North River Resources (Pty)Ltd
Namib Lead and Zinc Mine
Legal & Policy Register for an Environmental Impact Assessment
October 2012

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1. INTRODUCTION:

This register identifies the laws and policies that are applicable to environmental compliance in regard to the North River Resources (Pty) Ltd’s proposed Namib Lead and Zinc Mine (“NRR”). It also deals with some aspects of legislation that would normally fall under the rubric of occupational health and safety, but only to the extent that these laws are also relevant to aspects associated with environmental impacts of the lead and zinc mine’s processing operations. We point out however, that the Occupational Health and Safety legislation was not part of the terms of reference for this register and accordingly is not dealt with in detail.

In terms of Article 144 of the Namibian Constitution, “... the general rules of public international law and international agreements binding upon Namibia under this Constitution shall form part of the law of Namibia.” Thus, all international agreements to which Namibia is a party, in other words, those that have been ratified by Namibia, automatically form part of Namibian law. In some instances domestic legislation has been enacted to give effect to obligations contained in international agreements. Where this is the case, the relevant domestic legislation is included in this register. In the absence of such domestic legislation, the obligations contained in international agreements to which Namibia is a party form, in terms of Article 144 of the Constitution, part of Namibian law and thus fall to be complied with.

A summary of the domestic, regional and international laws and policies applicable to NRR’s operations in the Dorob National Park of Namibia are discussed below. Insofar as policy is concerned, Article 95 of the Constitution of Namibia provides for the principles of state policy. Policy is not legally binding, but provides a guide for the government in addressing its own programme of development of Namibia’s Resources. Practically, policies ought to be adhered to insofar as they constitute the guiding principles according to which the executive bureaucracy will conduct its administrative process.

Generally the principle Act will be accompanied by regulations. The responsible Minister usually has powers given to him/her under the statute to make regulations in order to implement the Act.. Regulations are thus subordinate legislation and are legally binding. A line Ministry is generally

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1 Thus Namibia can be described as a monist legal state. In practice, however, much of international law cannot be properly implemented without domestic legislation or regulatory measures.
responsible for the administration of any particular statute.\(^2\)

Finally, we have been tasked with writing this register in concise layman’s terms to avoid legal jargon, technicalities and, as much as possible, to avoid direct quotes from any particular legislation. In the circumstances we have employed the use of footnotes and hyperlinks to the full text of the relevant legislation or policies in order to guide the user of the register to the reference source of the particular legislation should it be necessary. The information contained in this register is not an exhaustive treatise on all the law and cannot be construed as legal advice.

1.2 The legal and policy framework for environmental management in Namibia

1.2.1 The Constitution of Namibia

The environment enjoys constitutional protection in Namibia. The Constitution is the supreme law of Namibia and all other law is subordinate and subject to the constitutional provisions and principles, including international law. The Constitution lays the foundation for all policies and legislation in Namibia and contains three key environmental clauses relevant to sustainable use of natural resources.

Article 100 of the Constitution vests all natural resources in the State, unless otherwise legally

\(^2\) Ministry of Agriculture, Water and Forestry: www.mawf.gov.na

Ministry of Environment and Tourism: www.met.gov.na

Ministry of Fisheries and Marine Resources: www.mfmr.gov.na

Ministry of Health and Social Services: www.healthnet.org.na

Ministry of Mines and Energy: www.mme.gov.na

Ministry of Regional and Local Government and Housing and Rural Development: www.mrlgh.gov.na

National Planning Commission: www.npc.gov.na

Office of the Ombudsman: www.ombudsman.org.na

Parliament of Namibia: www.parliament.gov.na
owned. Thus, unless legal ownership to natural resources in a specific locality is proven, such natural resources are owned by the State; the provision implies thus that natural resources can be legally owned as private property.

Article 95 (l) stipulates that the state shall actively promote and maintain the welfare of the people by adopting policies which include the: “maintenance of ecosystems, essential ecological processes and biological diversity of Namibia and utilisation of living natural resources on a sustainable basis for the benefits of all Namibians…”. With this particular Article, Namibia is obliged to protect its environment and to promote a sustainable use of its natural resources. Furthermore, Article 91(c) stipulates that one of the functions of the Ombudsman is “the duty to investigate complaints concerning the over utilisation of living natural resources, the irrational exploitation of non-renewable resources, the degradation and destruction of ecosystems and failure to protect the beauty and character of Namibia.”

Further to these environmental key provisions, Article 144 is the constitutional link to international environmental law applicable in Namibia and which provides that: “Unless otherwise provided by this Constitution or Act of Parliament, the general rules of public international law and international agreements binding upon Namibia under this Constitution shall form part of the law of Namibia.”

1.2.3 Namibia development policy and framework
Environmental policy determines the objectives guiding, and the strategies to be used in order to strengthen the respect for environmental values, taking into account the existing social, cultural and economic situation. As stated above the foundation for the Namibian environmental policy framework is Article 95 (l) of the Constitution. Namibia has a multitude of policies with environmental relevance. Each of the relevant policies shall be dealt with in more detail below.

1.2.4 Vision 2030 and national development planning
Namibia’s Vision 2030 rationale is to provide long-term policy scenarios on the future course of development in the country at different points in time up until the target year of 2030. Vision 2030 regards the sequential five-year National Development Plans (NDPs) as the main vehicles for achieving its long-term objectives.

Chapter 5 of Vision 2030 states the following: “The integrity of vital ecological processes, natural habitats and wild species throughout Namibia is maintained whilst significantly
supporting national socio-economic development through sustainable low-impact, consumptive and non-consumptive uses, as well as providing diversity for rural and urban livelihoods.” Thus, one of the long-term aims of Vision 2030 is accelerated economic growth through intensified rural development, while the productive utilisation of natural resources and environmental conservation are key result areas. Principal environmental concerns include water, land, marine, natural resources, biodiversity and ecosystems, drought, and climate change. Waste management and pollution will grow significantly with increasing industrialisation. NDP recognises that with the country’s scarce and fragile natural resource base, the risk of over exploitation is considerable, and that sustained growth is highly dependent on the sound management of these resources.

1.3 International treaties

International environmental treaties or Multilateral Environmental Agreements (MEAs) as they are commonly referred to, regulate relationships between states pertaining to the environment. International environmental law may be established on the global level, containing rules applicable for the entire – or at least almost the entire - international community. On the regional level, international law creates a legal framework for a specific region, such as the African Union. A regional or continental scope may again be subdivided into smaller regional blocs, such as the SADC legal framework, often referred to as the sub-regional level.

Namibia is a State Party to a large number of environmental related MEAs. This emphasises Namibia’s strong environmental commitment.

1.4 Local and sub regional legislative bodies

1.4.1 The African Union

Considering that the African continent is extremely rich in natural resources, the protection and conservation of the environment is an overarching aim within the African Union. That this is indeed the case is reflected throughout the African Union’s entire legal framework. The Constitutive Act of the African Union provides in its Article 13 that the Executive Council coordinates and take decisions on policies in areas of common interest to the Member States. This includes, foreign trade; energy, industry and mineral resources; food, agricultural and animal resources; livestock production and forestry; water resources and irrigation; and the environment and its protection.
1.4.2 SADC (Southern African Development Community)

SADC’s Vision is that of a common future, a future within a regional community that will ensure economic well-being, improvement of the standards of living and quality of life, freedom and social justice and peace and security for the people of Southern Africa. The SADC Mission is to promote sustainable and equitable economic growth and socio-economic development through efficient productive systems, deeper co-operation and integration, good governance, and durable peace and security, so that the region emerges as a competitive and effective player in international relations and the world economy. A number of regional treaties and protocols have been ratified by Namibia and are accordingly relevant to NRR’s proposed mining enterprise. These are dealt with in more detail below.

2. LEGAL & POLICY COMPLIANCE REGISTER

2.1 Domestic Legislation:

2.1.1 Environmental Management Act 7 of 2007

This Act is administered by the Ministry of Environment and Tourism. It is Namibia’s framework environmental management legislation with its accompanying regulations which came into effect on the 6th of February 2012. Generally the purpose of this Act is to promote the sustainable management of the environment and the sustainable use of natural resources by establishing principles for decision making on matters affecting the environment; to establish the Sustainable Development Advisory Council; to provide for the appointment of the Environmental Commissioner and environmental officers; to provide for a process of assessment and control of projects which may have significant effects on the environment; and to provide for incidental matters.

2.1.1.1 The principles of environmental management that are intended to guide all development are set out in the Act. Section 2 provides as follows:

The following are the principles of environmental management: -

- renewable resources must be used on a sustainable basis for the benefit of present and future generations;
- community involvement in natural resources management and the sharing of benefits arising from the use of the resources, must be promoted and facilitated;
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➢ the participation of all interested and affected parties must be promoted and decisions must take into account the interest, needs and values of interested and affected parties;

➢ equitable access to environmental resources must be promoted and the functional integrity of ecological systems must be taken into account to ensure the sustainability of the systems and to prevent harmful effects;

➢ assessments must be undertaken for activities which may have a significant effects on the environment or the use of natural resources;

➢ sustainable development must be promoted in all aspects relating to the environment;

➢ Namibia’s cultural and natural heritage including, its biological diversity, must be protected and respected for the benefit of present and future generations;

➢ the option that provides the most benefit or causes the least damage to the environment as a whole, at a cost acceptable to society, in the long term as well as in the short term must be adopted to reduce the generation of waste and polluting substances at source;

➢ the reduction, re-use and recycling of waste must be promoted;

➢ a person who causes damage to the environment must pay the costs associated with rehabilitation of damage to the environment and to human health caused by pollution, including costs for measures as are reasonably required to be implemented to prevent further environmental damage;

➢ where there is sufficient evidence which establishes that there are threats of serious or irreversible damage to the environment, lack of full scientific certainty may not be used as a reason for postponing cost-effective measures to prevent environmental degradation; and

➢ damage to the environment must be prevented and activities which cause such damage must be reduced, limited or controlled.

The Act gives legislative effect to the Environmental Impact Assessment Policy. The regulations mainly set out the procedures for Environmental Impact Assessments as well as Strategic Environmental Assessments. The regulations provide a list of activities that require
Environmental Impact Assessment. Aspects generally covered by the Act and its accompanying regulations include:

- Air quality and greenhouse gas (GHG) emissions
- Mineral waste
- Non-mineral waste
- Water use and quality control
- Hazardous materials and contamination
- Radiation
- Noise and vibration
- Visual amenities
- Land use stewardship
- Biodiversity
- Heritage and archaeology
- Disaster management and risk
- Communities and socio-economic Health and safety
- Land use

The Environmental Management Act’s regulations list activities that may not be carried out without an environmental clearance certificate issued by the Environmental Commissioner in the Ministry of Environment and Tourism. These include:

- The construction of facilities for any process or activities which requires a licence, right or other form of authorisation, and the renewal of a licence, right or other form of authorisation, in terms of the Minerals (Prospecting and Mining Act), 1992.
• Other forms of mining or extraction of any natural resources whether regulated by law or not.

As NRR is undertaking listed activities since the regulations came into force on 6 February 2012 it is obliged to apply for an environmental clearance certificate in respect of its proposed lead and zinc mining and associated processing operations. Thus an application must be made to the Ministry of Mines and Energy as the relevant competent authority not only in respect of the mining of lead and zinc with its associated processing and accessory works but also in respect of the storage of dangerous goods (including explosives) and also the processes, handling and storage and transport of lead. It is likely that the other aspects such as the re-use of the old tailings dam would constitute an accessory work, thus requiring additional permits from the Minister of Mines and Energy as well as an environmental clearance certificate from the Ministry of Environment and tourism in respect of activities such as waste management that may not be covered by the existing mining licence and thus being an activity that requires an environmental clearance certificate in terms of the Act and regulations.

NRR is thus advised to ensure that environmental clearance certificates are applied for in respect of all new activities to be undertaken after the commencement of this Act and regulations (6 February 2012).

2.1.2 Nature Conservation Ordinance, No.4 of 1975 (as amended)
This ordinance is administered by the Ministry of Environment and Tourism (MET)

It deals with game parks and nature reserves, the hunting and protection of wild animals (including game birds), problem animals, fish, and the protection of indigenous plants. The removal, disturbance or destruction of the eggs of huntable game birds or protected birds without a permit granted by the Minister of Environment and Tourism is prohibited.

Section 73 Requires permits for picking of plants and generally controls the utilization or disturbance of flora and fauna.3

3 This is the only legislation which protects specific plants and animals listed. The Forest Act discussed below empowers the minister to make regulations regarding certain species but no such regulations have yet been promulgated. The previous Forest Act, however regulated certain species which are listed below. Regulations relating to nature conservation Published under GN 240 of 1976 (GG 3356 of 25 August 1976) deals specifically with protected plants and nurseries which may be pertinent in the event that the mine is propagating certain species for rehabilitation at closure. However, there are many endangered and red-listed species which are not specifically listed, for example the Convention on International Trade in Endangered Species (Cites) has specific requirements regarding trade in certain species but is not relevant to the proposed mining enterprise because it deals in trading with such species. NRR should thus be mindful of this fact and engage in a best practice approach to conservation of all species which may be affected by its operations.
Schedule 4 to the Ordinance lists protected species of animals and birds which includes all species except those huntable game birds mentioned in Schedule 6.

Schedule 9 to the Ordinance lists protected plants

In the course of NRR’s mining activities, care must be taken to ensure that protected plant species and the eggs of protected and huntable bird species are not disturbed or destroyed. If such destruction or disturbance is inevitable, a permit must be obtained in this regard from the Minister of Environment and Tourism. NRR should ensure that all contractors are aware of these provisions and that they are obliged, in terms of their contractual obligations with NRR to comply with these provisions.

In terms of its mining licence, NRR is probably neither the owner nor the lessee of the land on which it is entitled only to exploit the mineral deposit. Accordingly should any protected plants need to be removed, destroyed, picked or damaged a permit must be obtained.

2.1.3 Forest Act, No 12 of 2001

This Act is administered by the Ministry of Agriculture, Water and Forestry.

One of the objectives of this Act is to consolidate laws relating to the management and use of forests and forest produce as well as the protection of the environment and the control and management of forest fires. Most of the provisions of the Act are aimed at “classified forests”.

Even though NRR’s mining licence area is not a demarcated forest, unfortunately the Act does not actually define “forest”. Several provisions of this statute apply to privately owned land which is not classified forest, particularly in the light of the definition of forest produce. Forest produce” is broadly defined as “anything which grows or is naturally found in a forest, including “any living organism”. The Act is aimed at the sustainable management of forests, and clearly states: “the purpose for which forest resources are managed and developed including the

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4. In the event that a continuous plant rehabilitation programme is to be in effect, it is recommended that a nursery licence be obtained in order that specimens of plants may be propagated.
planning of trees where necessary, in Namibia, is to conserve soil and water resources, maintain biological diversity …”\(^5\).

NRR should also take note of the provisions of Section 23 which deals with control over aorestation and deforestation,

“Unless approval has been given by the Director, no person shall-

\(\text{(b) clear the vegetation on more than 15 hectares on any piece of land or several pieces of land situated in the same locality which has predominantly woody vegetation; or} \)

\(\text{(c) cut or remove more than 500 cubic metres of forest produce from any piece of land in a period of one year.} \)

(2) The Director may require a person seeking authority required under subsection (1), to prepare an environmental impact assessment report and the report shall, in addition to the requirements imposed by any law for such reports, contain information and analysis which the Director requires.

(3) Before giving the approval contemplated in subsection (1), the Director shall take into consideration an environmental assessment report prepared under subsection (2).

From this provision, it is clear that both the area and quantity of forest produce are limited in the absence of the Director of forestry’s permission. It is also clear that the wording “no person shall…” refers to any person, including a private land owner or a claim holder and the words “on any piece of land…” does not restrict the Act’s application to classified forests. Also the Directorate is obliged to consider the required Environmental Impact Assessment in its decision making.

Section 22 deals with protection of natural vegetation. It does not define the term” natural vegetation” or distinguish between natural vegetation and alien, invasive types of vegetation. It reads as follows:

Unless otherwise authorised by this Act, or by a licence issued under subsection (3), no person shall on any land which is not part of a surveyed erven of a local authority area as defined in section 1 of the Local Authorities Act, 1992 (Act 23 of 1992) cut, destroy or remove-

\(^5\) Section 1
(a) vegetation which is on a sand dune or drifting sand or on a gully unless the cutting, destruction or removal is done for the purpose of stabilising the sand or gully; or
(b) any living tree, bush or shrub growing within 100 metres of a river, stream or watercourse.

Section 25 prohibits the destruction or removal of a dwelling place or structure of a honey producing organism which is situated on any land, remove wax or honey from any dwelling place or structure of a honey producing organism or remove or destroy honey producing organisms which are at any place in Namibia.

Thus care must be taken during the proposed mining operations not to contravene the above provisions.

Of particular relevance to NRR are the provisions of section 22. Should the cutting, destruction or removal of vegetation be unavoidable in the course of mining operations, the necessary permit should be obtained from the Director of Forestry.

### 2.1.4 Atmospheric Pollution Prevention Ordinance 11 of 1976.

The Administration of this legislation is done by the Ministry of Health and Social Services. The provisions of this ordinance that are of relevance to NRR deal with the following aspects:

- Air quality and GHG (Green House Gas) emissions
- Mineral waste
- Biodiversity
- Communities and socio-economic health and safety
In terms of **Section 4** the Minister of Health may declare any area to be a controlled area. The entire territory of Namibia, except the Caprivi, has been declared a controlled area for the purposes of this Ordinance. **Section 5** provides that nobody may carry on a scheduled process on any premises in a controlled area without a current registration certificate. In addition, nobody may erect or cause to be erected any building or plant, which is intended to be used for the purpose of carrying on any scheduled process, unless he is the holder of a provisional registration certificate authorising such building or plant.

In terms of **Section 6** the Minister may issue registration certificates for scheduled processes (which include processes related to extraction of both zinc and lead) in controlled areas. In terms of schedule 2 of this ordinance, NRR will be carrying out scheduled processes regarding processing of both lead and zinc ore. NRR may also have fuel burning appliances as defined in this legislation used in the refining process which burns heavy fuel oil (HFO). NRR must thus ensure that smoke emissions from such appliances meet the requirements of this legislation.

Part IV of the Ordinance is of particular relevance to NRR as dust emissions are an inevitable part of mining and refining operations such as those undertaken at the mine. Of particular concern are possible dust emissions from the refining process that may contain salt and silica particles.

Air emission monitoring must take place for all generators, engines and any fuel burning facility for NOx and SO2. In addition an air quality monitoring system is required to measure levels of dust and silica at the mine and refinery plant and if the prevailing wind creates the potential for the dispersion of salt and silica dust beyond the mining licence area air quality monitoring should be undertaken at such additional points as NRR may be advised. NRR would be advised to implement such a monitoring system in order to comply with the provisions of this legislation.

Although the mine area itself is not subject to the provisions of Part V relating to the pollution of the air from vehicles, vehicles belonging to or contracted on behalf of NRR may pass through the municipal areas of Windhoek, Swakopmund and Walvis Bay, all of which are subject to these provisions. NRR is thus obliged to ensure that these vehicles do not emit noxious or offensive gases in contravention of this Part and that any contract that it has with transport contractors or other service providers require such contractors or service providers to comply with this and all other environmental and health and safety legislation.

**2.1.5 Electricity Act 4 of 2007**

This Act is administered by the Minister of Mines and Energy. Although it has not yet been determined what demand for water and electricity will be, this Act governs licensing and places
a duty to obtain a licence for, *inter alia*, the generation and distribution of electricity *(section 17(1))*

In terms of *section 18(1)* a licence is not required in a licensed area where a supply network is available, for the generation of electricity by means of a generation plant which has an installed capacity of less than 500 kVA; and generates electricity as a standby supply exclusively for own consumption by the person in control of such plant and on premises owned or occupied by that person. *Section 18(2)* provides that any person who installs or has installed a distribution network on premises owned or occupied by that person, where the estimated total demand of the installation is 500 kVA or more may apply to the Board for an exemption from section 17(1).

**2.1.6 Foreign Investment Act 27 of 1990 (as amended by Foreign Investment Amendment Act 24 of 1993)**

The Ministry of Finance administers this legislation. This Act provides for the promotion of foreign investments in Namibia but has environmental relevance in the sense that the granting of preferential investment status, which carries with it certain foreign exchange control benefits, is influenced, *inter alia*, by the impact which the activities of the enterprise in which the proposed investment is to be made is likely to have on the environment.

In issuing a certificate of Status Investment the Minister is obliged to have special regard to the impact which the activities of the enterprise, in which the proposed investment is to be made, is likely to have on the environment and where necessary, the measures proposed to deal with any adverse environmental consequences. Insofar as there may be foreign investment in the mining operations NRR should be mindful of the fact that the granting of preferential investment status is influenced, *inter alia*, by the impact which the activities is likely to have on the environment. Attention must be given to the rehabilitation program at closure inasmuch as the Minister is obliged to consider the measures proposed to deal with adverse environmental consequences.

**2.1.7 Soil Conservation Act 76 of 1969 as amended in South Africa to March 1978.**

This Act is administered by the Ministry of Agriculture, Water and Forestry (MAWF)

This Act covers the prevention and combating of soil erosion; the conservation, improvement and manner of use of the soil and vegetation; and the protection of water sources.

In terms of section 3 of the Act, the Minister of Agriculture, Water and Forestry - the Minister may either by written notice in the Gazette or by written notice to the owner or occupier of land issue directions in respect of, *inter alia*:
the drainage of vleis, marshes, natural water sponges and water courses;

- the protection and stabilising of barrier dunes on the coast, of other dunes where drift sand occurs or may occur and of the vegetation occurring thereon;

- the prevention of erosion, the denudation, disturbance or drainage of land; and

- any other disturbance of the soil which creates or may create conditions which cause or may cause any form of erosion or pollution of water by silt or drift sand.

Inasmuch as the activities of NRR may impact on conditions which cause or may cause erosion or pollution of water by silt or drift sand, NRR will be obliged to comply with any such directions as may be issued by the Minister in terms of this Act.

2.1.8 **Hazardous Substances Ordinance 14 of 1974**

This ordinance is regulated under the administration of the Ministry of Health and Social Services. It broadly deals with the import, manufacture, storage and sale of scheduled substances.

The only regulations which have been promulgated in terms of this Ordinance relate to the declaration of certain substances as hazardous substances, which include lead, and regulations concerning the control of Group I Hazardous Substances. It is pertinent to note that although this Ordinance requires licensing of importers and sellers of hazardous substances, it does not regulate either the transport or the dumping of these substances as regulations in respect of these aspects have, to date, not been promulgated. But compliance with other legislation is necessary in this regard.

It must be noted generally that the handling, temporary storage and transportation of Hazardous Wastes follows the same principles and requirements as those which relate to dangerous goods in general. Namibia accepts the United Nations Recommendations for the transport of Dangerous Goods as incorporated in the International Maritime Organisation's Dangerous Goods Code IMDG and the International Civil Aviation Organisation's Regulations as given in their Technical Notes.

These principles are also the basis of a series of SA Bureau of Standards (SABS) Codes of Practice on the Transportation of Dangerous Goods by Road. These Codes have been
incorporated as regulations into Namibia’s Road Transport and Traffic Act 22 of 1999 (as amended).

An additional requirement of the transportation of Hazardous Waste relates to the "duty of care" principle. This places responsibility for a waste on the Generator, and is supported by the "cradle-to-grave" principle, according to which a "manifest" accompanies each load of Hazardous Waste until it is responsibly and legally disposed of. This manifest is transferred from one transporter to the next along with the load, should more than one transporter be involved.

Once the waste is properly disposed of at a suitable, permitted facility, a copy of the manifest must be returned to the point of origin. To minimise uncontrolled dumping of Hazardous Wastes, consignors and transporters must comply with the SABS Codes of Practice on Transportation of Dangerous Goods. Inter alia, these require an adequate level of training of all personnel involved in the handling and transportation, by both parties. The consignor must satisfy himself of the competence of the carrier and the carrier needs to satisfy himself of the bona fides of the consignor to ensure that materials offered for transport are honestly described and suitably contained and labelled.

In terms of Section 1, the definition of “sell” includes ‘to import for use’.

Thus if NRR is importing any of these scheduled substances for use in Namibia, it will be required to obtain a permit for such import from the Ministry of Health in accordance with section 5 of the Ordinance.

Certain of the listed substances may also be used in the course of the operations from time to time. NRR should thus ensure that the relevant provisions of the Act as well as the Regulations on Health and Safety in the Workplace, in so far as they relate to hazardous substances, are complied with by its own employees in the handling of such substances.

2.1.9 Road Traffic and Transport Act 22 of 1999 – Regulations.

This Act and its regulations deal with, inter alia, the transport and labelling of hazardous substances under its 2001 Regulations. These regulations are extensive and regulate the transport requirements of Hazardous substances and Dangerous goods. The 2001 regulations were amended by Government Notice no. No. 97 of 2001, published in Government Gazette No 2538 of 29 May 2001 (commenced on 29 May 2002) Government Notice No. No.161 of 2002, published in Government Gazette No.2815 of 26 September 2002
2.1.10  Labour Act 11 of 2007

Health and Safety Regulations

The Ministry of Labour regulates the Labour Act. In terms of Occupational Health and safety, regulations were promulgated under the now repealed 1997 Labour Act. However, the regulations were not repealed and remain in force.

The relevant sections are contained in Chapter 5 of the regulations relating to health and safety of employees at work published under the previous Labour Act in GN 156 of 1997 (GG 1617 of 1 August 1997). This chapter provides for the transport, storage, labelling and handling of hazardous substances.

Hazardous substances are defined as any toxic, corrosive or irritant substance that creates a risk to health, including dust of any kind if present at a substantial concentration in the air. Employers are obliged to prevent or reduce the contamination of the work environment by hazardous substances to the lowest possible level.

Hazardous substances should be replaced by harmless or less harmful substances where possible and operations likely to result in the contamination of the work environment by hazardous substances must be isolated from the remainder of the premises so as to reduce the number of people exposed.

These regulations provide further that processes involving a significant risk of exposure should, as far as reasonably practicable, be performed within an enclosed system and that direct contact with hazardous substances should be avoided by the use of automatic processes or by remote control systems as far as reasonably practicable.

The employer is obliged to ensure that all containers containing hazardous substances must be properly labelled and hazardous substances must be stored in such a manner that they do not create a risk to the health and safety of employees and other persons, nor any risk of contamination of the environment due to seeping, leaking, fire or accidental release.

Any hazardous wastes shall be disposed of without risk to the health of any person or to the environment.

Toxic, corrosive or irritant substances as defined in regulation 176 may be present in NRR’s processes.
It should ensure that hazardous substance containers are marked with the appropriate internationally recognised labels designating hazardous substances. These labels indicate substances numerically.

NRR should also ensure that employees in charge of and working with the containers are aware of the specific hazardous substance contained in these containers in order not to compromise worker and environmental safety in the event of accidental breakage or spillage.

Hazardous substances should be stored separately from other containers in a bunded area. NRR should ensure that all hazardous waste is disposed of at a designated disposal site at Windhoek\(^6\) subject to the applicable laws governing such disposal.

Given the broad definition of hazardous substances it may be that certain aspects of the mining operations may be covered by regulation 180. NRR should thus ensure that exposure by employees to such substances are limited and that those who are working with hazardous substances are fully aware of such hazards as may be present and provide them with the appropriate protective equipment as necessary. It is also pertinent to note that within these regulations are regulations dealing specifically with asbestos, lead and silica.

### 2.1.11 Minerals (Prospecting and Mining) Act 33 of 1992

The Ministry of Mines and Energy (MME) administers this Act.

This Act controls all mining activity in Namibia. Mineral rights are vested in the state, and companies or individuals are required to apply to the Ministry of Mines and Energy (MME) for licences to explore and mine mineral deposits.

The holder of a mining licence shall not erect or construct any accessory works referred to in subsection (1)(e) without the prior permission in writing of the Commissioner "Accessory works" is defined in section 1 as any, building, plant or other structure required for purposes of reconnaissance operations, prospecting operations or mining operations or for the disposal of any mineral or group of minerals won or mined in the course of any such operations, or is connected with such operations or disposal, including -

\[\text{This is the only designated waste disposal site in Namibia for hazardous wastes.}\]
• any power plant, transmission line or substation;
• any water borehole, well, pipe-line, drilling rig, pump station, tank or dam;
• any airfield, helicopter landing-pad, road, gate, rail or railway siding;
• any workshop, hangar, store or office;
• any explosives magazine;
• any sampling plant, processing plant, smelter or refinery, whether erected on land or constructed on any vehicle or vessel;
• any waste disposal site; or
• any camp site or temporary or permanent residential area;

Section 91 regulates applications for mining licences and requires the application to, inter alia, contain particulars of –

• the condition of, and any existing damage to, the environment in the area to which the application relates;

• an estimate of the effect which the proposed prospecting operations and mining operations may have on the environment and the proposed steps to be taken in order to minimize or prevent any such effect; and (iii) the manner in which it is intended to prevent pollution, to deal with any waste, to safeguard the mineral resources, to reclaim and rehabilitate land disturbed by way of the prospecting operations and mining operations and to minimize the effect of such operations on land adjoining the mining area

The Minister may refuse a mining licence unless the Minister is on reasonable grounds satisfied that the proposed programme of mining operations to be carried out and the expenditure to be expended in respect of such operations will ensure, inter alia, adequate protection of the environment;
Section 128 (1) provides that in the event that a mineral licence lapses, is cancelled or the holder of the license abandons a license area (including reconnaissance, prospecting, retention or mining areas), they are required to take all necessary steps to remedy, to the satisfaction of the Minister, any damage caused to the environment by their activities.

In terms of section 130(1), when in the course of any reconnaissance, prospecting or mining operations, any mineral or group of minerals is spilled on land or in any water on or under the surface of any land or such land or water is otherwise polluted or any plant or animal life, is endangered or destroyed or any damage or loss is caused to any person, including the State, by such spilling or pollution, the holder of such licence or mining claim shall forthwith-

- report such spilling, pollution, loss or damage to the Minister;
- take at his or her own costs all such steps as may be necessary to remedy such spilling, pollution, loss or damage.

If the holder of a licence fails to comply with the provisions of paragraph (b) within a reasonable period, the Minister may direct the licence holder to take steps to remedy the spilling, pollution or damage or loss. If the licence holder fails to comply with the directive, the Minister may cause such steps to be taken as may be necessary to remedy such spilling, pollution or damage or loss and recover the costs from the licence holder.

As such, NRR must ensure that it is in possession of the necessary prospecting and mining licences. It must ensure that permission is obtained from the Mining Commissioner for the construction of accessory works and that all accessory works have the necessary permits.

NRR should also take all reasonable steps to ensure that pollution does not occur and that destruction or endangerment to plant or animal life is minimised.

Any conditions attached to any permit must be complied with. Any pollution, destruction or endangerment of plant or animal life must be reported to the Minister of Mines and Energy. All steps as may be necessary must be taken in accordance with good practices to remedy any pollution, loss or environmental damage.
2.1.12 Petroleum Products and Energy Act 13 of 1990


This Act is administered by the Ministry of Mines and Energy. The regulations generally deal with the transport, sale and storage of petroleum products. Inasmuch as NRR will undoubtedly have petroleum products being used in its mining operations the regulations are pertinent to its legal compliance.

The 1991 Regulations prescribe that no person may without authorisation discard, destroy or otherwise dispose of such oil or possess or store or transport such oil in containers that are not suitable for preventing destruction, loss or waste of the oil. This will apply to new and used oil.

The 2000 Regulations deal with consumer installations. This mainly refers to bulk storage of petroleum products on site. No person may operate a petroleum products consumer installation without being authorised to do so. Thus an application has to be made for a consumer installation certificate.

In making a decision regarding the issue of a certificate, the Minister should take into account; inter alia, the protection of the environment and the suitability of the site regarding environmental protection.

The regulation generally sets out conditions that apply to all certificates issued. These include conditions relating to petroleum spills and the abandonment of the site. The regulation further provides that the Minister may impose special conditions relating to the preparation and assessment of environmental assessments and the safe disposal of petroleum products.

The regulations further specify that containers used for the storage or conveyance of a petroleum product must be completely leak proof and spill proof. In addition, containers used for storing petroleum products may not be used for any purpose that poses a risk of environmental harm. Generally every person is obliged to take precautions and exercise such care as may be reasonable in the circumstances in the storing, handling, conveying, disposing of any petroleum product in order to prevent risk of significant environmental harm. Provision is also made in this regulation for the disposal of petroleum products in a manner and at a place intended for the safe keeping or dumping thereof in accordance with good petroleum industry practices.
Certificate holders in respect of consumer installations are obliged to ensure that the plant is in an environmentally sound condition and does not give rise to a risk of significant environmental harm.

Certificate holders are obliged to submit annual reports to the Minister in respect of the status of all storage tanks with a capacity of 2200 litres or more in the case of above ground storage tanks and with a capacity of more than 4560 litres in the case of below ground storage tanks. Any certificate holder or other person in control of activities related to any petroleum product is obliged to report any major petroleum product spill (defined as a spill of more than 200 litres per spill) to the Minister. Such person is also obliged to take all steps as may be necessary in accordance with good petroleum industry practices to clean up the spill. Should this obligation not be met, the Minister is empowered to take steps to clean up the spill and to recover the costs from the person.

This Act and its regulations provide for the application of environmental standards and the avoidance of environmental harm caused by the keeping, handling, conveying, using and disposing of petroleum products. NRR should ensure that all oil is stored and disposed of in accordance to the regulations in appropriately bunded and secure areas. It must also ensure that it is in possession of the necessary certificates and that the necessary care is taken to ensure that such installation is adequately bunded and is operated in such a way as to avoid the risk of pollution.

Any consumer installation as envisaged in this regulation has to be licensed. NRR must thus obtain the necessary consumer installation certificate from the Ministry for each installation. Also the construction of the installation has to be designed in such a manner as to prevent environmental contamination and oil products should be stored in proper bunded areas.

General conditions apply to all certificates issued. These include conditions relating to petroleum spills and the abandonment of the site. The regulation further provides that the Minister may impose special conditions relating to the preparation and assessment of environmental assessments and the safe disposal of petroleum products to avoid significant environmental harm.
2.1.13 Public Health Act, 36 of 1919

This Act is administered by the Ministry of Health and Social Services.

It obliges every local authority to take all lawful, necessary and reasonably practical measures for preventing the pollution so as to endanger health of any supply of water within its district and to take measures against any person so polluting any such supply.

The Minister is empowered to make regulations in respect of defined areas, inter alia, prohibiting the erection of dwellings, sanitary conveniences, animal holding facilities, factories and other works likely to entail risk of harmful pollution of any such water supply and generally for preventing pollution so as to endanger health of any supply of water. No such regulations have been promulgated to date.

The Minister is also empowered to make regulations regarding, inter alia, the drainage of land or premises, the disposal of liquids and the removal and disposal of rubbish, refuse, manure and waste matters as well as regarding the establishment and carrying on of factories or trade premises which are liable to cause offensive smells or effluvia or to discharge liquid or other material liable to cause such smells or effluvia or to pollute streams and prohibiting the establishment or carrying on of such factories in unsuitable localities. No such regulations have been promulgated to date.

No person shall cause a nuisance on any premises owned or occupied by him. Offensive smells or effluvia and excessive smoke are deemed to be nuisances.

The local authority may serve a notice of abatement on the author of the nuisance and if the nuisance is not removed, section 124 (1) provides that the local authority may lodge a complaint with the magistrate and the magistrate shall issue a summons requiring the author of the nuisance to appear in court. The court may issue an order in terms of section 124(2) requiring the author of the nuisance to remove the nuisance.

Although the NRR activities do not fall within the jurisdiction of any local Authority, it is relevant for the purposes of NRR’s activities that the provisions of the Act regulate public water supplies and waste management as well as those that relate to nuisances.

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7 It is unlikely that this act has much relevance other than issues of pollution to groundwater (by putting re-processed tailings into disused shafts) to NRR in the absence of regulations and also due to the fact that the mining licence area falls outside the local authority area.
2.1.14 Regional Councils Act, 22 of 1992

This Act is administered by the Ministry of Regional Local Government Housing and Rural Development (MRLGHRD).

The Regional Councils are responsible for the planning and coordination of regional policies and priorities. **Section 28**, describes the powers, duties, functions, rights and obligations of regional councils include overseeing the general implementation of regional development activities. They have the power to undertake, with due regard to the powers, duties and functions of the National Planning Commission…the planning of the development of the region for which it has been established”, bearing in mind:

- the natural and other resources and the economic potential of such regions,
- the general land utilisation pattern, and
- the sensitivity of the natural environment

2.1.15 Mines, Works and Minerals Ordinance 20 of 1968: Regulations (GN143, GG2927 of 1 October 1968)**\(^8\)**

These regulations, which are extremely outdated, provide a comprehensive framework for the protection of health and safety in mining operations. There are many overlaps between these regulations and the regulations on health and safety promulgated under the 1992 Labour Act. In situations where there is a conflict between the provisions of these regulations and those promulgated under the Labour Act, those regulations which provide for more stringent health and safety protections should take preference and be applied. Where appointment of competent or qualified persons are provided for under both sets of regulations, written appoints should be made under BOTH sets of regulations.

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2.1.16 **Water Act 54 of 1956**

This act is administered by the Ministry of Agriculture, Water and Forestry (MAWF). It gives the Minister the power to investigate water resources, plan water supply infrastructure, develop water schemes, control pollution, protect, allocate and conserve water resources, inspect water works, levy water tariffs and advise on all matters related to the water environment in general. It basically makes the Department of Water Affairs responsible for the use, allocation, control, and conservation of Namibia’s surface and groundwater resources. It made provision for the protection of river catchments, drilling of boreholes and making of wells, it controls effluent discharge into rivers and outlines regulations that govern the optimal use of water resources. It clearly defines the interests of the state in protecting water resources.

According to this Act private entities are entitled to water-user rights exercised through a permit issued by the State. Permit holders are required to submit monthly returns to the Department of Water Affairs stipulating the quantity of water used.

The Act determines the quality of effluent to be disposed in public wastewater systems and a permit is needed for the disposal of effluents in any ephemeral or perennial rivers.

Section 23 of the Act makes it a criminal offence to willfully or negligently pollute public or private water in such a way that renders it less fit. Accordingly NRR must be aware of these provisions and take all such reasonable steps as may be necessary to avoid any pollution or potential for pollution. These may include measures such as containing run-off or leachate on site for treatment in properly bunded areas for treatment or evaporation.

2.1.17 **Namibia Water Corporation Act 12 of 1997**

This Act established the water utility company, NamWater, and it places an obligation on NamWater to conduct its functions in an environmentally sustainable and sound manner, and as it specifies a “duty to conserve and protect the environment”. It should conduct all activities with due regard for the protection and conservation of ecological resources and habitats.

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9 Although the Water Resources Management Act of 2004 has been promulgated it has not yet been brought into effect because there are no enabling regulations. This legislation will repeal the outdated 1956 Water Act in its entirety.
Nationally, water is allocated through a permit regulatory system and NamWater is entitled to apply for a permit to impound surface runoff in ephemeral rivers, and to abstract water from perennial rivers as well as groundwater.

2.1.18 National Heritage Act 27 of 2004
Ministry of Youth, National Service, Sport and Culture administers this Act.

This Act provides for the protection and conservation of places and objects of heritage significance and the registration of such places and objects. NRR should ensure that if any archaeological or paleontological objects, as described in this Act, are found in the course of the development, that such findings be reported to the Ministry immediately. If necessary, the relevant permits must be obtained before disturbing or destroying any heritage significance as envisaged by this Act.

The Act defines as protected:

“any remains of human habitation or occupation that are 50 or more years old found on or beneath the surface on land…”

and considers the possible impacts of:

“any physical intervention, excavation or action that may result in a change to the nature, appearance or physical nature of a place…”

The Act makes provision for an archaeological impact assessment of activities or developments carried out where archaeological sites are believed to exist. Since the promulgation of the National Heritage Act, the mining industry has tended to adopt the precautionary principle and commissioned an archaeological impact assessment of large exploration and mining projects.

2.1.19 Aviation Act, 1962
This Act is administered by the Ministry of Works, Transport and Communication (MWTC)

Civil aviation regulations have been promulgated in terms of section 22 of the Act in GN 1 of 2001, GG 2467 2001

Part 91.06.33 provides that:
“Except where necessary for take off or landing or except with prior approval of the director no aircraft shall fly less than 500 ft above ground or water”.

This regulation has been put in place to reduce disturbance and nuisance to both people and wildlife by noise emanating from aircraft

2.2 Domestic Policies:

2.2.1 National Environmental Health Policy, 2002
Throughout construction, implementation and decommissioning of any of its components, mine operations must be guided by the aim of this Policy, which includes the following:

- Facilitate the improvement of the living and working environments of all Namibians, through pro-active preventative means, health education and promotion and control of environmental health standards and risks that could result in ill-health;

and

- Ensure provision of a pro-active and accessible integrated and co-ordinated environmental health services at national, regional, district and local levels.

2.2.2 Minerals Policy of Namibia, 2003
The Policy sets out guiding principles for the development of the mining sector to ensure that it maintains its leading role in the growth of the national economy while operating within environmentally acceptable limits.

2.2.3 General Environmental Assessment Guidelines for Mining (Onshore and Off-shore) Sector of Namibia
The guidelines are presented as checklists of major (exploration, mine and decommissioning) activities, major components of the natural environment, typical impacts and common litigation measures, in the form of bullet points with more detailed explanations where required.

Once the Environmental Management Act ("EMA") is properly in effect, Environmental Assessments ("EA's") will be required for any proposal for any activities stipulated in the Act, including mining. These guidelines were developed to assist mining developers. They are meant to facilitate the preparation of Environmental Assessments rather than prescribe the content.

The EA, which includes a base line study, forms the basis on which any Environmental Management Plan is developed. The checklists are not exhaustive and are meant to be reviewed
regularly as knowledge increases. The checklists have also to be used with discretion and should not be considered to be prescriptive as environmental conditions vary from area to area.

The individual EA's are the critical documents that will identify all activities, impacts and possible mitigation measures of a specific project. The resulting EMP will thus be specific to that particular mining project. Unlike most other natural resources, mineral deposits have fixed locations and their extraction therefore cannot be subjected to advanced site selection. This unique factor calls for especially sound environmental practices in the planning and day-to-day operations of mining developments.

2.2.4 Policy for the Conservation of Biotic Diversity and Habitat Protection, 1994
It is the policy of the Ministry of Environment and Tourism to ensure adequate protection of all species and subspecies, of ecosystems and of natural life support processes, by means of: inventories, monitoring and appropriate research, education and extension, managing, and assisting and advising in the management of, land and natural resources in Namibia, legislation, co-operation with local, national, regional and international organizations working for biotic diversity and habitat protection.

2.2.5 Waste Management Policy
The main objective of the waste management policy is to ensure public health and safety, and the conservation of the environment by encouraging proper waste management by all stakeholders in order to reduce risks from transmission of diseases and injuries, reduce environmental pollution, improve aesthetically the surroundings and derive economic benefits from waste minimization and improved land values.

2.2.6 Policy for Prospecting and Mining in Protected Areas and National Monuments,
The purpose of this policy is to promote the sustainable development of Namibia by guiding prospecting and mining in the country’s Protected Areas and National monuments. It generally permits the granting of exclusive prospecting licences and mining licences in Protected Areas and National Monuments, except areas which are particularly sensitive or are of special ecological or touristic importance. However, each application is considered on a case by case basis.

The Policy further states that a full environmental assessment will usually be required for any prospecting or mining in a Protected Area and/or National Monument. It shall be conducted according to the procedures in the Environmental Management Act 7 of 2007, and an Environmental Management Plan and an Environmental Contract is required before prospecting or mining may commence.
2.2.7 National Water Policy White Paper, 2000
The rationale behind the development of this White Paper was to work with all stakeholders in addressing the challenges of Namibia’s water resources and to formulate a new water policy for the sustainable management of Namibia’s water resources and to make recommendations thereto. Chapter 2 of the policy outlines guiding water policy principles intended to provide a framework for the development of all water-related policies. This policy largely Culminated in the “New” Water Management Act of 2004 (which will repeal the 1956 Act once it comes into operation).
2.2.8 Water Supply and Sanitation Policy of 2008

The Water Supply and Sanitation Policy (WSASP) of July 2008 replaces the WASP of 1993. Its principles are in line with Integrated Water Resources Management (IWRM), including a strong focus on Water Demand Management (WDM). The overall principles for water supply priorities are first for domestic use and then provision for economic activities.

Section 2.5.1 states that

“Priorities for the allocation of water for economic activities will, in each individual case, have to be determined by their respective value including economic multiplier effects by local value addition and social benefits in relation to the overall development objectives and plans of the country”.

The basic principle for cost recovery is that water is an economic good and that there is a social responsibility to make water available to the poor. In determining tariff policies in consultation with the service providers and the public, the general principle that must be applied, in adherence to Section 2.5.3 (2) is “any industrial, commercial or mining activity should pay the full cost recovery tariff taking the scarcity of water and the cost of future water supply augmentation into account”.

For mining water supply, Section 2.6.6 applies:

“Mining companies should develop their own water supply schemes or should provide the capital for the construction and development of water supply and sanitation infrastructure to mines, provided that the government or the service provider only contributes to the expenditure if other consumers benefit from such infrastructure”.


2.3   International Conventions:

2.3.1   Convention on the Protection of Biological Diversity\textsuperscript{10}

The objectives of this Convention are – .

- the conservation of biological diversity;
- the sustainable use of biological resources; and .
- fair and equitable sharing of the benefits arising out of the utilisation of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding\textsuperscript{11}. (Article 1)

As a signatory and ratifier of the Convention on Biodiversity, Namibia is committed to conserving its endemic species to ensure that they do not become extinct in this country\textsuperscript{12}.

2.3.2   Vienna Convention for the Protection of the Ozone Layer, 1985

Namibia acceded to the Vienna Convention on 20 September 1993 and the Convention became effective in the country on 20 December 1993.

The Convention is the first global agreement that recognized that the ozone was a serious enough problem to warrant international regulation. In becoming a party to the Convention, Namibia has agreed to take appropriate measures in accordance with the provisions of the Convention and the Protocols in force, to protect human health and the environment against any adverse effects resulting from or likely to result from human activities which modify or are likely to modify the ozone layer. In so doing, the parties must, in accordance with the means at their disposal, inter

\textsuperscript{10}  \url{http://www.cbd.int/} (accessed 11 August 2012)

\textsuperscript{11}  Culminating in the Nagoya Protocol, which is not yet ratified by Namibia.

\textsuperscript{12}  Namibia has also signed the Cartagena and Nagoya protocol under this convention but not ratification has taken place, until domestic legislation is in place for the regulation of genetic resources and access and benefit sharing.
alicia, adopt appropriate legislative or administrative measures and cooperate in harmonising appropriate policies to control, limit, reduce or prevent human activities under their jurisdiction.

2.3.3 Montreal Protocol on Substances that Deplete the Ozone Layer, 1987
Namibia acceded to this Protocol on 20 September 1993. It became effective on 20 December 1993. The Vienna Convention was elaborated on by the 1987 Protocol on Substances that Deplete the Ozone Layer, which arose out of the need to lay down more specific control measures that those suggested in the framework Vienna Convention.

This Protocol lays down a timetable for the reduction of controlled substances that deplete the ozone layer and have adverse effects on health and the environment.

It inter alia provides for controls on trade by obliging parties to ban the import of controlled substances from non-parties while acknowledging the special needs of developing countries. (Articles 4 and 5)

Namibia is classified as a developing country for the purposes of the Convention. Namibia ratified the subsequent London Amendments to the Protocol on 6 November 1997. This is designed to restrict the use of chlorofluorocarbons (CFC's) and halons. Namibia also ratified the 1990 and 2003 Amendments to the Protocol.

2.3.4 United Nations Framework Convention on Climate Change 1992
The object of this Convention is to achieve stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system, within a timeframe sufficient to allow ecosystems to adapt naturally to climate change; to ensure that food production is not threatened; to avoid adverse health effects; and to enable economic development to proceed in a sustainable manner. Namibia has ratified this instrument.

2.3.5 Kyoto Protocol on the Framework Convention on Climate Change (1998)
The Kyoto Protocol is the key instrument on which the 1996 United National Framework Convention on Climate Change, outlined above, is based. It is the first legally binding global agreement setting out specific obligations for the reduction of the amount of greenhouse gases emitted by developed countries and Countries with Economies in Transition (CEIT’s). Namibia is a party to this Convention
2.3.6 **Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and Their Disposal, 1989**

The Convention does not seek to ban the transboundary movement of waste, but rather it seeks to control its movement, monitor and prevent illegal traffic, provide assistance for the environmentally sound management of hazardous wastes, promote cooperation between parties, and develop technical guidelines for the management of hazardous wastes. Its overall aim is "environmentally sound management, to protect human health and the environment from the dangers of hazardous and other wastes, through the adoption of an "integrated life cycle approach” to waste management”. Namibia has ratified this Convention.

2.4 **Regional Agreements:**

2.4.1 **Southern African Development Community: Protocol on Mining**

This Protocol has the following objectives:

To recognise the propriety and importance of a comprehensive regional strategy and plan for the development of the mining sector; to promote the interdependence and integration of mining policies for the accelerated development and growth of the Region’s mining sector; to ensure, through co-operation and collaboration, the development of the Region’s mineral resources to improve living standards; to promote the economic and social development and integration of economies with a view to achieving competitiveness and increasing market share in international markets.

2.4.2 **Southern African Development Community: Protocol on Energy**

The general principles of the Protocol state that Member States will commit to using energy to support economic growth and development, alleviation of poverty, and self-reliance among member states. They furthermore commit themselves to encouraging the development and transfer of energy-related science and technology. The use of energy must be environmentally sound, a conducive environment must be created, for the private sector to participate in energy development and sectoral and sub-sectoral regional energy policies and programmes must be in harmony with the overall policies and programmes for SADC (Article 2).