



Paul Moffatt

SUSTAINABLE DEVELOPMENT AND THE EXTRACTIVE SECTOR

THE IMPORTANCE OF CLEAR POLICY-MAKING, LEGAL CERTAINTY AND ROBUST INSTITUTIONS



OVERVIEW

Mineral resources represent both a substantial source of wealth and a formidable challenge to regulate in a manner that will maximise the benefit to host nations and improve prosperity for their communities. Although there is some debate over the role of resource extraction in growth and what can be achieved by the application of particular policies, it is obvious that clear policy-making can capitalise on the extractive sector as an engine of broader-based economic growth and development.

“Now a miner, before he begins to mine the veins, must consider seven things, namely: the situation, the conditions, the water, the roads, the climate, the right of ownership and the neighbours.”

De re metallica (On the Nature of Metals), Georgius Agricola (1556)



AUTHOR

PAUL MOFFATT
SENIOR COUNSEL
EBRD
Email: moffattp@ebrd.com

Key to the development of the sector is the attraction of sufficient investment. Resource extraction is highly capital intensive and requires substantial and long-term investment. Potential investors therefore put a premium on political and regulatory stability. Thus, to attract maximum attention from potential investors a government needs to send clear signals as to its intentions regarding the development of the sector, applicable rules and the envisaged role of the various stakeholders. Sector policy is the key vehicle for the government's objectives, intentions and methodology.

Since the days of Agricola, quoted above and known as the "father of mining", it has been apparent that the issues highlighted in that quote need to be addressed for resource enterprises to have a chance of sustainable success. Added to this have been the lessons learned from the experiences of jurisdictions throughout the globe. This article looks at the key aspects that need to be dealt with in sector policy. It aims to distil the experience of policy content in an effort to identify some of the key factors that need to be addressed for sector policy to be considered as an effective, fundamental instrument of sector development.

EXPERIENCES OF THE EXTRACTIVE SECTOR IN THE EBRD REGION

Resource extraction is a key component of economic growth and social development in a number of the EBRD's resource-rich countries of operations, such as Kazakhstan, the Kyrgyz Republic, Mongolia and Ukraine. While there are examples of countries that have managed to turn the endowment of mineral resources into broader-based national wealth it has become clear from these examples that the potential benefits which can flow from a resource endowment are contingent on whether extraction activities and the associated revenues are developed and managed responsibly and sustainably over time. The key to ensuring this is a clear, substantive and coherent plan, containing all the necessary ingredients which experience has shown positively contribute to the attraction of investment into the responsible management of extraction over time. The experience of translating resource wealth into broader-based prosperity in the EBRD region has been mixed to date and indicates deficiencies in the policy-making process. Improved understanding of the role and content of policy can be a valuable exercise for resource-rich developing and transition economies as they strive to identify the key

ingredients necessary to translate resource abundance into broader wealth and benefits for citizens.

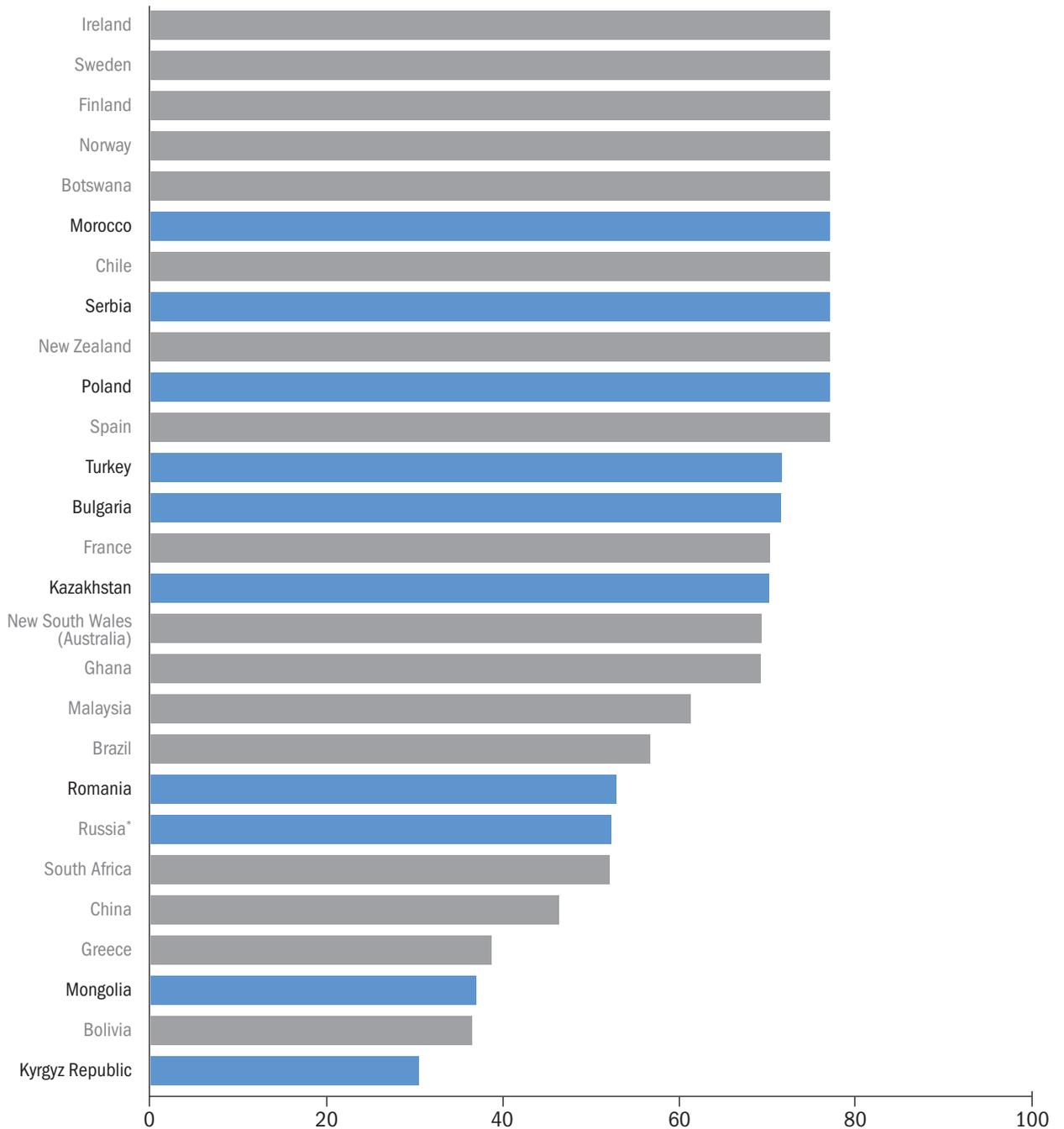
EXPERIENCE OF THE EXTRACTIVE SECTOR GLOBALLY

Over the last two decades there have been substantial advances in the global understanding of how extractive operations can be administered more responsibly and with more attention to sustainability issues. These improvements have fed into the policy-making process, providing many modern policy tools for governments to apply to their particular circumstances and stages of development or transition. Best practices in addressing environmental, health, safety and social issues have made significant advances and continue to evolve and provide a solid base for modern policy-making. Good governance, stable and constructive institutional relations and good economic management have also been recognised as key issues to be managed by responsible companies and have featured consistently in effective policies across the globe. In particular, transparency has emerged as a key tool for the sector policy-makers, with the Extractive Industries Transparency Initiative (EITI)¹ becoming the global standard for transparency and reporting in the extractive industry, in particular as a means of building community trust and countering corruption.

MEASURING POLICY EFFECTIVENESS

As indicated, an essential ingredient of sector development is sufficient, substantial capital investment. Given the recent sustained commodity price downturn and the parlous state of the financial affairs of many resource sector investors/operators, the pool of available capital is at its lowest in some time. Given that increasing numbers of resource projects are chasing limited and diminishing investment, the effectiveness of policy and the perceptions of investors in this respect have become critical. One of the more prominent measures of policy-making and the perception of the investment community towards the resultant policy is that carried out by Canada's Fraser Institute in its Survey of Mining Companies.² This survey assesses the mining policy of 109 jurisdictions worldwide through its Policy Perception Index, a composite index that measures the effects of government policy on attitudes

CHART 1 POLICY PERCEPTION INDEX FOR EXTRACTIVE SECTOR (SELECTED COUNTRIES)



Derived from data collected by the Fraser Institute Annual Survey of Mining Companies – 2015, Policy Perceptions Index and used with permission. The Policy Perception Index (PPI) is a composite index, measuring the overall policy attractiveness of the 109 jurisdictions in the survey. Above is a chart drawn from the data collected by the Fraser Institute for their survey, listing the EBRD countries of operations that feature in the survey (marked in blue) plus a number of other jurisdictions for comparison. The index is composed of survey responses to policy factors that affect investment decisions. Policy factors examined include uncertainty concerning the administration of current regulations, environmental regulations, regulatory duplication, the legal system, the taxation regime, uncertainty concerning protected areas and disputed land claims, infrastructure, socioeconomic and community development conditions, trade barriers, political stability, labour regulations, quality of the geological database, security, and labour and skills availability. The PPI is normalised to a maximum score of 100, with 100 representing high policy attractiveness.

*Refer footnote 20 on page 90

towards exploration investment. In looking at the top performers of that index one can distil a number of key recurring characteristics and principles that appear in the policies of jurisdictions globally that “get it right”. Set out below are a number of the key principles and characteristics that can be found in these sector policies of better-performing jurisdictions.

IMPORTANCE OF CLEAR AND PRECISE POLICY-MAKING

Sector policy is the key vehicle for setting out a government’s objectives, intentions and methodology for the development of the sector. To attract maximum attention from potential investors a government should try its best to send clear signals as to its intentions with respect to the development of the sector, applicable rules and the envisaged role of the various stakeholders.

FORM OF POLICY AND BASIC CONTENT

While policy can have many manifestations, such as a specific policy document or interrelated documents, or can be inferred from legal instruments and/or administrative practices and/or government officers’ statements, ideally effective policy should be set out in a clear and easily identifiable form.³ Experience from successful jurisdictions indicates that policy should follow a clear set of principles which contain precise and concrete aims and objectives; specify rules and procedures for developing those objectives; identify the means and guiding principles by which the objectives will be achieved (for example, restricted or open market); and, identify and aim to reconcile dominant and conflicting interests of stakeholders. Policy should further identify the specific parties responsible for the implementation of particular objectives and provide a timetable within which the objectives should be achieved. Ideally, where the policy initiates significant reform or significant deviation from a prior approach, the policy should also be accompanied by an action plan specifying individual elements of policy and identifying specific steps and an appropriate timeline preparation and implementation of individual elements of policy.

KEY POLICY OBJECTIVES

The key objectives of an effective sector policy will be to attract investment; ensure development at a national, regional, local and community level; provide for development in a sustainable manner through the integration of environmental, social and economic impacts; and ensuring, insofar as possible, a positive social, economic and environmental legacy.

KEY POLICY CHARACTERISTICS

Modern and effective policy should be forward looking and, given the length of sector cycles, take a longer-term view; clearly define specific expected outcomes from the application of the policy; and, where appropriate, draw on the successful experiences of other jurisdictions, while recognising the relative uniqueness of a country’s circumstances and the need to adapt the experience for it to be of true value. In setting out principles, objectives, actions and drawing on experience, the policy should provide clear, substantive and available evidence, commissioned by the policy-maker for the purposes of the policy or drawn from robust sources of international experience.

Given the extensive actual or potential linkages of the minerals sector to the broader economy and society, effective policy should seek to be broad and encompassing, ideally taking an integrated and holistic view, identifying how best the sector can be developed in a sustainable and environmentally friendly way, while providing maximum benefit to the widest range of citizens, both directly from the sector itself as well as from the backward and forward linkages that the policy should strive to promote and facilitate.

As policies can be time and place specific, there should be adequate provision and mechanisms for their review, the evaluation of impact and success, and the facility to revisit aspects where necessary.

REFLECTIVITY OF INTERNATIONAL STANDARDS

Effective policy will often reflect international standards and recognised best practice. Among the influences in this respect are:

- the Extractive Industries Transparency Initiative (EITI) is a high-level global initiative launched at the World Summit for Sustainable Development in 2002. The initiative was soon after endorsed by the G-7,

the international financial institutions (including the EBRD), civil society organisations (CSOs) and major Western oil, gas and mineral companies. The EITI is a policy, legal and regulatory framework which aims to contribute to ensuring the proceeds of mining and energy industries are used for broader economic development. The EITI Standard⁴ provides an agreed framework for regular publication of all material oil, gas and mining payments by companies to governments and all material revenues received from oil, gas and mining companies to a wide audience in a publicly accessible, comprehensive and comprehensible manner. Once a host government chooses to endorse the initiative, then all revenue flows from oil, gas and mining companies to governments (such as royalties, bonus payments and general taxes) are disclosed to the public. Payments by companies and receipts by the government are reconciled by an independent third party and civil society is actively involved in the EITI process in each country, thereby enhancing wider accountability

- Publish What You Pay (PWYP) is a global coalition of CSOs united in their call for an open and accountable extractive sector, so that oil, gas and mining revenues improve the lives of citizens of resource-rich countries and extraction is carried out in a responsible manner that benefits countries and their citizens. PWYP advocacy and activities are guided and informed by their Principles and Standards⁵ in the belief that coordinating the collective actions, skills and interests of a diverse coalition of CSOs is the most effective way to influence key stakeholders and drive policy and practise change in the extractive industries and the governmental sector
- International Labour Organization Convention No. 169 Concerning Indigenous and Tribal Peoples in Independent Countries,⁶ which provides for recognition of the rights of ownership and possession over the lands that they traditionally occupy; prior consultation and participation in the benefits and fair compensation for any damages, with regard to the exploration and exploitation of mineral or subsurface resources; and, due respect to their customs or customary laws
- International Finance Corporation (IFC) Performance Standards on Environmental and Social Sustainability (also known as the “Equator Principles”),⁷ which have become globally recognised good practice in dealing with environmental and social risk management.

BOX 1 EBRD SUPPORT TO THE OUTREACH OF THE EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE (EITI) – MONGOLIA:

The EBRD, through its Legal Transition Team (LTT) has been supporting the deepening and broadening of the implementation of EITI in Mongolia since 2010. Among the areas where EBRD support has been targeted are: the preparation of a standalone EITI law mandating compliance with EITI on the part of government and mining companies and specifying the regulatory and institutional framework that will govern that compliance; preparation of a communications strategy and implementation plan; training of key EITI stakeholders; and implementation of an online reporting platform (e-Reporting). The current EITI Standard requires, among other things, regional and project-level disaggregation of revenues, and therefore, a strong implementation capacity at the regional and local levels. In view of the start of the second validation of Mongolia’s EITI status in 2016 and the continuation of the EBRD’s work in the Mongolian mining sector with this loan, LTT will, in 2016-17, examine scope to provide support for the outreach of EITI at the local community level, as an accompaniment to the Bank’s ongoing support for EITI in Mongolia. Along with EITI Mongolia, among the key partners LTT will look to support will be the mining and transparency focused CSOs. These play a critical role in the implementation of EITI in Mongolia (EITIM), particularly in spreading awareness among local communities. However, CSOs also face significant challenges in fulfilling their EITI role at a country level and there is limited outreach to the extractive industry-affected communities. Through any such support LTT would aim to strengthen both EITIM’s presence in the communities as well as working with local and regional CSOs to ensure a balanced engagement in EITI outside the capital.



KEY POLICY CONTENT

(a) *Policy actions:* Effective policy should set out the actions which the government intends to take in order to achieve the policy objectives. Among the key actions in this respect will be those aimed at creating an enabling and investor-friendly environment by:

- establishing clear and predictable “rules of the game” consisting of an appropriate legal framework, a framework which should comprise a series of laws or legal instruments (regulations, licences, procedures, guidelines, contracts) to cover matters such as the specifics of the sector (for example, a mining law), as well as provisions for the protection of investment (for example, investment and stabilisation laws), and laws to ensure environmental protection and sustainable development (for example, environmental and monitoring laws)
- elaborating on technical, financial, environmental, social and administrative requirements
- providing for a clear assignment of specific responsibilities of the provincial and national government
- establishing that enforceability of legal and regulatory provisions and contracts must be practical and affordable
- elaborating on an appropriate institutional framework, including:
 - > cadastral-based institutions which will be responsible for broader regulation, including registration, licensing, mapping, and so on
 - > an inspectorate which will be responsible for technical oversight, enforcement, health and safety
 - > a geological survey, responsible for geoscience data and survey work
 - > fiscal oversight authorities at a national and, where appropriate, provincial level responsible for tax, royalties and duties

> environmental authorities, responsible for environmental enforcement, with sufficient capacity at both a national and sub-national level, given the localised nature of most environmental issues

> labour and social protection authorities

- providing a framework for adequate and appropriate re-distribution of resource rents among central authorities, provincial levels and local communities
- providing a framework for adequate and sufficiently inclusive community participation in both implementation of the policy and its ongoing review and evaluation
- setting out the actions intended for national, regional and local development, for example, the government may pursue a policy on localised beneficiation whereby additional value accrues to the state by the processing of raw minerals before their export, or perhaps a policy to support local firms to provide goods and services needed in the mining production process
- elaborating on the steps that will be taken to manage the impact of mining operations, for example, provision for reclamation and reinstatement of land at the end of mine life and closure.

(b) *A fiscal and commercial framework:* Effective policy should elaborate on a fiscal and commercial framework that will comprise a combination of policies, laws and regulations and institutional arrangements. This framework should aim to give investors clear and definite guidance on the intended mining fiscal regime (that is, profits tax, royalties, dividend taxes, import duties, VAT, depreciation and amortisation schedules), as well as highlighting mitigants to various risks to investment, for example, a stabilisation agreement preventing or lessening the need for changes to tax and audit requirements.

(c) *An environmental framework:* Effective policy should set out clear provisions for environmental protection, elaborating on specific governance provisions through law, regulations, certifications, and so on. Good governance in this respect will be achieved through an appropriate balance between mining and environmental aspects. To provide sufficient force and effectiveness for the environmental provisions there should



be an adequate financial regime to provide support funds in case of environmental damage. Given the extensive international experience in environmental protection in the context of the extractive sector, the policy should strive to apply international practice for environmental compliance standards and rules on involuntary relocation and compensation.

(d) Stakeholder consultation framework: Critically, to earn the respect, trust and confidence of stakeholders from investors to the local communities, policy should not be developed in isolation and must be inclusive, created following genuine and good-faith consultation with all relevant stakeholders. Effective practices in this respect should comprise a Stakeholder Participation Framework which will identify stakeholders; elaborate on formal and informal mechanisms to build stakeholder support; provide for open communication with identified stakeholders as a means of facilitating good governance; allow for public hearings, regular meetings, publication of relevant reports; and, crucially, compliance with the EITI.

THE SCOPE OF POLICY

Policy should be clear in its scope and identify the range of minerals that it extends to. For example, some governments may choose to exclude specific minerals from general sector policy because of an actual or perceived additional strategic value (for example, uranium or other minerals used in nuclear energy processing). In addition, the government may seek to apply different rules (and therewith different policies) to the likes of artisanal mining. Some policies may seek to include provisions relating to both exploration and exploitation of minerals.

THE ROLE OF THE STATE

Effective policy should also be clear on the role of the dominant sector actor in many jurisdictions, that is, the state. In addition, the policy should clarify how that role will be defined and implemented (for example, in law). In providing clarity on this point, the policy should be clear on the state's role as regulator and whether the state will intervene in the sector as an operator. Where there is such an intention, the policy should articulate the attitude to foreign investment and what the role of the investor will be.

BOX 2 LESSONS IN TRANSPARENCY FROM GHANA

Building on the foundations created through the EITI, Ghana has emerged as a regional leader in natural resource transparency. Reformers in government and civil society used the EITI as a platform for policy dialogue and transparency. At a time when legislative oversight was weak, the country's EITI reports represented the most comprehensive source of information on mining revenues and included production volumes, the value of mineral exports, the names of companies operating in the country, production data by company, production stream values, royalties, special taxes, dividends, and licence and acreage fees. Reporting has now been extended from the mining sector to the oil and gas sector, which started production in December 2010. The Ministry of Energy has put Ghana's most important petroleum agreements online. Apart from sharing information, legislation has created mechanisms that institutionalise transparency in revenue management. Having become EITI compliant in the petroleum and mineral sector, in 2011 Ghana enacted the Petroleum Revenue Management Act (PRMA). The legislation exceeds EITI standards. Apart from establishing rigorous rules for reporting on oil fund assets and investments, the PRMA created an independent regulatory body, the Public Interest and Accountability Committee (PIAC), to monitor compliance with the law, provide a platform for public debate and assess the management and use of petroleum revenues. While the PIAC is an advisory body with no formal powers, it has significant leverage. The committee comprises 13 representatives of religious, traditional and professional bodies; civil society and community-based groups; trade unions; and the Ghana Extractives Industries Transparency Initiative. The committee publishes bi-annual reports that have forced the government to explain its performance; its first report highlighted a 50 per cent shortfall between forecast and actual government revenues – which was due to uncollected corporate taxes. Greater accountability in the natural resources sector has helped to increase budget transparency. In 2012, Ghana scored 50/100 on the Open Budget Index (OBI) – the highest in West Africa and well above the regional average.

Drawn from the Africa Progress Panel's *Equity in Extractives Stewarding Africa's natural resources for all Africa Progress Report 2013*. See http://www.africaprogresspanel.org/wp-content/uploads/2013/08/2013_APR_Equity_in_Extractives_25062013_ENG_HR.pdf, page 74.

OBLIGATION OF GOVERNMENT

Policy should be structured so as to obligate the government in some way. While sector policy documents are not necessarily legally binding in most countries they can, once in the public domain, impose certain obligations on government to act in accordance with their declared intentions with respect to particular issues. Where properly constructed and published, sector policy documents can add political pressure to pursue the development of a particular sector.

CORRUPTION AND TRANSPARENCY

Keeping citizens ignorant of resource deals facilitates corruption, theft from public funds, misallocation of revenues and waste. Restricted access to key information is increasingly said to be at the heart of the gap between wealth creation and human development. One of the major aspects that policy is increasingly being called to address is the prevalence and impact of corruption on the sector, with the expectation that an effective policy will identify scope, potential incidence of corruption and highlight methods to be used to tackle it. Mining agreements can be particularly vulnerable to corruption because of discretionary powers that have traditionally tended to apply to their conclusion and operation. Bearing this in mind, transparency has emerged as a primary policy means of combating corrupt practice.

With its emergence as a key policy to counter corruption, there is also an expectation that effective transparency may go beyond the mere disclosure of information, to encompass the verification that the information made available is complete and accurate, to ensure that is presented in a format that can be understood by the wider public, and that will facilitate national dialogue on the issues at stake. Although many countries have made impressive progress; far more has to be done to unlock the transformative power of transparency.

The EITI can play a key role in the transparency process. Although launched as a technical, financial reporting process it has grown in its ambition to be a platform whereupon government, non-government organisations and companies are brought together and the national reports that are produced provide a focal point for national dialogue. The experience of Ghana (see Box 2) is illustrative in this respect.

Having put in place a clear, precise and certain policy the challenge then becomes to establish an equally clear, precise and certain supportive legal framework and a sufficiently robust institutional framework to support implementation of the policy.

SUPPORTIVE LEGAL FRAMEWORK

A supportive legal framework should reflect the following best practice principles:

Entrenchment of core principles and fundamental rights and obligations in primary legislation: Once sector policy has been decided on, the intentions contained in the policy document need to be translated into concrete actions and a legislative framework within which these intentions can be given life. This legislative framework should ideally be underpinned by a framework mining law which is itself necessary to entrench the core principles attaching to the sector, for example, transparency, non-discrimination, objectivity, promotion of sustainability and environmental protection, and so on. Generally speaking, framework legislation will be prepared by the responsible ministry (in consultation with the sector regulator and all affected stakeholders) and presented to parliament who will debate and pass this primary legislation as a law of parliament. Such primary legislation should be reflective of the following:

Statement of rights and obligations: Primary legislation should provide a clear and concise statement of the rights and obligations of all sector stakeholders.

Fundamental sector principles: Fundamental incontrovertible sector principles should be contained in primary legislation. Detailed procedures applicable to individual elements of the sector should then be contained in secondary legislation. Such practice allows entrenchment of fundamental principles that will be unlikely to change in primary legislation, while allowing the practical day-to-day

operational and implementation issues that may be affected by changes in technology or operation of the marketplace to be included in regulations which can be more easily altered to reflect changing technology or marketplace.

Quality of entrenchment and permanence to critical elements: Once enacted as primary legislation by parliament, amendment is generally seen as a lengthy and cumbersome exercise in the majority of countries. Thus, although primary legislation does not cast principles in stone, the quasi-permanence allowed by the characteristics of primary legislation can protect it from political tinkering or short-term alteration. Even where the democratic credentials of parliaments in certain countries may not be as solid as they could be, the process attached to the amendment of parliamentary legislation nonetheless acts as a solidification of basic principles.

Actual content of primary legislation will vary: Actual content and level of detail of primary legislation will vary from country to country. In this respect, much will depend on the level of development of the marketplace, the strength of the surrounding administrative structure and the effectiveness of the underlying legal environment. Where these elements are sufficiently advanced, the amount of specificity required in primary legislation is reduced. Where sector reform has yet to begin or where the application of modern regulatory standards is in its infancy, more specific guidance of the law will be necessary. Similarly, where the legal environment, in particular the court administration, is not yet used to dealing with complex econo-legal matters, more detail will be necessary.

Restricted access to key information is increasingly said to be at the heart of the gap between wealth creation and human development.

CREATION OF A SOLID INSTITUTIONAL FOUNDATION

To implement the policy initiatives contained in primary legislation a strong institutional foundation should be established based on the clear separation of the following functions:

Separation of state ownership from regulation:

A key element of a stable environment for resources is the establishment of a sector-specific regulatory authority. With the onset of modern regulatory practices where the state maintains a role in resource extraction operations, regulation by a government ministry making decisions about policy formulation, implementation and operation is clearly inappropriate, and could give rise to an actual or perceived conflict of interest. Given the competing objectives of those three roles it is highly unlikely that such conflicts could be resolved effectively within one authority. International experience has shown that a sector-specific regulatory authority, independent of both

political and operational influence, has emerged as a central part of sector development. Such separation of ownership and regulatory functions increases perceived neutrality and insulation of the regulator from political pressure and investors will generally have greater confidence that such a regulatory authority will regulate in a transparent and objective manner. Accordingly, where the government retains any shareholding in an operator the regulatory function should be clearly separated from the control function of the operator as the shareholder. A common model for addressing this issue of operational control is to transfer the state shareholding from the ministry responsible for the resources sector to the ministry for finance or a state property/privatisation agency.

Separation of policy-making from regulation:

The government functions as policy-maker to design the rules of play and format of operation of the resources sector. Implementation of these rules and policies more appropriately lies with an independent regulatory agency, separate from the ministry. Such separation generally allows efficient, objective and transparent implementation of sector regulation, free from most of the political pressures that dictate policy formulation.

As with the regulatory regime itself, clear rules and processes must also apply to the regulatory function and the regulatory authority, and, in addition, the basic procedures that will govern its interaction with the sector operators must be defined, preferably in primary legislation. Crucial also for any reform endeavour in this respect is the ability to develop a flexible regulatory capacity that can adapt to an evolving marketplace and that will take every opportunity to promote and facilitate both social and commercial objectives.



1 See <http://www.eiti.org> (last accessed 3 February 2016)

2 See Fraser Institute Annual Survey of Mining Companies – 2014, by Taylor Jackson and Kenneth P. Green, available at <https://www.fraserinstitute.org/studies/annual-survey-of-mining-companies-2014> (last accessed 3 February 2016)

3 For its 2015 policy survey, the Fraser Institute awarded Ireland the top spot in their policy perceptions index. While not a major contributor to the economy, Ireland's clear, identifiable and comprehensive approach to sector development scores highly with investors. It can be viewed here: www.mineralsireland.ie (last accessed 3 February 2016)

4 See <https://eiti.org/document/standard> (last accessed 3 February 2016)

5 See <http://extractingthetruth.org/extractingthetruth.html> (last accessed 3 February 2016)

6 See http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169 (last accessed 3 February 2016)

7 See <http://www.equator-principles.com/> (last accessed 3 February 2016)



CONCLUSION

Critical to the sustainable development of the minerals sector in resource-rich, developing and transition economies is the attraction of substantial quality investment. The ability of an economy to attract such investment in an era of weakening availability of capital investment and increasing global competition for that investment will depend on what a country has to offer an investor. Clear and precise sector policy, legal certainty and robust institutions have proven fundamental to attracting and sustaining investor interest and attention. There is rich, worldwide experience, both positive and negative, for developing and transition economies to draw on the form, characteristics and essential content of effective sector policy.

