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### **Title**

***NGOs in a Sustainable Relationship for Sustainable Mining? : The Australian Perspective on What Happened after the MMSD Initiative***

### **Abstract**

The Mining, Minerals, and Sustainable Development (MMSD) initiative was born out of the Global Mining Initiative (GMI) in 2000. It was an ambitious partnership between some key non-government organisations (NGOs) across the world and some of the largest multinational mining corporations. Emerging at the height of a new level of corporate engagement by NGOs it was full of promise for a new era where the participation of multiple stakeholders in sustainability of the earth's resources would help design a sustainable future for one of the industries that is seen as the most challenging to global ecological sustainability.

Drawing on local Australian research completed in 2006 for a German based global study aimed at assessing the outcomes of the MMSD, this paper explores the events and achievements that occurred in Australia through the MMSD process. As a case study it reveals some key pitfalls in corporate engagement for NGOs and raises some very important questions about the integrity of relationships between 'stakeholders' with such contrasting views of what sustainability might be, but also the difficulties encountered between the vested interest of the players in a multi-stakeholder project such as the MMSD<sup>1</sup>.

From a theoretical perspective, the paper also revisits the notion of 'corporate engagement' (Phillips, 2001, 2002) as a legitimate path for NGOs engaged in advocacy for people and the environment affected by mining. Questions of sustainability are explored in such relationships, particularly in what happened to what appeared to be a model response to the MMSD in Australia. The MMSD process in Australia proceeded in an exemplary way throughout its establishment and consultation process. However, when it came to the crunch, to implementation of the findings of the consultation, the process came to an abrupt halt. The focus of this paper is on the reasons for this demise that are explored through the voices of key informants who were part of the process. However, the analysis of why the sustainability of the relationship between the NGOs involved and the Australian mining industry became unsustainable, are part of a bigger set of

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<sup>1</sup> Mining industry sponsors of the MMSD were: Alcan, Alcoa, Anglo American, Anglovaal, Barrick Gold, BHP, Billiton, Codelco, De Beers, Freeport McMoRan, Gold Fields, Lonmin, MIM Holdings, Mitsubishi, Mitsui, Newmont, Nippon, Noranda, Normandy, Norsk Hydro, Pasminco Phelps Dodge, Placer Dome, Rio Tinto, Sibirsky Somnicor, Sumitomo, Teck and WMC Ltd.

theoretical and practical challenges that are faced by the ongoing tensions between capital and the environment.

### **Introduction**

This paper has two key aims. First, the paper explores the sustainability of NGO-corporate relationships, raising questions about the inherent tensions between the goals of most environmental and social NGOs to save the earth and protect it from the exhaustion of human habitation and the goals of mining companies to exploit the earth to maintain profits for their shareholders. This aim is based on the primary research behind this paper, which was completed for a report about how Australian mining companies and related institutions/organisations were involved in the Mining, Minerals, and Sustainable Development (MMSD) initiative and what outcomes could be measured from the initiative. As part of a worldwide study in 2005, I was commissioned to document what happened in Australia after the MMSD process was completed in 2002. The research was carried out from January to April 2006 and involved informal interviews with key players in MMSD processes, including people from Australian mining companies, NGOs and other institutions. The research also involved reviews and analysis of publicly available corporate and NGO materials. The MMSD can be viewed as a collective gesture by the world's largest minerals and mining corporations to reconfigure their negative image within environmental debates about sustainability, but it was also about collectively reconfiguring its relationships with NGOs. Its primary aim was set out in the following statement:

The global mining industry is open to dialogue and change. Your organisation should be involved, so that we can move forward together (GMI, 2000).

The idea of togetherness between NGOs and mining MNCs is extremely challenging. There is a fundamental incommensurability between the two stakeholder groups and it is within the construct of *sustainability* that this becomes most obvious. Dashwood observes that the way mining companies get around this contradiction is by “striving to extract resources in a manner that is less damaging to the environment, while seeking to provide economic and social goods to the local communities in which they operate” (2007: 145-146). From an environmental perspective there may be degrees of sustainability inherent in this response but the fundamental paradox of exhausting a non-renewable resource in a sustainable way is an insufficient response in the current context of environmental crisis.

The second aim of this paper is to revisit an analytic frame for research on the sustainability of relationships between NGOs and multinational mining corporations that was developed almost a decade ago. Based on a corporate engagement continuum model (Phillips, 2001), the practice of NGOs in a sustainable relationship for sustainable mining will be explored. From the NGO perspective, much has changed in the global arena in the past decade. In that time global warming and climate change have become widely accepted as the major environmental problems facing the world today and, indeed acceptance of these problems has become a measure of progress in world debates about the environment. Although still resisted and even denied by some recalcitrant corporations and states, the key response to global warming and climate change, sustainability, now appears to be embedded in most MNCs' corporate plans and

development strategies as well as providing the basis for environmental policies of states and international institutions. The culmination of the MMSD initiative was a “watershed” conference held in Toronto, Canada in May 2002, in the same year of the World Summit on Sustainable Development (WSSD) in Johannesburg, South Africa. The WSSD signalled a collaboration of states, NGOs, business and global institutions but major emphasis was placed on the public/private partnerships as a major breakthrough in sustainable development (Corporate Europe Observatory, 2002). However, for NGOs the summit resulted in meagre outcomes due to the lack of binding protocols and agreements on action for sustainability (Corporate Europe Observatory, 2002).

However, the most striking changes in the past decade have taken place within and between the two sets of key stakeholders in this discussion, MNCs and NGOs. One decade ago, when only a few tentative relationships between NGOs and multinationals existed, most NGO’s were at loggerheads with corporate power (Dashwood, 2007: 130; Phillips, 2001: 154-169). For most environmental activists and NGOs, mining companies were viewed as the most offensive in environmental damage and negative social impact. The ecological damage from mining is extensively documented and well understood (Dashwood, 2007: 130; Hilhorst, 2003: 201; Atkinson, 1998). From the corporate perspective the growing strength and capacity of NGOs had turned them into hostile irritants, out to tarnish their reputational capital (Phillips, 2001, 2002). Since 1998 there has been a huge and rapid growth in mechanisms, agencies, consultancies, networks and practices that have both facilitated and acknowledged the willingness of mining companies to change the way they operate and NGOs’ willing to try new methods for change in the face of disillusion with the state and state based institutions (Phillips, 2001; Hall & Biersteker, 2002: 8; Dashwood, 2007). In both cases the types of relationships these stakeholders have embarked upon should be seen on a continuum, beginning with *confrontation* and ending with *partnership*, reflecting the extent to which values and objectives held by both parties can merge (Phillips, 2001: 164; Cowe, 2004).

In light of a decade of corporate engagement, how have NGOs changed or been affected by this continual repositioning? A report “The 21st Century NGO “, produced by SustainAbility (an independent NGO consultancy), the UNEP (UN Environmental Protection Authority), and the UN Global Compact (made up of some of the world’s largest corporations), describes how NGOs have changed and developed as institutions. It observed that NGOs are becoming more flexible, more pragmatic and more “business-like” (SustainAbility, et al, 2003). The report also accounts for the growing power of NGOs, stating: “NGOs worldwide now command a staggering budget of \$1trillion”. It presents an upbeat description of how NGOs have moved from “outsiders challenging the system” to being increasingly part of the system; from identifying market failures to insisting on new market solutions; from fundraising based on guilt to persuading supporters they are themselves good “investments” (SustainAbility, et al, 2003). Also, in the same report, a representative of the US oil industry described what is, from an MNC perspective, the character of the 21<sup>st</sup> Century NGO when he said: “NGO accountability is crucial. The UN Global Compact believes NGOs are becoming more flexible, more pragmatic and more “business-like” (SustainAbility, et al, 2003). Further, it was reported in an International Business Leaders Forum/Harvard survey (2005) that the most

common reasons for businesses to seek partnerships were committing to their “values, principles, policies and traditions” and protecting brand and reputation.

Dashwood (2007) argues that during the 1990s many mining MNCs had not only accepted but also contributed to the development of global norms around the environment and human rights, key components of corporate social responsibility (CSR). This, in addition to the kind of redefinition of NGOs as demonstrated above, lends itself to a level of suspicion or distrust of the power of MNCs to appropriate both the legitimacy of the independent voice of NGOs and threatens the trust that is required for sustainable relationships.

### **The MMSD**

The formal process of the establishment of the Global Mining Initiative (GMI) and the MMSD project is well documented in a number of reports, including the MMSD final report, *MMSD, Breaking New Ground* (IIED and WBCSD, 2002). What my research sought to add was detail of the local Australian context in which these initiatives emerged, with a particular emphasis on the networks of individuals from Australia. If there was any single point to emerge from the research on NGO/corporate engagement in this study, it was to re-emphasise the importance of individuals and their networks in the process of change in social and environmental values in the corporate sector and in the broader communities of stakeholders.

Some of the key actors in the formation of the MMSD were Australian individuals and Australian mining company executives. Western Mining Company (WMC), as a key Australian mining company, was central to the formation of the Global Mining Initiative (GMI), however, it was Rio Tinto that suggested a study should be conducted on mining sustainability through the International Institute for Environment and Development (IIED) and this became known as the MMSD study.

At the time that this initiative emerged, the mid to late 1990s, Australian mining companies were also dominant industry players in the Asia Pacific region. This was reflected in their activism in collective industry organisations such as the GMI, which according to George Littlewood who was then working for Rio Tinto in London, emerged in the following way. Hugh Morgan, CEO of Western Mining Company (WMC), Doug Yearly from Phelps Dodge Corporation suggested to the chair of Rio Tinto, Bob Wilson, that he invite key mining CEOs to discuss the need for an initiative like the GMI. This, according to Littlewood, was the result of some industry ‘self-reflection’ about the reputation and practices of mining companies in the global context and a resulting key question about what the role of the mining industry would be in a *sustainable* future. Once formed, the GMI sought to answer the sustainability question by commissioning independent assessment of the sustainability of mining through the MMSD project.

When told from the perspective of a key player in the initiative (from beginning to end), George Littlewood, who holds passionate ideals about the possibility of a sustainable, environmentally and socially ethical global mining industry, certain characteristics of individual influence and the right connections to make things happen become evident.

One important characteristic was a long personal history as an industry activist pursuing these ideals.

Littlewood provided an account of the early beginnings of such changes citing the 1990 Australian federal government's *Ecologically Sustainable Development* initiative under the Hawke Labor government as an early beginning of a collaborative step toward sustainability and the building of relationships between NGOs, government actors and business. The *Ecologically Sustainable Development* (ESD) process was similar to the MMSD process apart from the initiator and leader being the Australian government rather than industry. In late 1990 the then Labor Prime Minister, Bob Hawke, invited large environmental NGOs, different governmental bureaucracies, the Business Council of Australia, trade union representatives and the Australian Council of Social Services (ACOSS) to participate in the ESD (Doyle, 2000: 152). Two of the NGOs involved in the ESD, World Wildlife Fund for Nature (WWF) and the Australian Conservation Foundation (ACF), were also key NGOs in the MMSD process. The ESD involved a very broad and comprehensive national consultation process, resulting in 500 recommendations that went to 37 state and federal committees for action (Doyle, 2000: 152). By the end of 1992 all of the NGOs had withdrawn from the ESD process, "claiming that the process had been hijacked by the bureaucracy" (Doyle, 2000: 154). From the NGO perspective this ESD process saw the initial incorporation of sustainability principles become part of "business as usual" for the business sector (Doyle, 2000: 155). However, Doyle (2000) observes that there were some good outcomes for environmental groups in the ESD process and that business suffered some serious "losses". Doyle cites Hugh Morgan's (CEO of Western Mining) comments of 1991: "We are barely holding back the ground in this ideological war. Although we are not retreating yet, we are not winning. We need new strategies to reverse the tide that is moving strongly against us" (2000: 156). This may well reflect a time when the precursors of the idea for a global collective mining "makeover" and the resultant GMI and MMSD emerged.

According to Littlewood, the most valuable aspect of the ESD process was the building of important networks between environmental NGO sector activists and industry sector activists that appeared to form the basis of a later, collaborative MMSD process in Australia where many of the same stakeholders were involved.

The evidence that individuals who feel strongly about ideals of sustainability or social responsibility will be primary agents for change is consistent with analyses of outcomes in wider corporate citizenship/corporate social responsibility literature on the role of CEOs in strategic corporate social responsibility (CSR) leadership (Phillips, 2005: 23; Walden, et al, 2006; Dashwood, 2007: 145). The existence of a network of motivated individuals who have strong reputations, powerful connections and some influence in the mining sector and the NGO sector were central to the progress of the MMSD project and the expansion of such a network is viewed as the most tangible single outcome from the entire MMSD process. The network is based on a history of working together as well as a history of participation in the development of ideas underlying the aims of sustainable

development in the mining industry in Australia that broadens the network to individuals in the NGO sector and governments. What is important about the acknowledgement of this type of network is that it is the essential context that allowed the MMSD to achieve rapid progress in Australia within its own ambitious timeline of two years.

### **The Research: A Case Study**

The research into what happened in Australia after the MMSD initiative was guided by the following key questions:

- Are there any outcomes of this process and or results traceable to the activities of various Australian mining companies?
- If so, what outcomes are there?
- What are the underlying reasons for the demise of the Ameer?

However, the only substantial findings in the report of the research emerged from the third question, as the general findings in relation to the first two questions were negligible. This reflected the possible rapid loss of institutional memory about what appeared in the MMSD as nearly four years had passed since the end of the MMSD consultation process had taken place. The research also concentrated on the question of whether and to what extent the MMSD process affected mining company policy concerning sustainability and co-operation. In an attempt to answer this question, efforts were made to identify concrete initiatives/activities in Australia and at the international/transnational level that mentioned the MMSD or were identified as a direct result of the MMSD. This was done by investigating two areas in an attempt to find projects attributable to the MMSD: the first included four key Australian based mining companies and four relevant industry organisations involved in the original MMSD process and second, a search for any discernable indicators of success or partnerships/projects that emerged between mining companies and NGOs that were attributable to the MMSD.

The mining companies referred to in the research were: BHP Billiton, Rio Tinto Ltd, Placer Dome Ltd and Newmont Mining Corporation. The mining industry organisations examined were the CFMEU (Construction, Forestry, Mining and Energy Union), the MCA (Minerals Council of Australia), ACMER (Australian Centre for Minerals Extension and Research) and Ameer (Australian Minerals and Energy Environment Foundation – now defunct). The NGOs included in the research were: the ACF (Australian Conservation Foundation), Opportunity International, MPI (Mineral Policy Institute) and, WWF (World Wildlife Fund for Nature).

It is important to note that scope of this study was to provide a structured *overview* of the Australian context for the MMSD and that it relied heavily on evidence provided by key players interviewed and a review of public documents from selected corporate players and NGO stakeholders. Also some of the people interviewed did not wish to have comments and statements attributed personally to them, therefore much of the information gleaned from the informal interviews were integrated into the general discussion of findings in the research.

This paper will focus on three sections of the final report of the research:

- An overview of the NGO perspective;
- The underlying reasons for the demise of Ameer and;
- The summary of findings.

It is in these sections of the research findings that the issue of sustainability of NGO/mining MNCs' relationships is best explored, particularly when the narrative of the process of the MMSD and demise of Ameer is considered.

### **NGO Perspectives**

As mentioned above in relation to the global context, Australian mining company operations had been a target for international and Australian NGO condemnation in October 1999 when the MMSD project was initially raised. There had been a number of high profile disasters involving Australian companies across the world.

For example, landowners affected by the BHP Ok Tedi mine, in a remote Western province of Papua New Guinea (PNG), were alarmed at the prospect that BHP had decided to pull out of the project that dumped more than 100,000 tonnes of mine waste into the local rivers daily, resulting in devastating effects on the livelihoods of local people, and creating a long term environmental disaster. With support from Australian NGOs and activists, landowners affected by the Ok Tedi mine were demanding that BHP, be accountable for the impact of the mine. Despite protests and legal action BHP did pull out leaving the ownership and its attendant problems with the PNG government.

Other incidents of disasters caused by Australian mining companies at the time occurred in the Baia Mare region of North West Romania where cyanide-polluted water was spilt into the Tisza River, in Indonesia where Aurora Gold, had been lobbying the national government to take control of security near its Mt Muro project in Kalimantan where several thousand villagers had been dispossessed and in the nearby island of Halmahera, where another Australian gold miner, Newcrest, had lent a helicopter to the Indonesian military to ferry soldiers and ammunition, provoking conflict between Muslims and Christians (Burton, 2000).

Further poor mining practices were occurring in India, the Philippines, other provinces of Papua New Guinea and Indonesia and within Indigenous Australian communities. Also, reports detailed the marginalisation of women from economic life and decision-making in relation to issues of concern to them and their children, often creating burdens of devastating cultural damage, loss of food security, forced resettlement, increased violence, prostitution, epidemics of HIV/AIDS, and growing drug and alcohol abuse in communities associated with mining (Macdonald and Rowland, 2002). There were also simmering labour rights issues such as in the coalmines of the Hunter Valley, 150 kilometres north Sydney, Australia. Coal miners struggled to defend their right to collective bargaining in the face of Rio Tinto's attempts to force workers into individual contracts. This led to union leaders establishing alliances with environmental and human rights NGOs over shared concerns about Rio Tinto's human rights record in other places, such West Papua. Protests were held with NGOs, pension fund managers and

shareholders at Rio Tinto's annual general meetings in Australia and London (ICEM, 1997).

In this context there were strong views that the MMSD process was primarily a public relations exercise, reflecting the self-interest of an industry hoping to boost its access to communities where it hoped to operate, and an attempt to avoid the imposition of strict regulations being demanded by affected communities and NGOs. For example, in 1999 the Australian Financial Review, described the Global Mining Initiative (GMI) and the MMSD project as an attempt by “the world's mining industry.... to wrest the public-relations initiative away from environmental groups and non-government organisations by launching studies designed to improve the industry's image” (Howarth, 1999).

When announcing the MMSD initiative in Melbourne, Rio Tinto chairman Mr Bob Wilson, revealed the \$US5 million (A\$7.9 million) commitment to the process, and acknowledged that:

“there is a perception by a growing number of people that the global mining and minerals industry is incompatible with sustainable development. Unless the major players in the global mining and minerals industry can present a convincing case that their activities are conducted in line with these principles, then their long-term future is in jeopardy”.

Strategies about the benefits of engagement with the GMI and MMSD projects varied among Australian NGOs, and reflected the diversity of politics of Australian NGOs about degrees of partnerships and engagement with the mining industry. However there was also a view that the industry could use this opportunity to demonstrate its goodwill and bona fides by taking immediate action on some important and contentious issues, including the cessation the disposal of mine wastes into rivers and seas; cessation of involvement with corrupt governments; cessation of mining and exploration in national parks and protected areas; and recognition of mine workers rights to collectively bargain, to name a few (Evans, 2000).

Oxfam Community Aid Abroad (now Oxfam Australia), an NGO that had been engaged in a lengthy campaign against Australian mining companies operating in the Asia Pacific region (Phillips, 2002), was willing to engage and see what would evolve from the process, participating in MMSD-sponsored forums, while also participating in critical NGO dialogue about the MMSD process, and the industry's environmental and human rights performance generally. The World Wildlife Fund (WWF), which was actively engaged with the industry through existing partnerships with particular companies (e.g. with Placer Dome) and industry association projects, were more supportive and engaged directly in the MMSD initiative. The Australian Conservation Foundation (ACF) initially adopted a position similar to Friends of the Earth (FOE) and the Mineral Policy Institute (MPI), groups that maintained a deeply critical stance about the capacity of the industry to reform itself. They believed they could have more impact on industry reform by not engaging in any direct industry dialogue or partnerships as part of the MMSD process, but by strengthening partnerships and dialogue with affected communities and continuing to push hard for strict external regulation and accountability. As is detailed further below,

these varied levels of engagement reflect diverse locations on the corporate engagement continuum from confrontation to collaboration to partnership (Phillips, 2001).

On his visit to Sydney in the first half of 2000, Richard Sandbrook, on behalf of the GMI, attended a meeting in January 2000, with staff from the MPI, as well as the director of the US-based Project Underground, and officials of the labour union representing mine workers, the CFMEU. Sandbrook indicated that the MMSD project provided an opportunity for NGOs to ask strategic questions of the minerals industry, rather than dismissing it as a public relations exercise. However, NGO participants at the meeting indicated specific concerns about the MMSD process and issues of lack of attention to *ecologically* sustainable development, human rights and to the "null option" of no mining but instead minerals companies promoting mineral efficiency and recycling as alternatives to mining new deposits (Phillips, 2006). These particularly challenging issues central to the concept of sustainability, did not appear to be on the agenda.

Other issues were raised by NGO's concerned about mining. They included the following points:

- The questionable independence of the process, given its reliance on \$5 million or more from the very companies whose activities it aimed to analyse;
- The impossibility of a truly participatory process for the complex issues of mining and sustainability in the project's two year timeframe;
- The lack of space for indigenous participation;
- The potential for a credible outcome from a process being largely boycotted by many mining-related environmental and human rights NGOs, and;
- The inherent contradiction of mining and resource extraction being sustainable as it involves the depletion of a non-renewable resource (Tauli-Corpuz and Kennedy, 2001).

NGOs working on mining issues met throughout the course of the MMSD project in Australia and internationally. In Australia NGOs met under the auspices of Australia's peak overseas aid and development organisation, the Australian Council for Overseas Aid (ACFOA), now ACFID (Australian Council for International Development). Most of the environment, development and human rights organisations working on advocacy relating to the mining industry were affiliated to ACFOA. The purpose of the meetings was to share information, and common purpose alongside the MMSD process.

In addition to the local network of NGOs, NGOs working internationally on mining issues formed the Global Mining Campaign (GMC), involving more than sixty NGOs. The GMC brought together campaign organisations from all continents to: share concerns; coordinate strategies to protect human rights and environments and, to force accountability on the industry. The ACFOA and GMC collaborations involved NGOs working both inside and outside the MMSD process. This parallel organisation of interested stakeholders in sustainability and mining reflected the importance and strength of NGO activism in maintaining pressure on mining companies to change. It was the essential role of this group of NGOs to maintain a public focus on unsustainable and

negative mining practices, seeking gains for greater accountability for the social and environmental costs of mining. It demonstrates a tension that appeared to frustrate the MMSD process as the NGO running the MMSD, Ameen, put out constant calls to recruit more NGOs to be involved in forums and consultations (eg MMSD Update 1, 2000 & MMSD Update 4, 2002).

Many aspects of the Australian MMSD report, “Facing the Future” appeared consistent with some calls from the GMC NGO group. It included among its recommendations the adoption of a rights-based approach to stakeholder engagement, the need to establish a mechanism to consider stakeholder complaints; corporate statements of business principles and sustainable development policy commitments; independent third party verification of their social and environmental performance; the reflection of environmental, social and other costs of extraction being reflected in mineral prices; there was also acknowledgement that some areas should be off-limits to mining and respect for indigenous rights to prior, informed consent (Ameen, 2002a).

It was the view of a number of NGOs that the Australian and Global reports of the MMSD project, while making some important policy proposals, essentially reaffirmed the industry’s commitment to *self-regulation*. The challenge, noted by industry, government and NGO commentators, was to translate the rhetoric into reality (Ameen, 2002b).

Following the launch of the Australian report, Ameen was closed, because “the industry’s preference for the future [is] to work directly with the community and NGO sector” (Ellis, 2002a: 13). The demise of Ameen was viewed as a loss of a useful forum for communication within the industry, and with external stakeholders, about best practice environment and social management. The basis for engagement and dialogue between industry and NGOs has reverted back to a ‘one-to-one’ basis and the industry was then seen as more open to dialogue with selected NGOs.

### **NGOs and their Engagement in the MMSD Process in Australia**

The following provides a short profile of views from three key NGOs about the impact of the MMSD process in Australia, reflecting the relationship between where they stood on the corporate engagement continuum and how they read the impact of the initiative.

#### Australian Conservation Foundation (ACF)

The Australian Conservation Foundation is one of Australia’s leading national not-for-profit environment organisations, “promoting solutions through research, consultation, education and partnerships.... with the community, business and government to protect, restore and sustain our environment” (ACF, 2006).

The ACF has had a long-standing interest in mining issues over its 45 year history, and has worked to promote best practice in the mining sector through advocacy for policy and law reform (including stronger regulations and procedures), removal of perverse subsidies and the creation of tax incentives for sustainable activities and the regulation of high-risk substances and practices (e.g. cyanide heap leach extraction), and applying a full costing of environmental and social externalities. It has also advocated the

development of a strong regulatory regime to govern the activities of Australian mining companies' international activities. This approach contrasts with the voluntary codes of behaviour and self-regulatory regimes promoted through the MMSD, internationally and in Australia. The ACF essentially stood back from the process over the two years, participating in some of the forums and consultations whilst maintaining a critical position. According to the ACF's Legal Adviser and Corporate Responsibility Campaigner, Chuck Berger: "While voluntary codes might have a useful role in information sharing and education, they have little impact on bad actors because they lack the teeth of regulatory regimes." The ACF has worked with other environmental and human rights NGOs in Australia, since 2000, to advocate for a statutory Corporate Code of Conduct, which would impose, under Australian law, a minimum set of environmental, labour and human rights obligations on the overseas operations of Australian companies.

Most business submissions opposed any change to fiduciary duties and reporting on environmental impacts, but most submissions did not discuss the other ACF reforms. Submissions by mining industry groups and mining companies, including the Australian mining industry's peak organisation, the Minerals Council of Australia (MCA), and global mining giants BHP Billiton and Rio Tinto, unanimously opposed any legal reform, on the basis that they had reformed their practices and that corporate responsibility is best left to the market.

### Mineral Policy Institute

The Mineral Policy Institute (MPI) is an Australian-based non-government organisation specialising in advocacy, campaigning and research to prevent environmentally and socially destructive mining, minerals and energy projects in Australia, Asia and the Pacific. It was a key coordinator of the Australian input into the Global Mining Campaign (GMC), the international network of environmental, development and human rights NGOs responding to the MMSD project, and reported regularly throughout the project via its website and journal, Mining Monitor.

MPI works mostly on issues of Australian mining company activities internationally, and was active in support for people affected by BHP's Ok Tedi mine in Papua New Guinea, as well as other mines in that country using riverine and marine waste disposal. MPI worked closely with communities opposing BHP's Ok Tedi Mine Continuation Agreement process, supporting landowner legal actions challenging the company's exit strategy and conditions.

MPI had the view that the MMSD has had little beneficial impact on mining-affected communities in Papua New Guinea. It did not enable mining corporations to gain the confidence of PNG NGOs and landowners in mining-affected communities. Several important meetings of PNG NGOs and landowners of mining-affected communities from different regions of the country have been held since the MMSD project finished. These include a gathering at Motopure Island in 2003, and a meeting of landowners affected by the BHP mine at Ok Tedi. MPI assisted the coordination of both meetings.

The *Motopure Declaration* of July 2003, identified on-going concerns about:

- Lack of recognition of landowners' and affected communities' rights,
- Serious environmental impact
- The activities of international financial institutions and export credit agencies
- Impact of mining on women, (*Motopure Declaration*, 2003).

Since the MMSD in 2002, MPI has also been involved with an international network of NGOs concerned about mining in protected areas, and attempts by the mining industry to lower levels of protection to enable greater access to these areas, including where MPI has worked with affected communities in protected areas in Australia, Indonesia, and New Caledonia.

Over the same period, the International Union for the Conservation of Nature (IUCN) and the global mining industry, through the ICMM, were engaged in a dialogue on 'good practice' in the areas of biodiversity assessment and management, land use planning issues and IUCN's Protected Areas Management Categories System, involving meetings about every six months. The process is referenced as an open process, like the MMSD and "requires a significant amount of time and effort to understand mutual expectations, interests and limitations. Through the dialogue process the ICMM has made the modest commitment to treat UNESCO World Heritage sites as 'No-Go' areas (IUCN, 2002-2005).

International NGOs have argued that the engagement has been more beneficial to industry and has undermined IUCN's environmental protection mandate, including its obligation to recognise indigenous peoples' rights and to protect high conservation value areas. A protest letter was sent to IUCN because NGOs believed that ICMM rhetoric regarding biodiversity and conservation, and commitment, is meaningless and dialogue with them is counterproductive "as long as companies such as Rio Tinto, Newmont, Placer Dome, Inco, and BHP Billiton continue to pressure governments and communities to allow them to mine in protected areas" and to weaken protection regimes (WAHLI).

MPI's Executive Director, Techa Beaumont, believes: "The gap between grassroots communities and the big international policy making groups, like the IUCN and ICMM, is huge. Groups, like MPI, that are closer to the grassroots, try to stimulate debate within IUCN about the terms of private sector engagement. MPI has continued to campaign for the mining industry to implement the rhetoric of the MMSD process and stop blocking attempts to protect high conservation value areas that local communities want to keep mine-free.

#### World Wildlife Fund for Nature (WWF)

Although Michael Rae has recently moved on from being the director of the WWF he outlined what he saw as the outcomes of the MMSD process for the WWF. Michael Rae was a key player in the MMSD process from the beginning to the end in Australia and

continues to actively participate in ongoing dialogues with mining companies and NGOs regarding the possible impact of the MMSD process at an international level.

For Rae there were some key issues arising out of the MMSD process as well as some tangible results, specifically from the WWF perspective, in the mining industry sector and for international NGO corporate engagement. Rae commented on what he saw as a general problem with the international MMSD process. The problem was based on the lack of a plan or ideas within the mining industry about what they would do with the MMSD once it was completed. Currently the work completed by the MMSD remains as a very useful resource but lacks ownership by the industry. In Rae's view there was no seamless transition from the completion of the project and its future outcomes and purpose. The holding of the research by the ICMM is passive and requires individuals familiar with the process to go back to the research to utilise it. There appeared to be no mechanism to ensure that all of the excellent work produced by the MMSD was circulated in a lasting way. Rae suggested that a failure to make a plan for its ongoing currency was attributable, to some extent, to the death of Jay Hair who was the director of the ICMM and a participant and key link to the MMSD process.

Rae also stated that a similar situation existed in Australia where the fate of the outcomes of the MMSD Australia process rested with a few individuals who were involved throughout the process and once it was out of their hands, there was no active pursuit of the implementation and application of the outcomes. These points reinforced a view expressed earlier in this report that much of the momentum for change and review in environmental and social practices around mining rests in the hands of committed, passionate individuals and, as Rae pointed out, once those individuals are lost to the process so are their memories, networks and connections. As with all change this can lead to starting over again and again and wasting the depth of resources that have already been produced from processes such as the Aameef MMSD process.

For WWF, however, there were some clear benefits from the MMSD Australia process. Although the Mining Certification Evaluation Project (MCEP) began as an idea in WWF-Australia in the early 1990s, while the proposal for the project was being developed and seeking support and participation from a range of Australian-based organisations with an interest in the environmental and social performance of mines, it was greatly assisted by the MMSD process. The research project began in 2002 with WWF-Australia responsible for the overall management of the project and an MCEP Working Group formed to direct and contribute to the work program. The working group included mining companies (inclusive of all the mining companies discussed in this report), NGOs, government, academia, labour and other agencies. The project was funded through financial and in-kind support provided by significant Australian mining corporations: BHP Billiton Ltd, MPI Mines Ltd, Newmont Ltd, Placer Dome Ltd, Rio Tinto Ltd and WMC Resources Ltd. It also received significant 'in-kind' support from all the organisations whose staff participated as members of the Working Group, including NGOs, consultancies and government agencies (WWF, 2006: 1). The MCEP consisted of a three-year research project that aimed to investigate the feasibility of third party certification of environmental and social performance of mine sites. It did not attempt to

create a working certification scheme, but to establish a knowledge platform for broader international debate and future effort toward independent certification of mines (WWF, 2006: 5). The research project was completed in 2005 and the final report released in 2006. Rae felt that the MMSD process allowed the ideas and processes explored in the MCEP to get a better airing and the Toronto conference at the culmination of the MMSD gave mining companies the impetus to support the certification development process. In other words the MMSD process reinforced a shared vision for how good mining practices could be recognised through certification.

Rae also stated that the MMSD process lent support for a number of sustainability projects at a time of increased concentration of mining company ownership and a willingness within the industry to address these issues more holistically. He also saw it as a forum for mining corporations and ‘responsible NGOs’ (such as WWF and Oxfam Australia) to build on relationships with corporations such as BHP Billiton. He also saw it as an opportunity for companies to recognise that it had some allies amongst NGOs and that there was a willingness to ‘nut out’ some problems. It was also a site to recognise that no one had answers to some key sustainability questions. The one that appears most vexing and is a sticking point for many NGOs is around the idea of informed consent by affected communities where mining is proposed. Rae pointed out that everyone knows when it does not exist but it is very difficult to determine when it does exist or has been given. Rae felt that the most positive outcome of the MMSD process in Australia was that it built a sense of confidence that people could talk together without abusing the trust of the other, reinforcing networks and potential partnerships between various stakeholders.

In more concrete terms Rae believes that there have been some more enlightened mining practices at mine sites emerge from the MMSD, citing Placer Dome’s efforts at the Porgera Mine (PNG) and its North Mara mine (Tanzania) where reference groups have been established locally to review mining practices on the sites of the mines. He also mentioned Rio Tinto’s participation in more specific sustainability projects. Although the passive nature of the ICMM’s carriage of the MMSD outcomes have been noted, Rae saw the forum on Flora and Mining organized in partnership with IUCN (The World Conservation Union) and a further forum on Mining and Indigenous people chaired by Australian Mick Dodson (2005/2006) were further evidence of the positive effects of the MMSD process.

### **Sustainability Optimism: Ameef**

The Australian Minerals and Energy Environment Foundation, Ameef, established in 1991, was an existing organisation that had as its primary role the management of industry awards and the promotion of good environmental sustainability practice in the mining industry in Australia. It was funded by the industry and some government contributions. Richard Sandbrook and Luke Danielson, who, on coming to Australia had not found any natural partners for the IIED, selected Ameef as the vehicle for the MMSD in Australia.

Ameef emerged as an NGO that had sufficient distance from the industry but also had well-established links to and respect from mining companies. It was already a respected NGO and appeared to be supported by all. Once granted the contract, Ameef executed MMSD activities in Australia. Importantly, the Minerals Council of Australia (MCA) saw Ameef as a trusted, non-radical NGO that was based on sound science and for throughout most of the process was enthusiastic and supportive of the Ameef MMSD project. During its time of running the MMSD process, Ameef conducted extensive research, consultations and workshops, contributed to the global report *Breaking New Ground* (2002) and produced the Australian report *Facing the Future* (2003).

Ameef achieved a lot within the MMSD process. As documented in its final report, *Facing the Future*, it ran the process in a highly transparent way, with information placed continually on the Web site for public comment. There was extensive interaction about the findings of consultations and research and it was seen as a very successful exercise in participation from the range of stakeholders. However, based on its continual calls for NGO membership of various reviews and forums it appears that getting some of the key mining focussed NGO stakeholders involved was not highly successful. Despite this, Ameef did achieve tackling some of the most contentious issues for mining, such as native title and issue of prior consent from Indigenous and other affected local communities. For most NGOs that had participated in the process, Ameef had the potential as a future access point for sustainable relationships with the mining sector.

The reasons for the demise of Ameef are clearly linked to a number of specific factors. The most consistent fact is the withdrawal of support by the MCA. It was rumoured at the time that MCA's action to withdraw support was precipitated by one mining company deciding not to renew its subscription to support Ameef and this had a domino effect as other companies decided to follow suite. There is a further view that this withdrawal was precipitated by a view from the mining industry that the Ameef had become too independent of the mining industry, despite the fact that the board of Ameef was made up of key people who had been part of or currently worked within the mining industry as well as independent scientific experts.

What was also consistent in the observations of key people on the board of Ameef at the time was the shock they felt about the withdrawal of support. The withdrawal was completely unexpected. Given that that the majority of funds to maintain Ameef were coming from the mining industry, their withdrawal of support would not leave the organisation with sufficient funds to operate. It was evident that some 'industry players' apparently did not think there was further value in Ameef after the final report of the MMSD. It was felt by some that the Ameef "Facing the Future" report had caused some discomfort in the mining industry, although apparently the MCA did not agree with that view.

MCA's official reason for ceasing funding of Ameef was that there had become too many advisory organisations in the mining industry, causing duplication of processes, and they believed they had a role in rationalising the number of advisory organisations. Clearly, after the Toronto conference, which was seen as the end of the MMSD process, Ameef was then viewed as just another mining industry advisory body, not as a third party player

as was its role in the MMSD process. It also appeared that the change of management of the MCA at a crucial time in the MMSD process was critical in the demise of Ameef. Just prior to the Toronto conference, Dick Wells who was viewed as having a very sophisticated and insightful perspective on multi-stakeholder relationships and sustainability goals, ceased to be the Executive Officer of the MCA and was replaced by Mitch Hooke, who had little background in resource sustainability work and had attended the Toronto conference representing the MCA. The strong communication that had existed between the MCA and Ameef appeared to be lost with the change in leadership as there was no longer a sense of partnership in the process. This effective “cutting off” does lead to speculation about the changed personal network that occurred after Dick Wells left the MCA, supporting the early proposition that personal, individual networks and working relationships are a crucial aspect of successful and ongoing change.

Partly due to the abrupt way Ameef ceased, there was a feeling amongst those interviewed, that much of the work of MMSD in Australia resulted in no tangible outcomes. Although there appears to be general agreement that the process of consultation and research, and stakeholder participation was highly successful at the time of the MMSD process (as is evidenced in the final report *Facing the Future*) it is a view that the process began something that could never be achieved. Concerned that the work of Ameef could be lost with the demise of the Ameef organisation, the CEO of Ameef ensured that all of the documents relating to the MMSD Australia process were transferred to the International Council on Mining and Metals (ICMM) and are now available in the publications section of the ICMM website. The lack of ongoing utilisation of the findings and developments made by the Ameef is reinforced by the almost complete absence of references to its outcomes and materials by mining companies reviewed in the research.

George Littlewood was the only person to raise concerns publicly after the Ameef ceased to function. At an industry seminar, addressing the Victorian Minerals and Energy Council in Bendigo in October 2002, Littlewood urged the Australian mining industry to “listen, learn and engage more effectively”. Although he stated that he saw the mining industry having been “a leader in embracing sustainable development locally and globally”, and that it was used for rising to challenges, he made the following observation:

But it [the mining industry] can sometimes be brittle when faced with criticism and it has not always worked well with those who challenge its assumptions.

Littlewood was also critical of the fact that the industry was slow to contribute to the MMSD Australia process and made observations about how some of the Ameef research had irritated the mining industry. He stated:

But it is important that the industry as a whole, which launched a fundamental process of change and sought deeper engagement with stakeholders, backs that up with adequate capacity to follow through comprehensively. If the industry is to build a valued and respected role for itself in a sustainable future, these are the very skills that need to be augmented (Littlewood, 2002: 5).

### **Summary of Views on MMSD Outcomes**

The following list is a summary of views about outcomes derived from the MMSD in Australia, drawn from the perspective of various players, NGOs, NGO activists, administrators of the project and mining company representatives:

- None
- Resulted in “shifting the ground a little”
- Resulted in some learning around stakeholder participation
- WWF has continued mining certification process that was enhanced by the MMSD process.
- During the MMSD process NGOs established strong collaborative networks in Australia and overseas.
- Some NGOs and individual mining companies began constructive dialogue that has led to positive improvements in sustainability practices at mine sites.
- There was a sense at the Toronto conference that there was some “unease from industry players”, resulting in a feeling that they would not follow through the work of the MMSD.
- The most positive outcome was that it had reinforced the need for stakeholders to continue dialogue and work together. This is a hidden but important step forward, based on previous historical shifts toward sustainability in the mining sector in Australia.
- The cause of sustainability in the mining industry had been advanced by the MMSD process and interactions that took place through the process.

### **Conclusion**

As Windsor (2006) points out, CSR and its functional component, corporate citizenship, is yet to be adequately theorised. It has been analysed across a range of scholarly disciplines but “there is little consensus on substantive content or the decision-making process” (Windsor, 2006:111). According to his analysis it falls primarily into two conceptions, ethical and economic, with overlap between the two occurring only at institutional and political intersections (Windsor, 2006: 95). In this paper the question of sustainability of relationships between NGOs and MNCs in environmental sustainability rests very much with the ethical conception, which calls for ‘corporate self-constraint’, ‘expansive public policy’ [such as a mandatory regulatory restraints on mining or agreed development principles] and ‘corporate altruism’ (Windsor, 2006: 95). The actions of the MNCs involved in the MMSD were in keeping with the “good” or effective corporate citizen “metaphor” as described by Windsor’s model, where they formed a collective citizenship aiming to operate across multiple nation states, strategically building political influence and the corporate reputation of mining companies (2006: 95). This paper, however has not focussed on whether or not mining has become more sustainable as a result of the MMSD but rather whether sustainable relationships were built between NGOs and mining MNCs in Australia as a result of the MMSD initiative.

Based on research into the impact of the MMSD in Australia, the outcomes were mixed and for NGOs can be measured according to where specific NGOs chose to situate themselves along the corporate engagement continuum. Analysis of the processes and outcomes has lead to the conclusion that the status quo that had developed ten years ago

more or less remained. Some NGOs, such as MPI, kept close to their confrontational stance whilst others such as WWF built strong partnerships in relation to very specific sustainability initiatives - which was the same distinction in my earlier research in 1998 - 2000. However what was also evident was that NGOs appeared more prepared to work towards sustainable relationships with mining MNCs than the industry players in the MMSD. There was a clear expectation from the NGO perspective that the MMSD process was seen as the beginning of a collaborative era with mining companies, where their sought-after advice through the consultation process was seen as a process of establishing greater legitimacy in their stakeholder status that could lend itself to sustainable relationships toward sustainable mining practices. There were clear expectations that the Aameef would remain as a conduit for these relationships. Therefore when the key industry body, the MCA, withdrew its support for Aameef the idea of sustained relationships between all of the stakeholders was undermined. The MCA's claim, "that there were already sufficient advisory bodies on sustainable mining" failed to recognise the unique status of NGO corporate engagement and how it lends itself to the ethical concept of CSR. Throughout the research, when asked to identify the main challenges in forming NGO/business partnerships, nearly every respondent mentioned the "trust issue." The undermining of the Aameef appeared to dent that trust, thus limiting the potential for sustainable NGO corporate relationships to emerge from the MMSD process.

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