SUBMISSION

to

THE HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON INDUSTRY, SCIENCE AND RESOURCES

on

INCREASING VALUE-ADDING TO AUSTRALIA'S RAW MATERIALS

JULY 1999

TABLE OF CONTENTS **PAGE**

ASSOCIATION OF MINING AND EXPLORATION COMPANIES (INC.)

IDENTIFICATION

The Association of Mining and Exploration Companies (Inc.) ("AMEC"), was formed in 1981 to represent mineral exploration and mining companies in Australia. AMEC's membership includes over 70 mineral exploration and mining companies and 150 mining industry service and supply providers.

PURPOSE AND PHILOSOPHY

The purpose for which the Association was incorporated is encapsulated in the following two objects recorded in its Constitution:

(a) To promote in general, the interests of the mineral exploration and mining industry in all its branches; and

(b) To assist in any lawful manner the growth, stability and economic well-being of the mineral exploration and mining industry.

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DECLARATION OF INTEREST

AMEC member companies undertake mineral exploration, mine development and mineral production throughout Western Australia, in all other Australian States and Territories and at an increasing number of overseas locations.

Given AMEC's ongoing and demonstrated interest in ensuring a favourable investment climate for Australia's mineral developers, the Association appreciates the opportunity to provide input to the House of Representatives Standing Committee inquiry into increasing value-adding to Australia's raw materials.

As AMEC's membership is comprised solely of mineral explorers, producers and organisations that service and/or supply the Australian mining industry, AMEC's submission focuses on promoting increased value-adding in the resources sector through the provision of a more internationally competitive and commercially certain investment environment.

INTRODUCTION

The key to increased value-adding in the resources sector lies in continued, robust mineral exploration. The Australian mineral exploration industry is however, in dire straits. Plummeting commodity prices caused in large part by the recent Asian economic crisis and a range of other global factors, have all but decimated the availability of risk capital for mineral exploration.

The Australian gold industry has been particularly hard hit. Gold exploration expenditure dropped by $174 million in calendar year 1998. Western Australia accounted for approximately $120 million of the lost expenditure.

Given that mineral exploration has a direct correlation with the value of mineral production and thus the net worth of the mining industry to the Australian economy, State and Commonwealth Governments can ill afford to ignore the exploration industry's current predicament. In short, the Australian industry's future rests solely on the success of mineral exploration programs.

Australia's mineral and energy industry has become the backbone of the Australian and Western Australian economies during the past three decades. To illustrate, in 1967 the value of mineral and energy production totalled $697 million, while in 1997/98, that figure reached $40 billion.

Coupled with the dramatic decline in total domestic mineral exploration, which has dropped by $166 million during calender year 1998, is an even more alarming trend relating to offshore mineral exploration by Australian companies. In 1997/98, Australian mining companies spent $450 million on overseas mineral exploration. This figure represents an 8 per cent increase on the previous year and comprises a 40 per cent increase since 1994/95. Moreover, at present, approximately 50 per cent of domestic mineral exploration expenditure is spent on existing mining leases, while 96 per cent of offshore exploration spending by Australian companies is on 'greenfields' exploration, i.e., the type of exploration that locates new mines and in many cases, mineral provinces.

While the Commonwealth Government's desire to increase value adding to Australia's mineral resources is an initiative AMEC wholeheartedly supports, the minerals must first be located and mined. Given the sustained and significant decline in domestic exploration expenditures however, realisation of this objective has become increasingly difficult.

Although governments cannot be held accountable for the vagaries of the free market, AMEC's submission does recommend a series of measures which, if implemented by the Commonwealth Government, would encourage and facilitate increased mineral exploration, resource

development and downstream processing in Australia's resources sector through the creation of a more investor friendly environment.

AMEC has consistently held that the development of a nation's strengths and competitive advantages should form the basis of any economic or taxation strategy. Strategies of this nature should focus on industries with high growth potential. Contrary to speculation by certain mis-informed commentators, considerable opportunities still exist to further develop and expand Australia's mineral and energy resources.

While what have been termed, 'sexy' new industries such as financial services and information technology are viewed by many as the industries of the future, the Australian public and its elected political representatives cannot afford to disregard the Australian minerals industry's massive contribution to export income, employment and government revenues.

The Government's desire to promote value-adding in the minerals sector is timely and makes good economic sense. Success in this regard will however, depend on the Commonwealth Government making an equally strong commitment to ensuring that the resources sector is nurtured and encouraged, particularly during the current downturn.

TERMS OF REFERENCE

1. Incentives and impediments to investment

INCENTIVES

1.1 Flow Through Share Scheme

The junior mineral exploration sector's current and pronounced inability to raise equity capital in today's market, the poor condition of which has been precipitated by a commodity price collapse and compounded by a range of taxation disincentives and land access problems associated with native title, has prompted AMEC to investigate the implementation of an exploration incentive scheme.

It is estimated that at present, approximately 120 mineral exploration companies listed on the Australian Stock Exchange have a market capitalisation of less than $500,000 and are trading at less than 5 cents a share. The ability of these companies to raise funds to undertake exploration is virtually non-existent, and yet their success underpins the future of the Australian minerals industry.

To illustrate, many large Australian mining houses are increasing their reliance on small exploration companies to locate potentially economic ore bodies. These projects are then on-sold to the larger company by the explorer who, in most cases, does not posses the funds necessary to progress the project, or developed by means of a joint venture between the two organisations. Due to their size and associated need to focus on a small number of projects, junior explorers have an advantage over larger companies in relation to cost-effective exploration, given that large organisations are more bureaucratic and generally tend to host decidedly more complex and demanding project portfolios than those of the junior explorer.

Attached as Appendix A, is an AMEC submission to the Commonwealth Government proposing the establishment of a 'Flow Through Share Scheme', similar to that implemented with considerable success in Canada during the early 1980's. AMEC is confident that implementation of such a scheme will encourage investment in Australia's junior exploration sector with minimal cost to government. As such, AMEC commends the submission to the Standing Committee as a proposal worthy of serious consideration.

1.2 Geoscientific Data Gathering

Currently, over 50 per cent of Australia's estimated 6000 qualified Geologists are either unemployed or under-utilised. Historically low commodity prices coupled with land access difficulties, ie., native title, have forced many mining companies to substantially reduce and in some cases even abandon spending on domestic mineral exploration.

Attached as Appendix B is a second AMEC submission to the Commonwealth Government proposing the implementation of a two pronged strategy designed to retain Australia's geological expertise during the current downturn while simultaneously improving the quality and availability of Australia's geological data. Given Australia's demonstrated ability to attract foreign mineral exploration investment via its geological mapping and geoscientific data, the quality of which remains unparalleled on a world scale, AMEC submits Appendix B as an eminently feasible and timely Commonwealth initiative.

IMPEDIMENTS

1.3 Native Title

The Commonwealth native title legislation represents the most significant statutory disincentive to continued investment in domestic mineral exploration and development.

While the Australian mining industry does not oppose or reject the concept of native title, the Native Title Act 1993, as promulgated by the Keating Labor Government, is best described as unworkable. Moreover, the *Wik* amendments introduced by the current Coalition Government in June 1997, have failed to deliver the results anticipated by the mining industry due to their heavy reliance on the establishment of state based native title regimes. The realisation of state native title regimes has in practice however, proved fraught with difficulty due to the Federal Minister's approval of state regimes being subject to Federal Parliamentary disallowance.

The past five years have witnessed an alarming increase in the registration of native title claims. According to the National Native Title Tribunal, 782 native title claims have been lodged Australia wide. This statistic represents over one third of the total Australian land mass and is most keenly felt in Western Australia where 85 per cent of the State, terrestrial and marine, is under claim.

Given the Western Australian mining industry's significant contribution to Australia's export income, State and Federal Government revenues and national employment, the following statistics do not bode well for Australia's economic well-being and by definition, standard of living. Currently, over 12,000 Western Australian prospecting, exploration, mining and mining infrastructure tenement applications are stalled in the State's Department of Minerals and Energy system awaiting grant due to difficulties associated with native title. Furthermore, a considerable proportion of the 12,000 tenement applications referred to were lodged up to 4 years ago.

In contrast, in the years preceding advent of the Native Title Act, approximately 2,500 tenement applications could be found at any one time in the Western Australian system awaiting grant. The current State backlog represents an increase therefore of nearly 500 per cent on the pre-native title figure and has been caused almost solely by unworkable native title legislation.

The following points clearly detail why AMEC views native title as the most significant legislative disincentive to continued mineral exploration and resource development in Australia today:

- The claim determination process prescribed by the Native Title Act, as amended, does not readily interface with the land title systems operated by the States and Territories, or with established commercial processes which form society's basis for commerce and trade. The process naively assumes that changes to land usage can be halted indefinitely pending resolution of native title and in so doing, ignores the commercial realities faced by the mining industry.

  For example, many native title negotiations in train between claimants and miners for up to 4 years have made little progress due to the difficulties associated with multiple overlapping claims and/or exorbitant and therefore unrealistic 'compensation' demands made on the part of some, or all of the claimants involved. Unfortunately, the commercial timeframes explorers and mine developers must adhere to provide extraordinary leverage to claimants in their efforts to extract financial and other benefits from developers, desperate to commence a project.

  While introduction of the strengthened claims registration test has begun to reduce the number of overlapping claims and promote claim amalgamations, particularly in areas such as the Goldfields in Western Australia, the problems outlined above remain far from resolved.

As a result, secure land title on which the mining industry can explore, mine and process minerals has become increasingly difficult to obtain. Many mining companies are now reluctant to commit shareholder funds to any resource project or place were native title might exist. This reluctance can be explained by the findings of a recent AMEC member company survey. The survey asked member companies to detail how many native title 'future act' agreements they had concluded since introduction of the Native Title Act, coupled with the amount of time and company funds that they had expended in the pursuit and finalisation of native title agreements. Of AMEC's 70 mineral exploration and mining member companies, only 25 reported that they had concluded native title agreements in the 5 years since the Act's promulgation, despite spending millions of dollars and years of man hours attempting to reach agreements with claimants.

- Native title is not defined by the Native Title Act, nor the rights and responsibilities it confers clarified. The absence of a clear and practical definition of native title in the Act has fuelled a considerable degree of speculation as to what native title is and created a climate of acute investor uncertainty. Moreover, Justice Malcolm Lee's recent decision in relation to the Murriuwung Gadjerrong native title claim in the Kimberley region of Western Australia, has further complicated the situation. Justice Lee's decision has unfortunately raised more questions than answers in relation to what rights and responsibilities native title holders can expect to be granted. As a result, the Western Australian State Government has been forced to appeal certain elements of Justice Lee's decision in an attempt to achieve greater clarity.

  Simply put, although statutorily required to negotiate with native title claimants, the mining industry remains uncertain as to whether native title comprises merely the right to pass over, hold ceremonies on and take sustenance from certain areas, or alternatively, the exclusive possession of and mineral rights associated with areas, or both.

- On registration of a claim, the claimant is immediately awarded the 'right to negotiate'. While this measure, conceived by the former Commonwealth Government under the auspices of the Racial Discrimination Act 1975, was designed to enforce negotiations between native title parties and developers, it has in practice proved to be one of the Act's most fundamental shortcomings. Although often dismissed as merely a mechanism to ensure a consultation process, the right to negotiate provides claimants with an effective veto over resource projects. This is

made all the more difficult to accept given that the Act does not provide a definition of native title and claimants, as the name would suggest, are yet to have their claims determined by an Australian court of law which may ultimately find their claim(s) to be unsuccessful.

- The extreme uncertainty precipitated by the Native Title Act has prompted many mining companies to reassess investment policy with respect to their Australian operations. The imposition, by native title, of lengthy timeframes and escalating compliance costs on an industry that must contend with volatile global markets, long development lead times and huge capital investments, is a recipe for economic disaster.

As mentioned in the introduction to this submission, recent years have witnessed a growing number of Australian mining companies committing substantial percentages of their mineral exploration budgets offshore. The 1997/98 overseas exploration figure of $450 million represents a 40 per cent increase on the 1994/95 figure of $319 million, while the 1999 *Australia's Mining Monthly* 'Minerals Industry Survey' reported that overseas mineral exploration expenditure represents 40 per cent of all exploration expenditure by Australian companies. This statistic is expected to rise in 2000.

While it can be argued that exploration spending at home still exceeds foreign budgets, it is worth noting that the majority of domestic exploration expenditure is currently being spent on granted mining leases, ie., brownfields exploration. Over 90 per cent of Australian money going offshore is spent on grassroots or greenfields exploration programs however. Given that greenfields mineral exploration comprises the research and development arm of the industry, or to be franker still, the industry's future, these statistics should be a source of major concern to State and Commonwealth Governments.

While AMEC welcomed the 1998 *Wik* amendments as a step toward resolving some of the impediments to investment identified above, 12 months later, little tangible progress has been achieved. Apart from the benefits associated with the strengthened claims registration test, no State or Territory has yet managed to establish a native title regime, nor have endorsed by the Commonwealth Government an approved exploration scheme whereby low impact mineral exploration is exempted from the right to negotiate process.

AMEC submits that should realisation of state regimes and exploration exemptions prove unsuccessful in the short term, the Native Title Act will remain a major impediment to

mineral investment and passage of the *Wik* amendments an exceedingly hollow victory indeed.

1.4 Taxation

During the early 1990's, a study was undertaken by the Centre for Resource Studies in conjunction with the Australian Mineral Foundation entitled, 'The Economics of Mineral Exploration in Australia'. The study discovered that, "Based on assumed conditions, mineral exploration in Australia is a marginally economic endeavour, where returns exceed costs by $1 million on average for each economic deposit identified."

The study also reported that the anticipated value of mineral exploration can be expressed as an expected rate of return of approximately 10 per cent, this being little more than the 10 per cent cost of capital threshold.

Given then that Australian mineral exploration is a marginally economic endeavour on a potential-value basis, the study concluded that, "Under base conditions, Australia-wide exploration is rendered uneconomic by the existing Commonwealth tax and State royalty regimes and approximately one fifth of the potentially economic deposits would not justify development on an after tax basis."

Bearing in mind the age of the study and the likelihood that recent events, most notably the advent of native title and the commodity price collapse which has contributed substantially to rendering mineral deposits across Australia uneconomic, the study does nevertheless conclude that the current Commonwealth and State taxation regimes act as a considerable disincentive to investment in mineral exploration, development and downstream processing.

AMEC has long advocated fundamental reform of the Australian taxation system. Reform of this nature should incorporate a review of Commonwealth / State financial relations to overcome the myriad problems encountered as a result of the disparity between the revenue raising powers and expenditure responsibilities of the Commonwealth and State Governments, commonly known as 'vertical fiscal imbalance'.

For this reason, AMEC applauds the Commonwealth Government for its demonstrated commitment to taxation reform and welcomes the recent passage of the Goods and Services Tax (GST) legislation in the Federal Parliament. While Democrat amendments to the GST legislation reduced its anticipated benefit to the mining industry and the legislation's ability to redress the more onerous aspects of vertical fiscal imbalance, ie.,

the removal of 'anti-business' State taxes such as payroll tax and stamp duty, advent of a GST should still however, result in reduced industry costs across the board and therefore a more globally competitive Australian resources industry.

1.4.1 Ralph Business Taxation Review

Just as crucial to Australia's future prosperity as the introduction of a GST, is the reform of business taxation. While the Commonwealth Government's desire to effect wide ranging and contemporary business tax reform is appreciated by AMEC, the Association is nevertheless concerned to ensure that the mining industry's current taxation concessions are not sacrificed in order to realise a lower company tax rate and therefore a revenue neutral outcome.

Attached as Appendix C for the Committee's consideration, is AMEC's April 1999 submission to the Ralph Review of Business Taxation. AMEC's submission to the Ralph Committee provides a succinct overview of the outcomes AMEC member companies are seeking in relation to business taxation reform.

1.4.2 Capital Gains Tax

In submissions to past and current Commonwealth Governments, AMEC has argued for reform of the capital gains tax law on the basis that it discourages the development of resource projects which could substantially benefit the Australian economy in the long term.

AMEC notes with interest therefore, the Prime Minister's recent comments (as reported in the press), in relation to capital gains tax reform and his personal commitment to effecting review of the present system. The Association welcomes the Prime Minister's desire to effect reform of what it contends is an inequitable and anti-competitive tax, and trusts that the comments below will further strengthen the impetus for change in the short-term.

From a mining industry perspective, to raise additional development capital it is often necessary for individuals to transfer assets to a corporate vehicle and raise the required capital from the public by floating that company. The existing 'rollover' provisions of the capital gains tax law are limited however, and do not always permit assets to be transferred to a company without crystallising a tax liability.

Examples of circumstances where the law prejudices the development of projects which may have very little cost to the owners but substantial value should further capital be available, are mineral tenements (exploration, mining, mining infrastructure and downstream processing) and intellectual property. To illustrate, a number of individuals may jointly own potentially valuable mining tenements on which they have been unable to spend sufficient development funds due to lack of resources. The only viable method of raising additional equity is to transfer these tenements into a company in consideration for shares in that company, raise additional capital from the public by share issue and have those shares listed on the Stock Exchange. If, at the time, the individuals wish to raise the capital, the tenements were worth say $10 million, they [the individuals] would be faced with a taxable income of $10 million on transferring the tenements to the company.

Under existing Australian Stock Exchange listing rules, the vendor shares would be subject to escrow provisions restricting the holder's ability to transfer them for periods of up to three years. Nevertheless, the individuals would be faced with a joint taxable income as a result of the transaction of $10 million. Further, if the share price was to fall over the next three years such that the value of the shares was only $1 million, the vendors will have paid tax on $10 million and in so doing created a capital loss of $9 million. A capital loss of this magnitude would only be deductible against further capital gains and could not be carried back. As a result, although the actual profit would only have been $1 million, a refund of the tax on the $10 million profit would not be available.

Typically therefore, such transactions do not proceed because the individuals concerned have no ability to fund the tax liability while they wait for the restrictions on their shares to be lifted. AMEC also submits as inequitable the situation whereby an individual in this situation should be expected to pay income tax when the consideration received for the disposal of their asset is not convertible into cash.

AMEC contends that any review of the capital gains tax law should seek to overcome the inequity of individuals being liable for tax on an income which has not yet been realised. Notably, such an amendment would be at no loss to revenue, as when the shares are eventually sold, tax would be paid on the actual gains.

The following represent the technical steps AMEC believes are necessary to achieve the outcome described above:

1. Subdivision 104 of the Income Tax Assessment Act 1997 should be amended in such a way so that the time of disposal is deferred where the consideration received is shares in a company. This provision would operate so that where the consideration consists of shares together with some other form of consideration, the deferral is available only for that proportion of the capital gain represented by the share consideration.

2. As a prerequisite to the particular provision applying, the shares should be subject to restrictions on their disposal pursuant to the listing rules of an approved Stock Exchange. The time of disposal of the asset would be deemed to be the date the shares are sold.

3. As a pre-requisite to the particular sub-section applying, the shares should be listed on an Approved Stock Exchange within 2 years of the date of the disposal of the asset. Otherwise, the time of disposal is determined under the other particular provisions in Division 104.

4. Division 104 should be extended to allow the Commissioner to amend an assessment at any time if the shares are not listed within 2 years.

5. The taxpayer should be given the option to elect that the section has no application.

6. Where the taxpayer receives shares in another company in consideration for the disposal of any of the shares the subject of the rollover and a Section 124–360 rollover election is made in relation to a disposal of the original shares, the time of disposal should be extended to the date that any disposal restrictions on the new shares received as consideration cease. In this circumstance, the time requirement for listing remains from the date of acquisition of the original shares.

7. Section 124-360 should be amended so that where the taxpayer has elected that the new subsection is to apply and is deemed to have disposed of the original asset at the date the disposal restrictions cease, the cost base of the

new shares is increased (or reduced) to the value of the consideration applied to assess the capital gain on the original asset.

1.4.3 Fringe Benefits Tax

The introduction of a Fringe Benefits Tax (FBT) in 1986 caused the mining industry to suffer a disproportionate taxation liability, given the industry's need to offer incentives to encourage people to work in environmentally hostile and geographically remote areas. FBT deemed many of these necessary services 'benefits', which immediately became taxable.

The mining industry is particularly vulnerable to the impact of FBT in its present form. Minerals are where you find them and as such, the industry's operations are determined by the location of the mineral deposits. Most mining sites are located in remote locations and the provision of incentives to attract competent staff to these areas is a vital factor in workforce stability. Anecdotal evidence suggests that mining companies and their employees working in remote areas undertaking mineral exploration and/or mineral development activities, are incensed by the Federal Government's definition of 'benefit'. To them, a necessity does not and never has, equated with a benefit.

To illustrate, FBT on accommodation, travel and other perceived physical necessities in remote areas constitutes a significant disincentive to resource developers and actively encourages fly-in-fly out mining operations which are widely considered to be detrimental to the development of Australia's rural areas. The application of FBT in these circumstances renders questionable the Commonwealth Government's commitment to rural Australia and population decentralisation, two key planks of Federal Coalition policy.

In short, the FBT system penalises companies that seek to locate on a permanent basis in remote areas by restricting tax deductions for what AMEC contends are genuine business expenditures, as opposed to benefits. Moreover, compliance costs in relation to FBT have exploded in recent years due to the complexity of additional rules applicable to entertainment and car parking.

Clearly, FBT represents a significant disincentive to investment by the resources industry in rural areas and as such, demands review by the Commonwealth Government in conjunction with key industry groups.

1.4.4 Research and Development Taxation Concession

In 1985, the Hawke Labor Government introduced a 150 per cent tax deduction for eligible research and development expenditure. This resulted in significant increases in the level of industrial research and development conducted in Australia, with consequent flow-on to innovation, economic growth, higher levels of exports and employment generation.

In the decade and a half to 1995/96, Australia increased its business expenditure on R & D as a proportion of GDP from 0.25 per cent to 0.88 per cent. Moreover, Australia was on track to reach the 1 per cent mark around the turn of the century, bringing us close to the international developed country level of R & D.

However, on the 20 August 1996, the Howard Coalition Government announced that it intended to reduce the maximum rate for taxation deduction for research and development expenditure from 150 per cent to 125 per cent. AMEC vigorously opposed this move on the basis that it was ill-conceived and would disadvantage considerably, the mining industry. Following reduction of the R & D concession, Australia's R & D experienced the first fall in the two decades that data has been collected. Alarmingly, it has continued to fall.

The Australian mining industry is at the technological forefront in world terms. Despite comprising a relatively high cost country in which to operate, Australian technical expertise, coupled with a previously robust R & D taxation deduction, provided a means for many Australian mining companies to significantly expand their domestic mineral exploration and mining related research and activities. The 1996 reduction in the R & D tax concession has however, removed a substantial incentive to further expand industry activities in Australia.

In the context of Australian cuts to the R&D taxation deduction, it is interesting to note that third world countries such as Malaysia, which offers a 200 per cent R & D taxation deduction, are becomingly increasingly cognisant of the fact that technological innovation provides businesses and industries with the capacity to become market leaders, both domestically and internationally. It is also worth noting that until recently, the mining industry was the biggest user of R & D schemes in the country, with approximately 17.7 cents in every R & D dollar being spent in the resources sector.

If the Australian minerals industry is to compete successfully in the international marketplace, we must foster a culture of innovation. Australia's development in the next century will depend critically on the industry's ability to generate clever ideas. As such, AMEC submits that the R & D taxation deduction requires urgent review if Australia's resources sector is to maintain its status as world leader in technological innovation.

A more comprehensive discussion of Australia's global prominence in the mining technology field follows under the 'Intellectual Property Rights' heading on page 20.

1.5 The Environment

Since its inception, AMEC has maintained a strong interest in Commonwealth environmental and heritage legislation, particularly the manner in which the various Commonwealth statutes interface with State and Territory legislative and regulatory regimes.

As such, in November 1998, AMEC made a comprehensive submission to the Senate Environment, Recreation, Communication and the Arts Legislation Committee on the Environment Protection and Biodiversity Conservation Bill 1998. AMEC representatives subsequently appeared before the Committee to expand on the Association's submission in February 1999, in Perth.

AMEC's analysis of the proposed legislation revealed that, while timely and comprehensive, the legislation proposed a number of reforms which would result in increased industry uncertainty and wasteful, confusing Commonwealth duplication of State/Territory environment impact assessment processes.

AMEC's key concerns in relation to the Bill were as follows:

a. The Bill proposed to confine Commonwealth involvement to six matters of 'national environmental significance'. However, although used extensively in relation to matters of national environmental significance, the term 'significant impact' is not defined in the Bill.

b. AMEC has long argued that there is no environmental reason to disassociate the mining and milling of uranium ore from the mining and milling of other minerals such as gold, mineral sands, nickel and iron ore. As such, the Bill's classification

of uranium mining and milling as a matter of national environmental significance and as such, an automatic trigger for Commonwealth environmental assessment, was viewed by AMEC as discriminatory, misleading and unwarranted.

c. The Bill permitted additional matters of national environmental significance to be declared by the Commonwealth via regulations created under the Act. This provision was opposed by AMEC on the basis that it afforded the Commonwealth Minister an unacceptable ability to extend at will, matters of national environmental significance, regardless of State/Territory or industry positions.

d. The effectiveness of the proposed legislation will be determined by the existence of Commonwealth and State/Territory bilateral agreements. The legislation made no attempt however, to explain how duplication of environmental process will be avoided in the absence of bilateral agreements with some States and Territories.

e. The Bill proposed that the Minister for the Environment become the final decision-maker on development approvals. Given that environmental assessment represents only one aspect of the project approval process which incorporates a range of other factors including the economic and social implications of a project, AMEC viewed this proposal as unlikely to deliver balanced, workable outcomes for the mining industry.

In Canberra on 22 June 1999, the Democrats announced a deal with the Commonwealth Government in relation to the Bill. The legislation was subsequently rushed through the Senate later that week. Disappointingly, not only did the amended legislation, fail to address any of AMEC's concerns as detailed above, but it significantly expanded Commonwealth involvement in State and Territory environmental assessment regimes and therefore, the potential for duplication of process, and developer uncertainty.

Most disturbing however, was deletion of economic criteria from the key principles and objectives underlying the legislation. Not only must the industry now comply with an approval system where the Commonwealth Environment Minister is the final decision maker, but the Minister is not statutorily compelled to consider the relevant economic factors associated with a project proposal when making his/her decision. The message this amendment sends to the Australian resources industry, as proposed by the Democrats and agreed to by the Commonwealth Government, is best described as appalling.

2. *Intellectual property rights*

On the 31 March 1999, Mr Julian Cribb, Director of the CSIRO's National Awareness Program gave a key note address at the first Australian Minerals and Energy Environment Foundation Innovation Conference. Mr Cribb's address focused on intellectual property in the context of the Australian minerals industry and reported that export of Australia's mining industry 'know how' earns Australia more than nickel, titanium or zinc, twice as much as lead or diamonds, three times as much as uranium and nearly as much as copper.

Quoting from Mr Cribb's address, "It [mining intellectual property] is a serious export commodity in its own right. One that has already outstripped glamour industries like wine and movies."

Presently, the export trail for Australian mineral knowledge is being blazed by a consortium of 115 companies under the banner of AUSTMINE. Their aim is to present a team front to world markets, with packages of Australian expertise, equipment and technologies that can tackle virtually any mineral problem or challenge anywhere in the world. AUSTMINE achieved $1 billion in exports last financial year and, according to Mr Cribb, are in hot pursuit of their next $3 billion in collective sales by 2005.

By 2005, it is estimated that Australian mining intellectual property or 'know how' will be Australia's fifth largest mineral export behind coal, gold, aluminium and iron ore, and it will be level-pegging with the wool, wheat and beef industries. Furthermore, according to one forecast cited by Mr Cribb, Australia will be world dominant in this field by 2020.

AUSTMINE has compiled a list of the fields of knowledge in which Australia enjoys a global edge. They include coal beneficiation, mining software, hazardous mining technology, gold processing, materials handling, mining and process R & D, education and training, environmental management and mine rehabilitation.

Particularly interesting however, is Mr Cribb's reference to Australia's prodigious exports of what he terms, "clean, green mining industry exports". According to Mr Cribb, AUSTMINE companies are currently selling Australian clean, green mineral expertise and technology in more than 20 countries. Their export products include waste management, protection and regeneration of flora and fauna habitats, soil conservation, dust and noise suppression, minesite rehabilitation, surface and groundwater supply monitoring, in

addition to training the mining workforce to be sensitive to environmental issues and community concerns.

While it is difficult to obtain a precise figure for Australian 'green' mining industry exports, it is estimated to be between $100 and $200 million a year at present and is well on the way to becoming Australia's largest environmental export industry.

Mr Cribb also argues that it is possible to make a case that the Australian minerals sector today invests more in the research and development of new clean, green and sustainable products and processes than any other major industry sector.

Mr Cribb concludes his address by citing Australia's $236 billion foreign debt and the fact that to repay such a debt, Australia must continue to produce and sell to the world products so valuable, so profitable and so sought-after that they enable us to work the nation's bottom line back into the black. The knowledge of how to find, extract and process minerals and energy in a clean, sustainable fashion has the potential, Mr Cribb asserts, to far exceed in value, most minerals.

Australia's greatest, and perhaps most undervalued asset is our natural advantage in relation to sustainable farming, mining, water and forestry. Australia's greatest opportunity therefore, is to convert this asset into a new knowledge export industry for the coming century.

To achieve its glittering 'know how' potential, AMEC submits that the minerals sector must be encouraged. Taxation disincentives, specifically Commonwealth Government reductions in the R&D taxation deduction are clearly not the way to promote global Australian excellence in exploration and mining intellectual property.

3. Government intervention, both nationally and internationally

3.1 Gold

Domestic

On the 3 July 1997, the Reserve Bank of Australia announced the sale, over the previous six months, of two thirds of the nation's gold reserves. This equated to 167 tonnes of gold. Within three days of the announcement and subsequent comments in support of

the sale by the Prime Minister and the Treasurer, over A$2 billion was written off the share market capitalisation of the Australian gold sector due to a fall in the gold price to a twelve year low of US$319 25.

Clearly, the Reserve Bank of Australia did not do its homework in either domestic or global terms on the likely ramifications of the sale of 167 tonnes of gold by one of the world's premier gold producing nations.

The role perception places in relation to the gold industry cannot be underestimated. While today's negative gold sentiment and accompanying falling gold price was not brought about solely by the sale of 167 tonnes of Australia's gold reserve in 1997, it is important to understand why Australia's sale, as opposed to sales by other Central Banks prior to and after the Australian sale, resulted in such a savage write down in the gold price.

Simply put, Australia is the world's third largest gold producer. The news that the world's third largest gold producer had disposed of a significant proportion of its gold reserves, coupled with the Prime Minister and Treasurer's glowing praise of the initiative, sent a clear message to the worldwide community that Australia had lost confidence in gold and by extension, the gold industry.

Gold has to date represented Australia's second highest mineral export earner, bringing in over $6.2 billion in 1997/98. Today however, a variety of factors ranging from the recent Asian economic crisis through to sustained Central Bank selling, has left gold in a decidedly parlous state. The dramatic decline in the gold price over the last two years has resulted in massive cuts to gold exploration expenditure across the country, coupled with mine closures and associated widespread unemployment.

The gold industry's woes have also been visited with increasing intensity on the myriad industries that service and supply the gold industry, where declining profitability and staff retrenchments have become commonplace.

Given the gold industry's vital importance to the Australian economy, the Commonwealth Government should seek to promote and encourage the Australian gold industry through removal and/or reassessment of the impediments to investment as outlined above, coupled with the implementation of initiatives such as those articulated in Appendices A, B and C, attached to this submission.

International

Global Central Bank gold sales over the past decade have contributed significantly to the current negative investor perception of gold. This has in turn helped realise the steadily dropping gold price.

The following table details Central Bank gold sales over the past ten years.

Country	**Amount Sold (tonnes)**	**Date of Announcement**
Belgium	127	22 March 1989
Belgium	202	17 June 1992
Netherlands	400	12 January 1993
Belgium	175	24 April 1995
Belgium	203	27 March 1996
Netherlands	300	13 January 1997
Australia	167	3 July 1997
Argentina	125	3 December 1997
Czech Rep	25	25 February 1998
Belgium	299	18 March 1998
Canada	5.2	6 August 1998
Canada	4	3 September 1998
Luxembourg	# 11	4 September 1998
Canada	7	2 October 1998
Czech Rep	31	11 September 1998
Canada	2.1	2 November 1998
Canada	3.1	1 December 1998
SUB TOTAL	**2,086.4**	
Projected – Announced Future Sales ▸		
Switzerland	1,300	
UK	415	
IMF	300	
TOTAL	**4,101.40**	

Estimated but not officially disclosed.

▸ Public Media Reports

[Source World Gold Council]

At the current gold price, over a third of Australia's presently operating gold mines are unprofitable, hence the significant decline in exploration spending. An historically low price is not however, limited to gold. Mineral commodities across the board have recently reached all time lows in real terms, ie., iron ore, base metals, nickel, uranium and coal. Given the current mineral commodities trough, the end of which is proving exceedingly difficult to determine, opportunities to increase value-adding to Australia's minerals are likely to be few and far between in the short-term. The commodities crisis has resulted in a flight of equity capital such that raising money for minerals related projects is proving increasingly difficult to achieve in the current market.

While market forces are beyond the control of governments, governments can remove disincentives to investment that will increase Australian resource sector competitiveness, efficiency and technological advancement, while simultaneously implementing strategies designed to promote and encourage investment in Australia's resource sector. *See Appendices A and B attached.*

3.2 Sovereign Risk

When resource companies undertake project feasibility studies, one of the factors considered is the perceived degree of 'sovereign risk' associated with the project. The term 'sovereign risk' refers to the likelihood that the Government (State and/or Federal) with jurisdiction over the project will change the operating environment or 'rules', midway through the project development process.

It is not difficult to understand why sovereign risk represents such a significant factor in company decisions to invest large capital sums. To invest what are often enormous sums of money in resources projects, company directors with responsibility for shareholders funds must be confident that the legislative and regulatory environment, as administered by the relevant government(s), will not undergo dramatic change resulting in unexpected time delays, increased company compliance costs and possible permit withdrawals.

An excellent recent example of sovereign risk and the devastating impact it can have on project proponents relates to the *Valhalla* uranium prospect in Queensland. The *Valhalla* project tenements are held by the Mount Isa Joint Venture, which is a 50:50 venture between Summit Resources (Aust) Pty Ltd and Resolute Limited.

By way of background, the original exploration permits were granted by the then Queensland Minister for Resource Industries, the Hon. Tony McGrady in 1992. In 1993, these four permits were consolidated into a single permit granted by the Minister on 25 February 1993. Subsequently, contiguous exploration permits were granted by Minister McGrady on 30 March 1993 and 15 February 1994 and group project reporting status granted by the Queensland Department of Mines.

To date, the two companies and their venture partners have invested approximately A$5 million in exploration on the tenements comprising the *Valhalla* project. The majority of the $5 million was invested between March 1996 and August 1998 with the support of the then State and Commonwealth Governments.

The companies have established that the *Valhalla* uranium deposit is a world class deposit now known to contain a mineralised resource of over 55 million pounds of uranium oxide. The companies are now ready to commence a full bankable feasibility study on the project and are prepared to spend a further estimated $8 million financing this study to facilitate the project's development. Early indications are that if developed, the orebody could sustain a mine for 20-30 years and employ approximately 300 people on site. Additionally, when the 3.5 employment multiplier applicable to mining is taken into account, it is estimated that development of the *Valhalla* deposit could provide employment for over 1000 people in the Mt Isa area.

The companies have however, been stopped in their tracks by the Beattie Labor Government which assumed power in July 1998. Despite the fact that the original exploration permits were granted by Minister O'Grady under the auspices of the Goss Labor Government in 1992, the Beattie Government has introduced a policy which prohibits the grant of a mining lease for the purpose of mining uranium.

Despite numerous representations from company representatives to Queensland Government Parliamentarians, highlighting the $5 million investment of shareholders funds in proving up the resource, coupled with the significant employment and economic benefits that development of a 30 year mine will deliver to Mt Isa and the Queensland economy, the Beattie Government has to date, steadfastly refused to amend its 'no uranium mining' policy.

As a result, the companies have been forced to investigate the feasibility of mounting a legal action against the Queensland Government to recover the funds invested on the

basis that the Beattie Government policy has prevented the companies making good their $5 million investment of shareholders funds.

While the *Australia's Mining Monthly* magazine's 1999 'World Risk Survey' reported sovereign risk as being a more prevalent occurrence in third world nations, the above example nevertheless demonstrates that it remains an issue in Australia, and is capable of delivering catastrophic outcomes to mineral developers and deterring future investment in resource ventures.

3.3 Greenhouse

While AMEC acknowledges that the greenhouse issue warrants a serious commitment by Australia and supports the Commonwealth Government's 'Safeguarding the Future: Australia's Response to Climate Change', a A$180 million, five year package of energy measures announced by the Prime Minister, the Hon. John Howard in November 1997, the implementation of greenhouse controls has the very real potential to stifle value-adding to Australia's mineral resources.

At the Kyoto negotiations in 1997, the realistic approach adopted by the Australian delegation, whereby differentiated emission reduction targets applied from a responsible scientific and socio-economic base was advocated, balanced a debate skewed by the sanctimonious high ground adopted by parties such as the European Union.

While the Australian delegation's insistence that developing countries must also be subject to the same greenhouse rules that apply to Australia as an industrialised nation was not widely endorsed (G-77 countries led by China and India, which will be two of the fastest growing carbon gas emitters, are still under no obligation to cut greenhouse gas emissions), it was fortunately recognised that Australia's high economic dependence on fossil fuels necessitated a compromise.

Moreover, the last minute inclusion of land clearing in Australia's greenhouse gas profile, combined with the significant allowance of an 8 per cent increase in Australia's emissions by 2010 (only three countries were permitted an increase), means that Australia will now share a proportionate cost of global emissions abatement, for which a 5.2 percent reduction by 2012 has been specified.

From the outset, AMEC contends that the 8 per cent target is wholly unrealistic given Australia's heavy reliance on energy intensive industries and the Commonwealth Government's desire to promote energy intensive value-adding to Australia's raw

materials. A point generally overlooked in Australia's response to the greenhouse issue however, is that although Australia was a leader at Kyoto in arguing for differential targets for different countries within the United Nations, the ideology of uniformity is still to be overcome within Australia, ie., between the States and Territories.

In Australia, national strategies are usually driven by the older, more developed states, principally New South Wales and Victoria, while the frontier, resource rich, 'growth' states such as Western Australia and Queensland traditionally receive little input. Should the National Greenhouse Strategy fail to implement strategies that recognise and address Australia's regional diversity, growth states such as Western Australia and Queensland can expect to suffer a significant degree of economic penalisation stemming from the implementation of nationally based greenhouse abatement measures. Indeed, it has been claimed that the greenhouse emissions from six proposed new development ventures in Western Australia alone will consume the entire 8 per cent available to Australia as a whole.

Despite decisions by the former and current Commonwealth Governments not to implement a 'carbon tax' or 'greenhouse levy' in favour of less economically detrimental strategies for reducing greenhouse emissions such as energy conservation, minimisation of de-forestation, re-afforestation and recycling, the Conservation Movement has maintained its demands that regardless of recent international allowances, greenhouse taxes and charges must be used by the Commonwealth Government to achieve stringent domestic environmental objectives.

AMEC strongly opposes the adoption of a 'green tax' due to the exceedingly negative impact such a measure would likely have on the Australian minerals industry.

AMEC recommends that Australia continue to lobby for the inclusion of developing countries in any binding global greenhouse gas emission reduction agreement. The greenhouse effect is a global issue which must be addressed on a world community basis if the desirable and essential reduction in global emissions is to be realised.

Additionally, any proposed national strategy resulting from the Kyoto agreement should be economically evaluated prior to implementation to ensure that the benefits justify the costs and that it remains not only economically, but also socially affordable. In short, any national strategy should be based on thorough investigation of regional differences within Australia and include differentiation between Australian States and Territories using comparable arguments to those advanced as a nation state at Kyoto.

Australia's economic reliance on energy intensive industries and desire to promote value-adding to Australia's raw materials, is at odds with the implementation of draconian greenhouse measures that prescribe stringent and wholly unrealistic emissions abatement measures, compliance with which will render unprofitable value-adding ventures of the type sought by State and Federal Governments.

4. The location of value-adding industries and projects in regional Australia

In 1996, former Federal Resources Minister, Senator Warwick Parer, launched the 'Regional Minerals Program'. The Program has proved an effective and timely initiative which, in most cases, has been undertaken on a shared, one-third each cost basis between the relevant State and Commonwealth Governments and the mining industry.

To date, comprehensive studies of the North Eastern Goldfields, Central Pilbara, Mid-West and Forrestania regions in Western Australia, the Gawler Craton in South Australia, the Murray Basin in Victoria and the Mid-West of New South Wales have either been completed, are currently underway or scheduled to be undertaken.

The Regional Minerals Program has served as an effective means of assessing remote mineral provinces in relation to infrastructure needs. The rationale behind the Program is the demonstrated fact that the lack of essential infrastructure in regional areas, such as power, water, housing, ports and railways, coupled with the expense associated with establishing basic infrastructure in regional Australia, can deter resource companies from locating value-adding industries and resource developments in remote areas. The results of the studies undertaken to date have provided the evidence, and therefore impetus required for sole and joint government and industry infrastructure development initiatives in regional areas.

The current range of regional mineral studies is due to be completed by July 2000. AMEC notes with disappointment however, the Commonwealth Government's failure to provide in the recent Federal budget, further funding for the Program beyond that date. Given the considerable number and diversity of Australia's identified mineral provinces, coupled with the demonstrated effectiveness of the Program to date in terms of infrastructure planning and provision, AMEC believes continuation of the Program is warranted.

While the significant investment benefits associated with the provision of infrastructure in regional areas have been articulated above, continuation of the program would also send a clear message to an industry currently under siege from low commodity prices and increasingly prescriptive, unworkable government regulation, that the industry's enormous contribution to Australia's economic prosperity is recognised and appreciated by the Commonwealth Government.

5. Resource licensing / permit arrangements

While the extraordinary delays associated with native title and the grant of mineral exploration, mining and infrastructure tenements, particularly in Western Australia, have been discussed at length above, the machinations associated with resource licensing comprise an ongoing headache for the industry.

The complexity of State and Federal statutory and regulatory requirements in relation to tenement grants and project approvals has become a source of major concern to the industry. While, as discussed previously, passage of the Commonwealth Environment Protection and Biodiversity Conservation Bill is likely to further complicate and increase the period required and costs associated with environmental project approvals, other examples of unwieldy legislative processes also exist.

To illustrate, the majority of Australia's State and Territory Governments have in place legislation which protects Aboriginal heritage. The State and Territory legislation clearly dictates the procedures which must be undertaken by mineral developers in each State and Territory who wish to initiate mineral, mining, or mineral processing.

The Commonwealth also boasts Aboriginal heritage legislation entitled, The Aboriginal and Torres Strait Islander Heritage Protection Act 1984. The Commonwealth Act overrides State heritage regimes and has in the past provided individuals and Aboriginal groups with an ability to stall and prolong the project development process and in so doing, create considerable investor uncertainty. The prolonged and bitter disputes surrounding the Coronation Hill, Marandoo and more recently, Hindmarsh Island Bridge projects, all of which were high profile undertakings, serve as undeniable testament to the Commonwealth statute's ability to complicate project licensing and approvals.

Put simply, resource developers can never be certain that strict adherence to the relevant State or Territory Aboriginal heritage regime will ensure they are not required further down the investment track to revisit Aboriginal heritage protection should the Commonwealth decide to weigh in at the request of disgruntled Aboriginal groups and/or individuals(s). Resource developers can, and have in the past, had their feasibility studies rendered irrelevant due to unexpected delays associated with the grant of mineral tenements and project approvals because duplicatory and complex Federal statute and regulation has increased timeframes for development and therefore projected development costs, while financial returns fall because the market has turned down over the extended timeframe.

Given the often enormous capital expenditures associated with mineral developments and value-adding projects, uncertainty of this nature will not be tolerated by the industry in the long term and will, unless addressed by the Commonwealth Government, act as a deterrent to more wide scale value-adding in Australia's minerals industry.

6. The impact of vertical integration within particular industries

A significant proportion of the specialised heavy machinery and mineral processing equipment used by the Australian resources industry is sourced offshore. This requirement increases considerably the cost burden associated with downstream mineral processing.

To increase value-adding to Australia's mineral resources, the Commonwealth Government must consider ways of encouraging the development of Australia's manufacturing industry, particularly with respect to mining equipment and mineral processing components.

While AMEC acknowledges the Government's commitment to business taxation reform, a reduced R & D taxation deduction and the current uncertainty associated with maintenance of important industry taxation concessions such as accelerated depreciation, are unlikely to achieve the objective described above.

Australia is well suited in terms of climate and size to host a vastly increased manufacturing sector. The key however, is for Australian industry to be able to produce quality mining equipment and components at more competitive prices than their overseas counterparts. The implementation by Government of efficient statutes and competitive taxation regimes is the first step in this process.

7. *The Australian skills base and any associated impediments*

Attached to this submission as Appendix B is an AMEC submission to the Commonwealth Government proposing the implementation of a two pronged strategy designed to retain Australia's geological expertise during the current minerals sector downturn. The strategy, if implemented, will also serve to improve the quality and availability of Australia's geological data.

As referred to above, over 50 per cent of Australia's approximately 6000 qualified Geologists are either unemployed or under-utilised at present. This figure is growing as an increasing number of resource companies ranging from the largest mining houses to the smallest explorers, reduce and even cease all exploration activity.

The future of Australia's resources sector rests with the exploration industry. Maintaining and building on Australia's geological expertise is therefore crucial to a robust and world class minerals industry.

CONCLUSION

AMEC commends the Federal Minister for Industry, Science and Resources, Senator Nick Minchin, on his request to the House of Representatives Standing Committee that they inquire into and report on the prospects of increasing value-adding to Australia's raw materials.

While the Commonwealth Government's commitment to the Australian resources sector is not in doubt, AMEC is confident that the comments and recommendations made in this submission, if implemented, will serve to facilitate increased value-adding to Australia's mineral resources through the continued discovery of significant and world class mineral deposits.

AMEC commends this submission to the Committee and trusts that it will receive due consideration by Committee members and by extension, the Commonwealth Government.