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Gap Analysis to Inform an Experts' Workshop on Access to Information:

A Key to Building Trust in the Minerals Sector

Ginger Gibson, Alistair MacDonald and Ian Thomson

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International Institute for Environment and Development

World Business Council for Sustainable Development
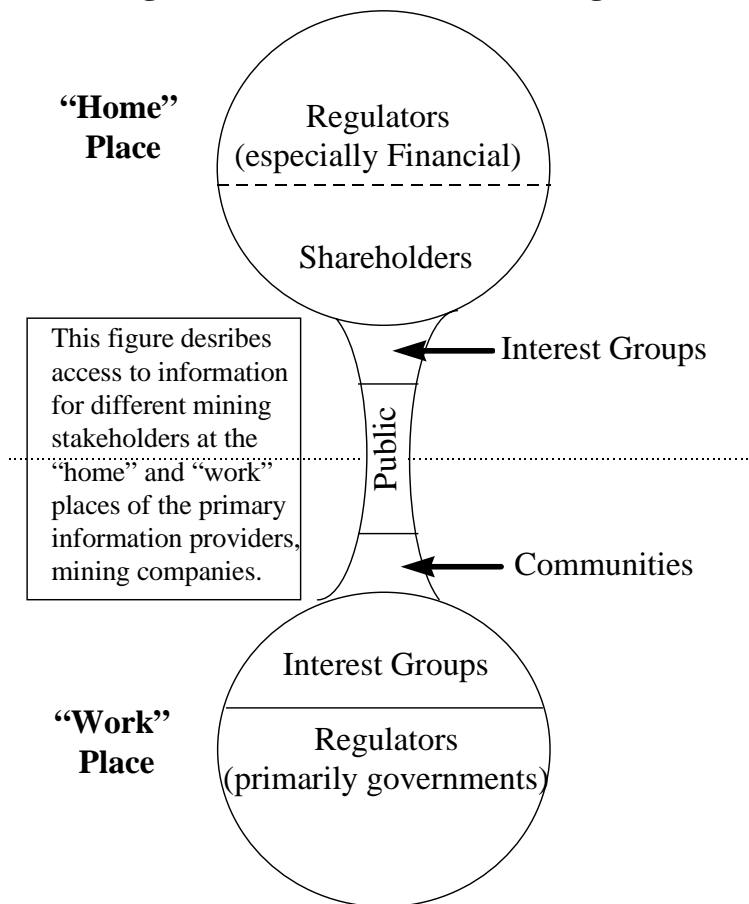
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1. Introduction

This summary paper offers a gap analysis of the four primary project papers (Fulop & Kiss: 2001; Gibson: 2001; Loayza Careaga: 2001; Thomson & MacDonald: 2001), which assess aspects of "Access to Information". This "gap analysis" seeks to identify areas of misunderstanding, different requirements, and/or confusion of responsibilities between different stakeholders. Clearly, many of the gaps do not have short-term solutions; however, we have suggested potential mechanisms or, in some cases key questions, to address key information needs and dissimilarities.

2. Charting the Information Universe

The four papers that provide background to this analysis cover a diversity of subject matter from different perspectives. Each by design throws a slightly different message to the audience about what are the information and (importantly) communication requirements and capacities of different stakeholders related to the mining industry and individual projects. For conceptual purposes, then, a brief analysis of the complexity that is the mining "information universe" is in order before proceeding to the gap analysis.

Figure 1: The Information "Hourglass"

"Home" Place

Regulators (especially Financial)

Shareholders

This figure desribes access to information for different mining stakeholders at the "home" and "work" places of the primary information providers, mining companies.

Interest Groups

Public

Communities

Interest Groups

Regulators (primarily governments)

"Work" Place

Access to information is a complex process, subject to a multitude of internal and external influences, subject to rapidly changing conditions over time and space. Perhaps one of the most important things to recognize is that stakeholder groups have differential access to - and requirements to communicate - information. At present, by far the greatest weight of information release is on the shoulders of the corporate sector of mining, and so it is this reality that is expressed in Figure 1's "information hourglass". Their primary audiences are regulatory bodies, by necessity, at both the head office and project sites. This creates a significant gap, because the stakeholders groups that are most affected by mining projects are often the ones least empowered to access information (and in an understandable form) -

civil society, the general public, and local communities. The ability of these marginalized groups to access and respond to more information, to break out of the "bottleneck" of the information hourglass and become participants rather than simply recipients, is a key overarching issue to be addressed by the experts meeting.

For the purposes of this summary paper, the complex nature of the "information universe" has been simplified into a series of ten gaps or issue areas that the authors feel need be analyzed further in the experts meeting. Each is listed below, some with potential mechanisms for change included for the expert group's consideration. The order in which these gaps are listed does not reflect any sort of prioritization, although there are a couple of points to note:

- It becomes quickly obvious that certain gaps in information/communication link into one another, creating self-reinforcing problems over time. Access to information problems are not superficial - created by individual neglect - rather, they are systemic issues where all parties need take responsibility in creating change.

- To this end, the last two gaps reach deep under the surface of communication problems in the mining industry, to some of the root causes and key potential long-term solutions in access to information issues.

3. Gap Analysis and Potential Mechanisms for Change

3.1 Information and Stakeholder Rights.

Fundamental to the present discussion is the relatively recent and rapid increase in demand for information and consultation about mining projects from local and community stakeholders. At the same time, the right of these stakeholders to have a say in way exploration and mining activities are conducted or to participate in the benefits of mineral development have remained largely unchanged. This gap creates tension and gives rise to conflicts between mining ventures and local communities, particularly indigenous communities. This is most apparent in Latin America where the right to expropriate land for mining activities is the norm in most countries. In addition, benefits from mining for local communities are largely unregulated and dependent on the good will of the companies. This unbalanced relationship jeopardizes mining investments and affects the usefulness of information received by local community stakeholders. The issue here goes beyond the question of access to and the quality and quantity of information; it encompasses what the stakeholders are entitled to do with the information.

Mechanisms for Change: There is need for governments to compliment the structural reforms in mining with a framework that promotes an effective and more equitable interaction between stakeholders, which includes access to information as part of meaningful public consultation and the provision of meaningful benefits to the local community. In such a framework, the manner in which community concerns and requests are addressed, and the way in which possible conflicts between the community and the company are resolved, must be clearly defined. The experts meeting may wish to recommend specific actions to governments.

3.2 Sticks - *Lack of Standards Relating to Information Access*

There is a lack of standards providing guidance on the basic information needs and processes between stakeholders in the mining industry, particularly at the legislative level, and little standardization across national boundaries, creating confusion over project management in an increasingly global industry. Efforts are needed by national and international regulatory bodies to assert some control over the relations between mining companies and other stakeholders. These are the "sticks" needed to create a positive, proactive and consistent communication atmosphere around the mining process across space. Fulop & Kiss (2001) observe that many of these mandatory instruments exist at the national and international levels, but that their enforcability and definitions guiding access to information vary wildly.

Mechanisms for Change: There is perhaps need for more emphasis in governmental regulations to be placed on the relationship of mining companies and those less empowered stakeholders (particularly communities) affected by mining, rather than the current emphasis by regulators on establishing information conduits between government bureaucracies and the company. International conventions are an obvious attempt toward standardization, but need to be built into requirements rather than recommendations. Legal systems need to be strengthened to provide practical support to the theoretical declarations of national and international bodies.

3.3 Carrots - *Lack of Voluntary Initiatives Relating to Information Access*

There is a lack of recognition within the mining companies themselves and the industry as a whole of what practices are considered "best practices" in relation to information release and project level communications. With this confusion and the lack of adequate "sticks" imposed from without over communication issues, there is little parity in the criterion used by different firms to gauge their practices, and the present voluntary initiatives have been few and far between. Much of the lack of initiative comes from the fact that proactive communication with non-regulatory stakeholders is considered more a cost than a benefit at the earlier stages of mining projects, whereas research has shown that the relationships developed at these stages can be the most important aspects of the overall success of the future project. More "carrots" in the form of demonstrating how voluntary "best practices" create value on a project-by-project basis are necessary.

Mechanisms for Change: Mining companies have fundamental priorities as economic entities: to add value to a shareholders investment. Any mechanism for change has to be framed within this reality. Thus, research into the rewards accruing to actors who engage in best practices (currently being attempted by groups like Newmont Mining and (at the industry level) the International Council on Minerals and Metals), is a proactive step that should be encouraged. Documentation and evaluation of these cases is required in order to share the lessons widely. Another potential mechanism is slightly more controversial, focusing on punitive self-regulation mechanisms against companies that act against the best interest of the industry. The key question for the experts meeting here is: how do best practices become industry norms?

3.3 Gap Between the Type of Information Provided and that Required at the Community Level

There is a gap between the needs of communities to have access to large amounts of information relating to mining projects that affect them, and the ability of these

communities (especially those marginalized actors within the community) to access and use that information. In regards to access, the power relations in a mining project can be envisioned simply as a "teeter-totter", where mining companies and governmental actors have access to virtually all the weight of information, leaving communities "up in the air" as it were. What information currently does trickle to the community level is often communicated in obscure or locally inappropriate ways to many community members. For example, mining companies are trained to report in a highly technical language, through written media; local actors may not understand the lingua franca of mining or trust the written word, if theirs is an oral tradition.

Mechanisms for Change: Mining companies need to be responsive to different cultural requirements and capacities. At present, many in the industry argue that communication is a burden on the company because it is a "two-headed monster" - with demands from both the head office and local communities. More work needs to be done to show that the aforementioned "carrots" of voluntary initiatives can reduce the chances of project failure, and how networks of trust and multi-stakeholder legitimacy developed by parties can be information "translators" between corporations and communities (eg. NGOs, governments). In addition, gaps between the demands for - and capacity to capture and understand - corporate communications at the community level can be aggravated by the following additional gaps:

3.4 Information Release - Media, Message, and Audiences

The processes through which information is generated, disseminated, and the direction in which it is targeted (its intended audience), has created serious misunderstandings between mining companies and some of the groups demanding information. For example, information transfer is typically unidirectional, with mining companies supplying information to their (perceived) key audiences, but accepting little in return. In addition, the pathways down which information is spread reflect the traditional relationship between the technically adept communicators of mining companies and regulatory bodies, rather than the more socially driven communications demanded by communities. As such, both the tone and the media utilized (eg. web-based communications) in information transfer may miss the needs of this key community audience.

Mechanisms for Change: Access to technology, translation services, and a basic understanding of the modern mining industry are all requirements of capacity building at the community level. However, capacity building for this issue goes much further. While communities need to bolster their ability to receive information; other actors need to build their capacity as transmitters of information (and it works both ways - communities have to be empowered to have their voices heard, while mining companies and other powerful stakeholders have to learn to listen better - communication is a two-way street). Some solutions include miners using locals as key communication conduits, governments becoming skilled as "intermediaries" in this information transfer, and NGOs may have to work with all parties to create stronger, more trusting relationships. Gibson (2001) specifically recommends having better funded non-governmental groups to serve as information conduits for community groups.

3.5 Content - Information is not Communication

Alongside the processes through which information is generated, analyzed and disseminated, the *type* of information released may not meet the needs of communities. There is a key gap between what information may be considered relevant by securities commissions and the

like, and that which communities consider important. The essential point here is that *information* should not be confused with *communication*.

Mechanisms for Change: Mining companies and governments often make a key mistake in believing that what their traditional stakeholders (regulators, financial institutions, other industry members) consider important, and the patterns of information disclosure developed through time to communicate with these actors, will fulfill requirements at the community level. Communities demand continuous disclosure, from the very point in time when companies enter into their areas. And they demand a voice in the process: a chance to be involved in decision-making. Mining companies would do well to recognize that while their reporting focuses on the mine "site", communities demand a two-way communication about the entire "situation"; what affects the coming of the mine development might have on their socio-cultural environment. Mechanisms for change in this area are difficult for many mining companies because elements of their corporate culture treat information in different ways from other parties, as seen in the following gap:

3.6 Timing of Information Release and Corporate Culture

The timing of information disclosure is exemplary of the corporate sector's emphasis on having *control* over information. Issues of information control and the timing of information release are closely linked because mining companies have control over the largest amount of information, and they have a corporate culture that values keeping information "close to the vest" until such time as concrete results are available. This is often an outgrowth of requirements at the regulatory level to only report data after the fact, and the need to prove that information release is "material" to the company. Information control is also a measure of power that the corporation values. This creates issues with local communities, however, who increasingly demand both "prior" and "continuous" consultation on all progress of any mining project which affects them. This is especially true during the early stages of the mine cycle. Overall, the industry tends to fear that releasing data will open up a "wasps nest". For example, companies have refused to release emergency response plans due to fears that terrorists could use information against a mine or because environmental groups will use pieces of information against the company.

Mechanisms for Change: Communities need to be aided in communicating key information needs to companies; more importantly perhaps, mining companies have to be convinced that openness and transparency in their mine planning process will create more value than hoarding information. NGOs and governments can also play key roles by accessing and distributing information more readily to less empowered stakeholders. There is no cookbook over this type of voluntary information release and this sort of communication is virtually impossible to regulate (especially at the early stages of project development - exploration and evaluation). Again, it flows back to issues of creating value and thus creating norms - a shift in the corporate mindset. Right-to-Know legislation in the United States and follow-up Risk Management Planning legislation (under the Clean Air Act) has regulated what kind of data needs to be released to the public as well as providing guidance on how to jointly plan for emergencies. The mining industry would be well-served if lessons learned from the chemical industry (such as through the CMA) were adopted.

3.7 The Role of Governments - Regulators vs. Facilitators

Governments clearly play a key role in the mining information universe. What is less clear is their capacity to fulfill their dual mandates of being facilitators of relationships between mining companies and communities, and being regulators over the mining industry. There is currently an obvious gap between the information demands on the state versus that of mining companies. Mining companies shoulder the vast majority of the reporting burden, while state governments often take on only the role of absorbing and storing regulatory data reported to them by corporations.

Mechanisms for Change: Both governments and non-governmental organizations should bear more of the information dissemination burden relating to mining projects, and do so in a manner that is reputable to all concerned parties. If this can be accomplished, it could reduce some of the information release burden that corporations consider so onerous, while at the same time creating a legitimacy and transparency demanded by all parties.

3.8 Perceptual Issues - The "Cultural Void"

The cultural void between mining companies (and often governmental and non-governmental regulators) and communities affected by mining activities creates a monumental gap - a "gap of gaps" - that in turn provokes or aggravates many of the other gaps mentioned above. Communities are geographically fixed cultural entities, while corporations are often transnational and footloose. Communities focus on their total situation, while miners (especially explorers) would rather focus only on their "site". Mining companies have much shorter timelines than communities, meaning that they will be involved in an area from 1 to 50 years, but the community remains in perpetuity. Mining companies have a financial imperative at the root of their culture; communities have financial needs, but they are no greater than their environmental, social, political, and cultural requirements. It is these sorts of fundamental disconnects between the parties that can create misunderstandings between them over time, and this underlying reality is one of the main issues that needs to be understood before it is addressed.

Mechanisms for Change: Participants in the experts meeting will be asked to broach this type of "big picture" issue in more detail.

3.9 Capacity Building

This final gap is less a gap than it is a requirement for change. Capacity building is a gap in the sense that there is a long ways to go in creating capacity among all stakeholders to work together and build positive relationships, the key to bridging the communication gap. Traditionally, capacity building has been limited to the community development process, equipping less empowered communities with the tools to negotiate and communicate with governments and miners. Currently, groups involved with capacity building programs are arguing that all stakeholders need to undergo capacity building training (Gibson: 2001):

> in our experience, mining companies are often ill prepared to negotiate or work closely with communities… analysis revealed that [corporate] communication and outreach strategy was falling short of reaching informal leaders… Capacity building at the

governmental level (municipal, regional and national) may also be critical for responsible collaborative decision-making about mining.

Mechanisms for Change: That capacity building is a key element of change in access to information debates in mining in without question. **How** *capacity can be built by all stakeholders is a matter of debate that is perhaps better suited to the experts meeting.*

4. Key Questions for the Experts Meeting

Each of the four papers in this joint effort at covering major issues relating to access to information in the mining industry have brought forth both problems and promise relating to the future of communication surrounding mining projects. Authors have presented some potential solutions to major issues, which have been covered herein through the "mechanisms for change" sections promoting ways to bridge the gaps between stakeholders in access to information issues. Not all gaps have simple solutions, obviously, and the authors invite the experts to both critique the mechanisms for change included herein, and to peruse the following list of key questions that cover areas where clear mechanisms for change, or channels through which those mechanisms can be promoted, are highlighted.

1. How can the corporate sector of mining create (or be persuaded to create) "industry norms" out of what now are considered "best practices" in information disclosure? Will this be a process best fostered internally, externally, or through a mixture of "carrots and sticks"?

2. What are the roles and responsibilities of different stakeholders in the timely release of information relating to mining? What mixture of responsibilities among different actors such as communities, companies, governments, non-governmental regulators, NGOs, international standards organizations, and the financial community, among others, will create the most responsive, accountable, and legitimate formula governing these complex inter-relations?

3. Perhaps the key gap to be bridged is the cultural divide separating stakeholders with a stake in the mining "game". Born out of this gap have been issues relating to trust, power differentials, misunderstandings of proper communication ties, and many more, all of which lead to negative project outcomes for all parties. What mechanisms can be utilized to bridge this fundamental gap? How can the capacities of different stakeholders to understand and work with one another be balanced to overcome these issues in the future?

4. Experts will be asked at the meeting to highlight the critical stages of mine development for the development (or underdevelopment) of healthy relationships between stakeholders. Please consider the following: At what different stages of development in the mine life cycle do different stakeholders demand information, and how do communication pathways, relationships and audiences change throughout the mine life cycle? At what stages do misunderstandings become most apparent, and why? How can these crises be averted in the future?

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