with [the] Code of Good Practice [in Annex 3 to the TBT Agreement].’ (Article 4). Mirroring the provisions that apply to technical regulations, the Code of Good Practice contains substantive rules requiring non-discrimination, no unnecessary obstacle to international trade and reliance on international standards (Annex 3).

### ***Voluntary initiative excluding government***

A voluntary initiative developed out of the MMSD project that excluded governments from the standard-setting process might fall within the category of a voluntary standard developed by a non-governmental standardising body within the meaning of Article 4 of the TBT Agreement. Unfortunately, a ‘non-governmental standardising body’ is not defined and, until it is clarified by amendment or by the WTO dispute settlement body, we can only speculate about which bodies might be covered. The term would likely include national and international standards organisations such as the International Organisation for Standardisation (ISO). However, it might also include a body established to design a voluntary initiative for the minerals sector. On the assumption that any MMSD-inspired voluntary initiative would fall within the scope of Article 4 of the TBT Agreement, the convenors of the voluntary initiative would be well-advised to observe the provisions of the Code of Good Practice.

I say only ‘well-advised’ because the TBT Agreement does not impose obligations directly on non-government bodies – it can only bind Member governments. However, if ‘reasonable measures’ taken by Member governments meant that non-governmental standardising bodies were required by their governments to comply with the Code, it would be in their interests to have observed the provisions of the Code in the development of the voluntary initiative.

### ***Voluntary initiative relying on government involvement***

Even if a voluntary initiative is developed solely by non-governmental actors, it is important to consider whether it will ultimately depend on some form of government recognition or endorsement to be effective. For example, government legislation or regulations that used a voluntary initiative as a basis for certifying certain minerals or for offering or denying tax benefits might be a desirable means of giving the voluntary initiative some teeth. The US legislation concerning diamond certification that was discussed in an earlier session today is an example of a government measure that ‘rewards’ compliance with a given standard.

Government measures offering preferences based on compliance with a voluntary initiative might fall within the category of mandatory regulations that could be at risk of a WTO challenge. However, such government measures would have a good chance of surviving a challenge under the TBT Agreement if they observed the non-discrimination rule and presented no unnecessary obstacle to international trade. As noted earlier, measures designed to fulfil a ‘legitimate objective’ such as protection of the environment would not constitute an unnecessary obstacle to international trade.

If the voluntary initiative is designed with a view to complying with the TBT Agreement, it will be better placed to avail itself of any opportunities for government endorsement which would not fall foul of international trade rules.

### ***Conclusion***

Exclusion of governments from a multistakeholder dialogue on a voluntary initiative would appear to provide only limited protection from international trade rules and may compromise opportunities to give effect to the voluntary initiative through government measures. Accordingly, avoiding WTO jurisdiction should not be a significant factor in any decision not to include government in the design or implementation of a voluntary initiative.

If the creators of a voluntary initiative are aware of the WTO rules and have the opportunity to address them at the outset, they will have the best of both worlds – they can mitigate against the risk of a WTO challenge as well as giving effect to the initiative’s intended purpose in promoting sustainable development in the minerals sector.

### ***Discussion – key considerations for the design of voluntary initiatives***

**Objectives:** Voluntary initiatives should be designed to improve industry/sector performance over and above requirements set by international agreements and by national law and regulation. They need to strive for continual improvement and, rather than serving as a



barrier to participation by a large portion of companies in the sector, they should provide incentives for participation.

**Flexibility:** The importance of flexibility across the industry in achieving sustainable development objectives was identified by some participants. Others felt that there need to be common norms which cover a range of ‘whats’ and apply to all ‘wheres’, but agreed that flexibility in ‘how’ different companies and operations achieve these is appropriate.

**Consistency:** there is a need for consistency in approach across the sector to improve performance, perhaps in the form of sustainable development principles and a code of conduct which include process or management norms and some form of performance norms. However, participants expressed a range of views on whether norms in the form of principles and management codes are sufficient, or whether and at what level voluntary performance norms need to be established and adhered to. Some participants expressed concern over applying global standards uniformly in all countries, given the range of local economic, social and environmental conditions, and the diversity of company size. There was also concern expressed by some participants that global standards might be seen to impinge on the right to development for developing countries.

While recognising this diversity in conditions and views, participants generally felt that there is a need for a certain set of global principles which are applied consistently by governments and the mining industry to ensure adequate sustainable development performance, no matter what operations take place. One participant cited the need for a guaranteed right to negotiate fair pay through freedom of association. However, this is not the same as a global standard for pay levels.

**Level of application:** Voluntary initiatives also need to be designed at the appropriate level – some issues can and should be addressed globally through such approaches, while others need either to have separate voluntary initiatives, or involve country- and site-specific application of broad norms at the local level, taking account of the need for greater efficiency, local sensibilities and culture, and the sovereign power of nations.

## **Proposed next steps**

To wrap up the workshop, participants were asked to state their views on next steps to advance MMSD’s work on planning for outcomes and on voluntary initiatives in particular. The following suggestions were made, some of which represented a convergence of thinking among several participants.

**Range of approaches/instruments.** Given the complexity of sustainable development issues faced by the mining and minerals sector, voluntary initiatives can form only part of the picture for improving performance in the sector. International cooperation, national policy, law and regulatory instruments and other approaches will be necessary to complement and, in some cases, parallel voluntary initiatives. MMSD should map out this broader range of options, based on global as well as regional/ national/community sustainable development objectives and pursue each of them as appropriate in its recommendations.

This range of approaches needs to take into consideration the different social and financial contexts and environmental conditions faced by smaller companies and small-scale and artisanal miners, which will be difficult to be included in voluntary initiatives.

***A matrix of issues and voluntary approaches.*** It would be useful for MMSD to do a ‘matrix’ analysis of the main sustainable development issues it is addressing (in the 8 Challenges which will form the basis for the MMSD report), against the range of current voluntary initiatives in the sector, and other voluntary instruments drawn from experience in other sectors. This analysis should consider which instruments/initiatives are appropriate for different issues and for application at the local, national, regional or global levels.

***A set of options for voluntary initiatives.*** MMSD should draft a ‘straw’ proposal outlining a set of options for voluntary initiatives. This proposal should focus on initiatives which are ‘doable’, should draw on existing national-level programmes and on recent ‘pre-feasibility’ studies of various instruments and approaches, and outline pre-feasibility elements for new initiatives. The set of options should then be tested with stakeholders at the global and regional levels. These options may be complementary and would be useful to pursue into feasibility analysis and design in the follow up to the project.

***Timeline and milestones for a cross-cutting voluntary initiative.*** It would be helpful for MMSD to outline a proposed schedule for the development and implementation of a mining and metals industry ‘voluntary code’, to which the industry would be invited to commit. This might include specific elements for, say, cyanide handling and for tailings management, over the next two years, and implementation of an overall industry code of conduct over 5 years.

***Voluntary initiatives for specific sets of issues.*** The set of options should include voluntary initiatives to address issues beyond environmental management, including social and ethical issues, and labour rights and relations. It may be more effective to start by developing and implementing some of these, such as for labour rights, in parallel to development of an overall industry code, and then to incorporate these into the overall code in the future.

***Voluntary 3<sup>rd</sup> party verification.*** A key element of voluntary initiatives, including an industry code, will be the design and application of some form of 3<sup>rd</sup> party verification and possibly certification of adherence to the norms and process provisions of the code. This is essential to gain the widest possible acceptance of the programme by both companies and stakeholders, and to provide public legitimacy to its implementation.

***High-level fora to support MMSD follow-up.*** There will be a need for some form of on-going high-level multi-stakeholder forum at the global level where the heads of organisations and corporations who are in a position to deliver on initiatives aimed at improving sustainable development performance of the mining and minerals sector can engage around the issues raised by the MMSD report and commit to act on its outcomes. It may be best for such a forum to be convened by a balanced group of interests, providing a neutral place for both dialogue and design of voluntary initiatives. It also may be useful to

have a parallel United Nations forum for governments, for example to build on non-sector specific initiatives such as the Global Compact.

Given the concerns expressed by various participants about the high expectations being raised among active stakeholders by the MMSD regional processes, such follow-up fora will be essential at the regional level for continuing dialogue and providing a vehicle for addressing MMSD recommendations.

***Discussion of MMSD draft report.*** Given the broad range of issues being addressed by MMSD, it will be important for the project team to define a process for all stakeholders to review the draft MMSD report. This will be necessary to permit stakeholders to identify those issues they consider critical and which require commitment by industry and other stakeholders for rapid action; in other words to define priorities for early action. These review and discussion processes will be needed at both the national and regional levels.

In closing, the MMSD Project Director stated that these suggestions would be considered in the MMSD report, and in formulating options for mechanisms to implement the MMSD outcomes.

# Annex I. Agenda

Wednesday, 18 July

## **Session 1: Challenges and Experiences with Voluntary Initiatives**

- 8:30 **Welcome, introduction to MMSD and Objectives of the Meeting**  
*Luke Danielson* and *Libby Wood* will welcome the participants and introduce MMSD, the current challenges of the mining and minerals sector, and present the objectives of the meeting.
- 9:00 **Voluntary Initiatives in Other Sectors: Options and Alternatives**  
*George Greene* will briefly describe the main features of voluntarily instruments in the chemical, forest, marine and dams sectors, as well as more generally applied instruments e.g. ISO 14001.
- 9:20 **Panel on Some Existing Mining Industry Voluntary Initiatives**  
-*Richard Wells*, Executive Director Mining Council of Australia, will discuss the development of Codes in Australia with specific reference to the Code for Environmental Management and the Joint Ore Reserves Code.  
*Jim Cooney*, Placer Dome, will describe the project under current development with WWF on evaluating the viability of the certification of a mine site  
-*Ralph Hazleton*, PAC, will present the experience of diamond certification.
- 10:00 **Moderated Discussion on Voluntary Initiatives**

10:30 REFRESHMENTS

## **Session 2: Considerations for a Voluntary Initiative for the Mining and Minerals sector**

- 10:45 **What does the Reordering of the Industry Associations Mean?**  
*David Colton*, Phelps Dodge, will describe the experience with ICME as well as outline the mandate and intent of the new ICMM.
- 11:15 **Alternatives for a Voluntary Initiative for the Mining and Mineral Sector**  
*Luke Danielson* will present some options for a voluntary initiative for the mining and mineral sector to address mining and sustainable development issues.

## **Session 3: Considerations for a Voluntary Initiative: Moderated Plenary Discussions**

- 11:30 **1) What are the drivers of a Voluntary Initiative? Market, reputation, regulation threat, etc.**
- *Paul Robinson*, Southwest Research and Information Centre.

- Dave Rodier, Noranda.

12:30 LUNCH

13:30 **2) What scope should be addressed by a Voluntary Initiative for the mining sector? What commodities should be included?**

- *Fred Higgs*, ICEM General Secretary.
- *Fernando Toledo*, CODELCO.
- *Manuel Pulgar*, SPDA.

*Followed by discussion*

14:30 **3) Who can convene a Voluntary Initiative? Industry Initiative vs. Multi-stakeholder Initiative, if Industry Initiative, should the process be company audit, external audit or third-party audit?**

- Peter Eggleston, Rio Tinto
- Alice Palmer, FIELD

*Followed by discussion*

15:30 REFRESHMENTS

16:00 **4) Relationship Between Global, Regional and National Application:**  
How to Decide what has to be Addressed at Global and Regional Level?  
*Juan Carlos Urquidi*, Urquidi, Cumplido, Ramirez, Mayorga y Cía, will lead discussion on considerations to determine the relationship between global and regional level rules.

**Session 4: *Implications for a Voluntary Initiative in the Mining and Minerals***

16:20 **Moderated Discussion**

- What are the necessary conditions to begin discussion/design?
- What are some essential governance considerations legitimised the system and mandate, and how are these maintained and renewed?
- How is this paid for?

17:45 **Next Steps**

18:15 **Wrap up and Closing Remarks**

## Annex 2. Participants List

<b>Attendee</b>	<b>Organisation</b>
Susan Bass	ELI
Vivian Collins	NRCan
David Colton	Phelps Dodge
Jim Cooney	Placer Dome
Jim Cress	Holme Roberts & Owen LLP
Cecilia Dalupan	El Paso Fellow at the Natural Resources Law Center
Luke Danielson	MMSD
Fern Daves	Sedgwick, Detert, Moran and Arnold
Peter Eggleston	Rio Tinto
Reg Green	ICEM
George Greene	Stratos
Reese P. Hastings	Pincock, Allen & Holt, Seattle, WA 98102
Ralph Hazleton	PAC
Fred Higgs	ICEM
Blair Hodgson	NRCan
Kathryn Mutz	Natural Resources Law Center, University of Colorado
Alice Palmer	FIELD
Hillar Pinna	Associate General Counsel, Noranda Inc.
Paul Robinson	Southwest Research and Information Centre
Dave Rodier	Noranda
Emil Ruppert	Rubio, Leguia, Normand, a Lima, Peruvian law firm
Fernando Toledo	Codelco
Juan Carlos Urquidi	Urquidi, Cumplido, Ramirez, Mayorga y Cía
Jacqueline Weaver	University of Houston Law Center
Richard Wells	Mining Council of Australia
Libby Wood	MMSD