



REFORMS NEEDED TO BALANCE BENEFITS OF MINING IN GEORGIA



Mining is a globally interconnected industry with great potential to create employment, drive innovation and attract large-scale investment and deployment of infrastructure over the longer term. The mining sector's large contribution to economic growth and social development in a number of the EBRD's resource-rich countries of operations, such as Kazakhstan, Kyrgyz Republic, Mongolia and Ukraine, is well-known. Perhaps less appreciated is the contribution and potential of the sector in those EBRD countries of operations less traditionally associated with mining activities.

Georgia is one such country, and the EBRD, through its Legal Transition Programme (LTP), recently launched a comprehensive technical cooperation programme with the government of Georgia (the "government"). The aim of this programme is to reform governance and regulation of the sector to enable the sector to properly contribute to the country's economic development and to its public finances, while also addressing the sector's not insignificant environmental legacy. The EBRD's support programme comes in three phases: policy development, legal reform and capacity and institution building, with current support activities centring on policy development.



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MINING IN GEORGIA

Mining activities in Georgia date back centuries, by some accounts to the Palaeolithic era (the Old Stone Age). By the mid-1800s, steel and minerals used in the fabrication process were being mined commercially. State mine operations became part of Soviet-era industrial policy which relied on inter-Soviet state industrial relations to drive supply and demand. Following the collapse of the Soviet Union and the independence of Georgia, state investments in mining dried up. Today only private investors are active in the sector, mostly characterised by several significant deposits and investments in manganese, copper and gold and small-to-medium sized quarry operations, primarily marble and construction materials.

The sector's current contribution to the gross domestic product (GDP) is a not-insubstantial 5 per cent, with a remarkable 35 per cent of export revenues being generated from mineral and mining-related exports. While some of these investments include value-additions to the actual mineral production, the true potential of the country's mineral resources in this respect is yet to be realised. The common view of the government and investors alike is that Georgia can better capitalise on existing investments and improve its governance frameworks to support new mining investments.

GOVERNMENT REFORM PROGRAMME

Recognising the existing contribution, the impediments to expansion and potential for the sector, the government has committed to a programme of mining sector development involving three main pillars: (i) preparation of a policy for responsible development of the sector; (ii) renewal of the legislative framework for the sector based on the new policy; and, (iii) ensuring efficient and effective implementation of policy and law through institution strengthening and capacity building for state agencies.

EBRD TECHNICAL COOPERATION PROGRAMME

It is against this backdrop that the EBRD's technical cooperation support is being implemented. To help achieve its goals for the sector, the government requested the support of the EBRD. In response, the Bank included development of the mining sector as an area of focus in its current Georgia country strategy, and has agreed to support the government in its reform efforts with the programme of technical cooperation.

This programme has three phases, mirroring the pillars of government reform: (i) policy development; (ii) preparation and adoption of laws and regulations; and, (iii) institution strengthening and capacity building.

Work with the government, represented by the Ministry for Economy and Sustainable Development (MoESD) and the National Agency for Mines (NAM) on phase I, development of sector policy, began in June 2018. The modus operandi of phase I is to establish an agreed baseline sector status to advise on; identify effective practices from other successful mining jurisdictions; develop a range of policy options for adoption of best practice in Georgia; make specific recommendations from the assembled options; and, finalise those recommendations in a formal government policy.

EXISTING GOVERNANCE AND REGULATION

While the government is generally seen as successfully pursuing liberalising policy reforms and is keen on maximising foreign investment, growth in the mining sector has lagged that of other sectors. This can generally be seen as the result of the current policy, legislative, regulatory and fiscal framework for the sector providing insufficient incentive for investment. In fact, in some cases, the current framework may actually be discouraging investment.

Notable Soviet-era industrial practices remain in place in Georgia, particularly in the areas of reserves management, production reporting, and imposition of fees. In the environmental sphere, historic mining impacts (for example, acidic water seeping from aged tunnels) linger across the mining value chain and have not been adequately assessed or sufficiently addressed.



To date, mining activities in Georgia have generally been guided by overall policy and legal frameworks that are not specific to mining. This includes the handling of land, labour, environment, and social issues. Some separation of mining taxes and payments is legislated for, but significant additional improvements could also be made.

Thus, considerable opportunity exists to improve efficiencies, streamline and strengthen regulatory oversight, and better optimise mining investments, reforms which should enable Georgia to balance the significant risks and the large benefits of mineral development. Overall, the current policy and governance context in which minerals are developed in Georgia does little to adequately reflect the non-renewable, dynamic and temporary nature of mining investments.

SECTOR REVIEW CONCLUSIONS

Georgia is an open and functioning mining market, with 5,000 plus licences having already been issued, including mines, quarries and groundwater. The sector employs almost 30,000 Georgian citizens and contributes approximately

5 per cent of overall country GDP. An incredible 35 per cent of export revenues are generated from mineral and mining-related exports.

Notwithstanding that positive contribution, significant legacy issues currently impede responsible development. In particular, there appears to be no distinction between mines and quarries and there is little to no emphasis on the commerciality of minerals. Institutional arrangements are fragmented and dispersed among many ministries, agencies, commissions and other entities. Financial payments required from licensees are too rigidly proscribed and lack the flexibility expected of today's dynamic minerals marketplace. Worryingly, there appears to be insufficient focus on health and safety, fair labour practices and there is a significant legacy of mine-related environmental damage.

Additionally, although the modern mining sector is driven by quality data availability, Georgia currently has no country-wide geological map and geo-data management practices (that is, the rules for handling data, storage facilities, libraries) are not adequately developed.

That said, the government is actively strengthening sector operations and is committed to overhauling and modernising sector regulation. Examples include the establishment of a dedicated sector regulator in the form of the National Agency of Mines in 2017, improved environmental reporting legislation and oversight, and work on building cadastre information and mapping. The government has also shown keenness in promoting stakeholder consultations on sector development, and has not been afraid to seek external assistance from the EBRD and others.

OVERVIEW OF APPLICABLE POLICY PRINCIPLE FOR GEORGIA

Drawing on mature international experience, the articulation of key policy principles has become relatively easy to formulate. However, although many principles can have universal application, the challenge lies in adequately and appropriately adopting those principles to a specific local environment. Notwithstanding this challenge the applicable principles for Georgia would likely include the following:

Governance frameworks

Institutional roles and responsibilities could be clearer, and legislation and regulations to support market-based minerals development could be stronger, with critical mine safety and labour protection issues meriting close attention. Types of minerals and mining areas could be better categorised, and the introduction of a dispute resolution process would bolster investor confidence in sector governance and administration. To best take advantage of modern sector practices and trends, a market-based fiscal regime and revenue reporting could be adopted. Given the international nature of the sector, terminology tends to be standardised and the understanding of particular terms among sector participants is critical and, accordingly, efforts could be made at harmonisation of terminology to be used in the sector.

Licensing processes

The licensing process in its current form does not seem to sufficiently serve the objectives of the government. Accordingly, a modernised system of licensing could be introduced, based on a improved categorisation of licences, with better distinction between different mining categories (for example, mines, quarries and groundwater). As part of the licensing process,

there could be clearer rules and better enforcement on land issues. Additionally, clearer rules could be developed for suspension and termination of licence. Online auction rules could be revisited to ensure better investments win rather than the highest bidder. Alternative licence award methodologies could also be introduced (for example, tender applications), with those additional methodologies often being more suitable than auctions for the award of licences at a particular stage of the mining development cycle.

Environmental and social safeguards

Environmental and social safeguards could be heightened, starting with increased efforts from the government to raise the level of coordination and awareness at the national and mine-community level. In particular, the government could ensure that all categories of mining have environmental monitoring and reporting obligations. Efforts could also be made to improve environmental and social inspection and enforcement (for example, introduction of testing equipment). Critically, given the lingering damage from past practices, a programme to address legacy environmental damage could be introduced. Given the community dimensions to mining activities, consultation with those communities could be strengthened.

Production and reserves reporting

Market-based reporting based on commerciality could be a more appropriate methodology for Georgia given the government's objective of using a market-based system to attract more private investment. Allied to this move to market-based reporting, the fiscal framework for the sector could

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be revised to remove the requirement for advanced fees, instead introducing production-based royalty payments. Modern reserves reporting information and requirements can be included as part of the licence itself.

Value chain and alternative livelihoods

The presence of a viable mining sector and the nature of the mining cycle and its related infrastructure requirements present opportunities to amplify the contribution of the sector beyond the mere value of the minerals themselves. In this respect, as part of mine investments, care and attention could be focused on mine-related development (for example, roads, electricity, infrastructure, and so on). Additionally, consideration can also be given to favouring investments that include value-additions, although there needs to be a clear assessment of market costs for value-addition businesses (for example, processing, cutting, polishing, and so on). Importantly, in exploiting the mining value chain, sufficient attention could be paid to post-mining livelihoods, notably in remote areas.

Inspection, cadastre and geological survey

These activities are critical to effective governance of the sector. In particular, a modern Mine Inspectorate could be established to conduct regular mine inspections, country-wide. Similarly, cadastre operations could be strengthened and supported and afforded equipment upgrades, back-up and capacity. Active consideration could be given to establishing a National Geological Survey as part of government operations.

Revenue management

Translating the revenues of the sector into tangible and sustainable benefits for Georgians is key to successfully and responsibly exploiting the sector. Critical aspects of modern revenue management include the introduction of measures to track beneficial ownership; substantive consideration of near- and long-term management of mining revenues (for example, education funds, environmental clean-up fund); and, ensuring legally required revenues are paid, for example, application of transparent reporting and revenue management.

FUTURE OF EBRD-GOVERNMENT OF GEORGIA COOPERATION IN MINING

The EBRD and the government are of common mind with respect to the potential for the sector to play a bigger role in the economy; the impediments to the sector playing such a role; the necessity for substantial reform to the sector and the manner in which it is governed; and the necessity for such reform before investors will be confident enough to commit viable levels of investment to the sector.

The EBRD has advised the government on policy principles, content and policy process for the sector. This advice has been, thus far, well received and the experience of cooperation on both sides provides a clear and firm basis for further cooperation: (i) in the modernisation of legislation so it can be an effective vehicle for policy implementation; and, (ii) in supporting and building capacity in and among the governing and regulating entities in the sector.

The trigger for follow-on cooperation between the EBRD and the government will be the adoption of the recommended policy as a governmental policy.

