Category: Obligation to Provide Access to Legal Remedies

Sub-Category: Civil Society Monitoring Mechanisms

Name of Good Practice: **Environmental Management Committee (EMC ): A** Joint Monitoring Body of Civil Society, Government and the Private Sector in South Africa

Key Words: Constitutional Right to Environment, Accountability, Public/Private Partnership, Monitoring, Advocacy, Corporations, Extractive Industry, Mining

Implementing Actors: Civil Society Organisations; National Ministries; Corporations

Location: South Africa

Description: In 2008 an Australian company, Coal of Africa (CoAL), applied for a mining right in South Africa on land less than seven kilometres from the boundaries of a UNESCO recognised World Heritage Site called the Mapungubwe Cultural Landscape. A civil society organisation called Save Mapungubwe Coalition formed and undertook a wide variety of strategies that included engaging with the public participation process required by South Africa’s environmental and mining laws, litigation and direct negotiations with the government and CoAL. Eventually, through persistent and focused litigation that challenged all of the administrative permits that CoAL received, the company decided to negotiate with the Coalition and entered into a Memorandum of Understanding (MOU) which set the terms of the negotiations.

Unfortunately, negotiations did not achieve an agreement; however, at the same time an Environmental Management Committee (EMC) was set up by the relevant government agencies to monitor the mine. The EMC is a multi-stakeholder body set up under South African environmental law to monitor the mining company’s compliance with the conditions of their environmental and mining licenses and authorisations. Initially the Coalition participated in the EMC as an observer. This allowed the Coalition to form a positive working relationship with the members of the EMC—government and CoAL—despite having previously been adversaries. The positive and constructive presence of the Coalition eventually led to the EMC accepting the Coalition as a full member of the monitoring group, and soon thereafter even nominating a member of the Coalition as Chair of the EMC. According to one Coalition member, “[t]his would not be possible without the acceptance of the Coalition as a pivotal member of the EMC by the majority of members. The Coalition’s rapid move from a peripheral to central role on the EMC promises to clear a path for other civil society Coalitions to play a similar role in other environmental oversight institutions.” Moreover, the Coalition has been able to have a strong influence on the operations of the mine to ensure that it is in compliance with all legal requirements.

Further Information: For a detailed discussion of the history leading up to the formation of the EMC, *see* <http://www.wits.ac.za/files/bilsp_112254001405415643.pdf>.