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Volume III: Annexes

STRIKING A BETTER BALANCE

VOLUME III

ANNEXES

THE FINAL REPORT OF THE EXTRACTIVE INDUSTRIES REVIEW

December 2003

Extractive Industries Review
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Origins and Objectives of the Extractive Industries Review

During the last decade, various stakeholder groups have raised questions about whether and how extractive industries could make a positive contribution to poverty alleviation and sustainable development. The mining industry, for example, has reviewed its role and contribution to sustainable development through its Global Mining Initiative (GMI), with a consultative component known as the Mining, Minerals and Sustainable Development (MMSD) process.

At the Prague World Bank–International Monetary Fund Annual Meetings in June 2000, the nongovernmental community criticized the World Bank Group (WBG) for its involvement in extractive industries. WBG President James D. Wolfensohn responded to this with a promise to review the Bank's role in oil, gas, and mining: "I would be perfectly happy to sit down with you and with your colleagues to try and see if there is some mechanism that we can stand back and take a look at the actualities of this extractive industry, the pros, the cons, . . . and see if together we can come up with something that will either lead to an exclusion or and inclusion on certain terms of what we are doing."

Approximately a year later the Extractive Industries Review (EIR) was initiated by the joint International Finance Corporation (IFC)–World Bank Mining Department and the Oil, Gas and Chemicals Department, with the appointment on 19 July 2001 of Dr. Emil Salim, former Minister of the Environment for Indonesia, as Eminent Person to the review. Dr. Salim accepted the challenge to lead the EIR process, according to the objectives as laid out in the EIR terms of reference:

1. to better obtain and understand the views of stakeholders about the best future role of the WBG in the extractive industries if it is to promote sustainable development and poverty alleviation;
2. to identify possible areas of consensus on the role of the World Bank Group and the relevant issues, and to identify significant alternative or dissenting views in this respect; and
3. to make recommendations on the basis of such better understanding to focus, redesign, or reconsider, as needed, future WBG policies, programs, projects, and processes in the sector.

In parallel to the Extractive Industries Review, the World Bank's Operations Evaluation Department (OED), the IFC's Operations Evaluation Group (OEG), and the Operations Evaluation Unit (OEU) of the Multilateral Investment Guarantee Agency (MIGA) carried out an independent evaluation of World Bank Group experience in extractive industries. In addition, the Compliance Advisor/Ombudsman (CAO) of IFC/MIGA completed a compliance review of recent extractive industries projects of IFC and MIGA as a contribution to the Extractive Industries Review. At the same time, the CAO reviewed the impact and implementation of the Bank's environment and social Safeguard Policies in a separate process.

The management of the WBG (the Directors of the Mining and the Oil, Gas and Chemicals Departments) has committed itself to responding to this process by producing and making public a report of Management Recommendations within three months of receiving the EIR report. The Eminent Person will be consulted during the preparation of the Management Recommendations and will be given the opportunity to express his views on the final document in a report to the World Bank Group's President and the general public.

Focus of the Review

Under Dr. Salim's leadership, the EIR examined WBG activities in the extractive industries sector from the perspective of whether or not they achieved the principal aim of the Bank: poverty alleviation through sustainable development. The fundamental question the EIR sought to answer was, Can extractive industries be a vehicle for poverty alleviation through sustainable development, and, if so, is there a role for the WBG to play to achieve this aim?

Consultation Process and Principles

The EIR was designed to engage all stakeholders—governments; civil society, represented by nongovernmental organizations (NGOs), indigenous peoples' organizations, affected communities and community-based organizations, and labor unions; industry (oil, gas, and mining companies); academia; international organizations; and the WBG itself—in an effective dialogue, following the EIR's guiding principles of inclusiveness, transparency, independence and relevance.

The format of the consultation process was developed at a Planning Workshop in October 2001. Following this, the EIR convened five Regional Workshops, each preceded by an open forum of testimonies by civil society. The EIR secretariat commissioned six research projects, visited four project sites, attended a number of relevant international conferences, and held informal consultations with stakeholders worldwide, as described in this Annex. Many stakeholders contributed to the Review through written inputs, which were posted at www.eireview.org. In addition, an Advisory Group was established in June 2003 to support the report writing process.

Planning Workshop

The Extractive Industries Review Planning Workshop took place on October 29–30, 2001, in Brussels, Belgium. The main purpose was to understand the individual perspective of each stakeholder group and to discuss the design of the regional meetings. Participants from governments, civil society, the private sector, and academia attended, along with World Bank Group regional representatives.

Participants accepted the model of Regional Consultation Workshops and elaborated a set of questions to be put to participants at these forums. They recommended that the EIR create an open space for testimonies, conduct project visits, and assure differentiated treatment of the oil, gas, and mining sectors. Several civil society representatives called for a process of self-selection for civil society representatives at all regional workshops.

Early Controversy—An Independent Review?

A number of concerns regarding the terms of reference of the EIR surfaced at the planning workshop. One concern was the degree of independence of the EIR from the World Bank Group, specifically with respect to the location and staffing of the secretariat and to budget authority. Another concern was the very tight time frame overall and with respect to the internal WBG evaluations being conducted by OED/OEG/OEU and the CAO. The granting of stakeholder status to the World Bank Group was a further concern. These were taken up subsequently by the Eminent Person in discussions with the World Bank Group and with civil society representatives.

As a result, the Eminent Person was granted full budget authority, and the office in Jakarta was substantially strengthened, including relocating the Head of the Secretariat to Jakarta. In addition, the Review was extended by one year, and the World Bank Group kept its stakeholder status. The final delivery date for the report was extended to December 31, 2003, and the overall budget was increased to $ 4.8 million.

Stakeholders in the EIR Process

The EIR attempted to engage stakeholders widely, following its guiding principle of inclusiveness. Stakeholders were consulted both in multistakeholder workshops and in smaller informal meetings and exchanges with individual stakeholders. Further outreach was done through the EIR Web site, on which all EIR documents, as well as the correspondence of the Eminent Person, were posted. The EIR produced three newsletters, outlining EIR activities such as project visits, research results, and workshop outcomes. The EIR's Eminent Person sent out regular letters by e-mail to all stakeholders, updating them on recent activities.

The most actively involved stakeholder groups were the major NGOs and the large multinational corporations, reflecting their capacity to engage in the process and its priority for them. These two stakeholder groups participated in the regional workshops (with the exception of the civil society group in Asia and the Pacific), held direct meetings with the EIR team, and submitted papers specifically tailored to the purposes of the EIR.

Governments

Involving representatives from governments proved a challenge. While individuals were invited to all regional workshops, this stakeholder group attended in small numbers and often chose to maintain a relatively low profile, with the exception of the workshops in Africa and in the Middle East and North Africa. The EIR made every effort to involve more government representatives: for instance, in Eastern Europe and Central Asia, 52 government officials were invited to the workshop, but only 6 participated.

Government contributions outside of the regional workshops were also rather limited. The EIR used other means to consult governments, such as participating in the World Mines Ministries Forum in Toronto in 2002 and hosting one of the breakout sessions at that event. Although this was a multistakeholder event, it raised the awareness of the EIR significantly among government

officials at the meeting. In a further attempt to reach out to governments, the Eminent Person attended the Mine Ministries of the Americas Conference (CAMMA) held in 2003 in the Dominican Republic. Dr. Salim also met government representatives in India and China, and the EIR team saw government officials during project visits in Chad, Papua New Guinea, and Canada. Finally, the EIR met with the Extractive Industry Transparency Initiative (EITI) campaign in London; later the U.K. government submitted its views directly.

Government officials, whose views are summarized in Annex 5, represented mainly national governments, predominantly from minerals and energy ministries. The views of individuals in local government were not captured adequately by this consultation process.

Civil Society

Civil society "self-selected" participants for the regional workshops, as described later in this Annex. Being a very broad and diverse stakeholder group, civil society was assigned a larger number of participants—25, versus 15 for governments and industry respectively, and 10 for the WBG. Within this group, 10 participants represented affected communities and indigenous peoples, 10 represented NGOs, and a 5 represented labor unions.

To provide more space for sharing individual experiences from project-affected communities, each regional workshop was preceded by an open forum for testimonials, coordinated by the self-selection process. Testimonies were not open for debate; only clarifying questions were permitted. Some community representatives preferred to give their testimonies directly to the EIR, in closed and off-the-record discussions. At the request of civil society, the EIR provided funding for people giving testimonies. (Mainly due to budget limitations, testimonies at the regional workshop in Latin America came only from groups self-selected to attend the closed workshop; for all other workshops, some funds were made available for this purpose.)

Except for the meeting in the Middle East and North Africa, civil society issued a statement at each regional workshop. These were read out to all participants, usually during the closing session. Members of civil society also expressed their views in open letters to the Eminent Person. These were posted on the EIR Web site along with Dr. Salim's reply. In Asia and the Pacific, a large number of civil society representatives refused to attend the workshop, objecting to the EIR process.

NGO representatives met fairly often with the Eminent Person and the EIR team in Indonesia, in Washington, D.C., and during his visits to Chad, Cameroon, Papua New Guinea, Canada, China, India, the United Kingdom, and Australia.

Apart from team visits to communities in Cameroon and Papua New Guinea, and participation in regional workshops and testimonies, local people were not heavily involved in the consultation process. In order to capture more community perspectives directly, the EIR commissioned some research in this area. The EIR Newsletter was designed to help NGOs raise awareness of the review process among communities and local groups that were affected by mining, oil, and gas operations.

Indigenous Peoples

Indigenous peoples self-selected participants for many regional workshops and also to present testimonies. In addition, the EIR commissioned two NGOs to conduct a consultation with indigenous peoples directly, in a focused research effort that included some case studies. These were presented and discussed with representatives of indigenous peoples at a workshop in Oxford in April 2003.

Industry

Industry participated in the EIR process both as individual companies and through larger industry associations (the International Council on Mining & Metals, the International Association of Oil and Gas Producers and the International Petroleum Industries Environmental Conservation Association). They attended workshops, met with the EIR team in separate meetings in London, and produced direct submissions to the EIR. While multinational companies were fairly well and consistently represented in the process, national companies participated more reluctantly, although industry representatives in the Middle East and North Africa workshop were mainly from this group. At the Eastern Europe and Central Asia workshop, industry had a closed session directly with the Eminent Person and the EIR team.

Small and medium-sized companies were not well represented in the EIR process. The EIR financed research to assess whether these companies (and financial institutions) explicitly adopted or recognized the WBG's social and environmental policies. Toward the end of the process, this group made a submission to the EIR through the Prospectors and Developers Association of Canada.

Academia and International Organizations

Academics and international organizations provided inputs by attending regional workshops, submitting written contributions, or doing commissioned research. Only five representatives from this stakeholder group attended the regional workshops.

World Bank Group

The World Bank Group itself was considered one of the stakeholders in the review. While the EIR was first initiated by the Mining Department and the Oil, Gas and Chemicals Department of the WBG (which merged during the time of the EIR), many other departments were involved in the review. The WBG self-selected 10 participants for the regional workshops, in a process coordinated by the Oil, Gas and Mining Department, completely independent of the EIR. The WBG's internal evaluation units (OED and OEG), and the Office of the Compliance Advisor/Ombudsman were also represented at the workshops.

In the course of the review, Dr. Salim met with WBG management and staff on a number of occasions, including the Mining, and the Oil, Gas and Chemicals departments; the Energy and Mining Sector Board; the Environment and Social Sector Board; the Multilateral Investment Guarantee Agency; the Operational Vice Presidents; the Environmental and Social Development

Vice Presidency of the World Bank; and IFC's environmental and social departments. Regional meetings took place with the management of the Energy Sector Management Assistance Programme, of the Latin America and the Caribbean region, of the Eastern Europe and Central Asia region, and of the Middle East and North Africa region.

In addition, Dr. Salim met with the Board of Executive Directors of the WBG, having one technical briefing with the Executive Directors, and, in anticipation of the regional workshops, meeting with individual Executive Directors representing counties in Asia, Latin America, the Middle East and North Africa, and Eastern Europe and Central Asia. Dr. Salim met individually with a number of Executive Directors after the third Advisory Group Meeting.

Civil Society "Self-selection"

Civil society selected their own participants at regional workshops, as well as in the Advisory Group and for the final workshop. For each regional workshop, a civil society coordinator was nominated by the EIR to lead this self-selection process. These coordinators were chosen on the grounds of their own or their organization's previous involvement in the EIR process: three out of five of them were present at the Brussels workshop. Furthermore, they were representatives of civil society organizations with far-reaching networks in the region and were based in the region. Once nominated, the self-selection coordinators facilitated this process independently.

Sebastao Manchineri (COICA), coordinator for Latin America and the Caribbean, and Petr Hlobil (CEE Bankwatch), coordinator for Eastern Europe and Central Asia, both attended the Planning Workshop, as did Emmy Haffield (Walhi), who was asked to coordinate the self-selection process for Asia and the Pacific. The self-selection there was finally organized by Nur Hidayati (Walhi) and Fabby Tumiwa (on behalf of Walhi) for NGOs, and by Victoria Tauli Corpus for Indigenous Peoples. Self-selection in Africa was coordinated by Abdulai Darimani, from the Third World Network, and the self-selection of civil society in the Middle East and North Africa was coordinated by Abdel Rahman Sultan (Friends of the Earth Middle East).

Coordinators were provided with a target number of participants for the workshop: 10 from affected communities and indigenous peoples, 10 from NGOs, and 5 from labor unions. Representation was to reflect regional balance, a balance of relevant issues for the region, and the whole range of civil society views. Coordinators also were provided with a list of civil society contacts in the region from the secretariat's own database.

The process took slightly different forms in each region. In Eastern Europe and Central Asia, the coordinator set up an e-mail discussion list that was open to all civil society organizations, and facilitated a discussion in Russian and English on different criteria for self-selection. Participant selection then followed the views from this debate. Organizations were encouraged to invite colleagues to get involved who were experienced on the issues in these sectors and with the WBG. They were asked to fill out a form that provided details on their experience, expertise, and proposed area of representation at the regional workshop.

In Africa, civil society organized an internal workshop before the EIR regional workshop in order to discuss the issues and to prepare a common position for the consultation. Civil society

representatives welcomed the opportunity to create a NGO network dealing with extractive industry issues, as many participants had not met previously. The EIR accepted a request from civil society to invite a representative from another region, and invited the coordinator from Eastern Europe and Central Asia to the Africa Workshop. Africa was the only region that nominated a number of U.S.-based NGO representatives to participate in the workshop.

The self-selection process for Asia and the Pacific was delayed due to the terrorist attack in Bali and the outbreak of war in Iraq. Self-selection of 10 NGO participants initially started in October 2002 and was organized in three stages: first, information dissemination to NGOs, groups, and networks of civil society organizations (some organizations that questioned the objectives of the EIR sent a strong message not to follow the process); second, submissions by organizations and groups, and the compilation of a tentative list of participants; and third, submission of a tentative participant list to all organizations involved in the process of self-selection for comment, criticism, objection, or feedback. The final list of participants was submitted to EIR secretariat.

Conceptual Framework

A conceptual framework was created that outlined the main questions to be addressed in the process, particularly in the regional workshops. This framework was posted on the EIR Web site and distributed to workshop participants. The guiding questions were:

- Can extractive industries projects be compatible with the WBG goals of sustainable development and poverty reduction?

- Is it possible to translate resource wealth into sustainable development and strong poverty reduction in resource-rich countries?

- What are the key reasons that extractive industries do not make a positive contribution to sustainable development and poverty reduction?

Questions were also raised about how WBG investment decisions were made, what changes should be made to WBG policies and frameworks, and what the WBG's role should be in developing international standards and codes of best practice. Furthermore, what conditions should be placed on any WBG involvement and lending in extractive industries sectors to improve the accountability of all parties? Participants at regional workshops in Rio, Budapest, and Maputo specifically picked up on questions regarding the WBG structure and incentive mechanism.

Regional Workshops

The five Regional Consultation Workshops were held in each of the World Bank Group's designated regions:

- Latin America and the Caribbean, in Rio de Janeiro, Brazil, 15–19 April 2002;
- Eastern Europe and Central Asia, in Budapest, Hungary, 19–22 June 2002;
- Africa, in Maputo, Mozambique, 13–17 January 2003;
- Asia and the Pacific, in Bali, Indonesia, 26–30 April 2003; and

- Middle East and North Africa, in Marrakech, Morocco, 29 June–2 July 2003.

Dr. Salim chaired the discussions in each workshop, exploring the role of the World Bank Group in each region in the extractive industries. Each workshop started with an open forum with testimonials from civil society participants, coupled with a World Bank Group information session. This was followed by a closed forum for invited participants.

Interested participants prepared case studies outlining positive and negative impacts of WBG projects in the extractive industries. Participants at the first two workshops, in Latin America and in Eastern Europe and Central Asia, outlined three scenarios for the future: in the first scenario, the WBG would withdraw altogether from these industries; in the second one, the status quo would prevail; and in the third one, the World Bank Group would change its involvement in the sectors. This discussion was dropped in the later workshops to provide more time for the case studies.

Participants worked in small, mixed groups on specific questions and then elaborated recommendations regarding the WBG's future role in the sectors. On the whole, an open-minded, cooperative spirit prevailed throughout the workshops, and common ground was found on many recommendations.

Similar themes were discussed in the different regions. Revenue management was discussed in all regions. Good governance, disclosure policy and access to information, and artisanal and small-scale mining were discussed in at least three regional workshops. Capacity building, conflict management, human rights, dialogue and partnership facilitation, legacy of the past and closure, standards, guidelines and monitoring, general environmental issues, and WBG procedures were discussed in at least two regional workshops.

In Asia and the Pacific, participants discussed size and speed of project development, gender, and corruption. In Latin America, they looked at the empowerment of civil society and at the social and environmental responsibility of business. Stakeholders from Eastern Europe and Central Asia produced recommendations on transition policy, impacts and benefits at the community level, institution building and the regulatory framework, and social mitigation. Participants from the Middle East and North Africa focused on economic diversification, poverty alleviation, foreign versus national ownership, structural adjustment, and public participation.

Final Workshop

A final workshop was held in Lisbon, Portugal, on 11–13 December 2003 to discuss the completed EIR report and to consider options for implementing its recommendations. It was attended by some 80 stakeholder representatives, many of whom had been involved in EIR regional workshops during the preceding two years. Volume V provides a report of the meeting, as well as papers and letters from organizations or individuals with comments on the workshop itself or on the EIR process or report.

Research Program and Project Visits

In addition to drawing on a wealth of previous research, the Extractive Industries Review commissioned six new research studies and undertook four visits to projects to complement its consultation and research activities (see Annex Box 1–1).

One study analyzed the linkages between World Bank and IMF-supported structural reform programs, and the impacts of these programs on the extractive industry sector, using Tanzania, Peru, and Indonesia as case studies. This research provided insights into complex linkages that would not easily have surfaced in stakeholder consultations. The outcomes are captured in the report discussions on structural reform.

A second study looked at the extent to which small and medium-sized extractive companies and financial institutions recognized or adopted the WBG's social and environmental policies. It is widely assumed that the WBG's Safeguard Policies have been adapted by the industry at large. Because small and medium-sized companies and financial institutions did not participate in the regional workshops, this topic was not expected to come up during the consultations, which is why the research was commissioned.

Another commissioned paper focused on the relationship between indigenous peoples, extractive industries, and the World Bank Group. It encompassed a number of case studies that were later discussed at a workshop in Oxford. Support for this research was based on the desire to give extra space for consultations with the more vulnerable groups affected directly or indirectly by WBG activities in the extractive industries.

A fourth study reports on community perspectives on WBG investments in extractive industries, including two case studies from Turkey and Bolivia. It has been rather difficult for the EIR to reach out and consult affected communities directly, and this research was one means of filling this gap and soliciting views directly from communities living at or near a WBG project site.

Another report provided analysis of various stakeholders' views, comments, and inputs on the World Bank Group's role in small-scale mining, which surfaced as one of the main topics in the course of the EIR consultations. This collection and analysis of stakeholder views supplements inputs received during discussions at three regional workshops.

The final commissioned research was a map-based analysis of mining and its potential impact on critical ecosystems and communities. The impacts of mining on critical ecosystems and communities were of real concern to many participants in the EIR process, and this research aimed to enhance the EIR's understanding of these issues.

Annex Box 1–1. EIR Project Visits

Discussions with people at and near project sites provided firsthand experiences and a deeper understanding of stakeholder perspectives on projects.

Papua New Guinea — The first project visit, in August 2002, focused on observing and understanding the economic, social, and environmental impacts of extractive industry developments in Papua New Guinea—a country of high biodiversity, rich in natural resources, but with poor development indicators.

The EIR visited the Lihir and Misima gold mines and the Kutubu Petroleum project and held meetings with government agencies, industry representatives, and civil society in Port Moresby.

Chad-Cameroon Oil Pipeline Development Project, Chad and Cameroon — The EIR traveled to Africa in October 2002 to assess the Chad-Cameroon Oil Pipeline Development Project. The team held meetings with stakeholders in Chad and Cameroon and visited project sites and local communities in both countries.

Mozal Aluminum Smelter, Mozambique — For the third project visit, Dr. Salim and the team paid a brief visit in January 2003 to the Beluluane Industrial Park to see the Mozal Aluminum Smelter Project.

EKATI Diamond Mine, Sub-Arctic Canada — In February 2003, the EIR visited the extremely well run and profitable Ekati mine, owned by BHP Billiton. This mine has put Canada directly onto the worldwide diamond mining map and is considered to be one of the most modern in the world. The Impact Benefit Agreement with Aboriginal groups was generally considered satisfactory by all parties and was being continuously monitored and adapted.

Annex Box 1–2. Participation in International Conferences

World Mines Ministries Forum 2002, Toronto, Canada

In March 2002, Dr. Salim chaired a session at the World Mines Ministries Forum 2002, asking interested participants from mixed stakeholder backgrounds to discuss what role the World Bank Group should play in assisting countries to improve the value of their mineral development, as well as how and whether this role should be altered.

Global Mining Initiative, Toronto, Canada

Dr. Salim attended the GMI conference in Toronto in May 2002 and presented the process of the EIR as well as the recommendations from the first regional workshop in Rio.

Mine Ministries of the Americas Conference (CAMMA), Santo Domingo, Dominican Republic

In March 2003, Dr. Salim had a special dialogue on the Extractive Industries Review process with the Mine Ministries of the Americas Conference (CAMMA) in Santo Domingo. He raised some specific issues on mining, including small-scale mining activities in Latin America and the Caribbean and market access for minerals and metals.

Conferences and Informal Discussions with Stakeholders

The EIR received a good deal of input at international conferences (see Annex Box 1–2) and through informal discussions and exchanges with key stakeholders.

In July 2002, the EIR met in London with Anglo-American, BHP Billiton, Rio Tinto, British Petroleum, Shell, ExxonMobil, Chevron-Texaco, and the European Bank for Reconstruction and Development. These informal discussions centered on the role of the IFC for companies, the follow-up process for MMSD, and the WBG's role in facilitating a transition to clean energy.

The EIR also met with a number of NGO representatives in the office of the London-based NGO Global Witness to discuss corruption and transparency issues. The NGOs stressed that voluntary disclosure would not work; rather, transparency and disclosure have to be applied uniformly. They urged the WBG and IMF to push for transparency with every instrument at their disposal, for instance through the Country Assistance Strategy. The WBG could further facilitate disclosure by laying out ground rules for disclosure in its operating procedures.

In November 2002, Dr. Salim had meetings in Australia with stakeholders from BHP Billiton, Oxfam Australia, and the Australian Business Council for Sustainable Energy. Discussions with BHP Billiton focused on how the WBG could help promote the climate for foreign direct investment in the poorest countries of the world and thus have a greater impact on sustainable development and poverty alleviation. The visit to Community Aid Abroad (CAA)/Oxfam Australia's Mining Ombudsman focused on dispute mechanisms within the mining industry. CAA's Mining Ombudsman recommended that an independent, international, rights-based "grievance mechanism" be established for communities affected by mining.

The Australian Business Council for Sustainable Energy suggested that Country Assistance Strategies identify renewable energy resources and create an enabling climate for a country to move to renewable energy and for fair competition for renewable energy companies.

In Manila, Dr. Salim participated in the 2nd World Conference on Green Productivity in December 2002. Following this he had discussions at the Asian Development Bank that highlighted the need for fuels to achieve growth in Asia. Abundant coal reserves in China, India, Pakistan, and Indonesia could provide fuel at a relatively modest cost. And with consumption set to escalate, Asia could become a major contributor to global climate change. It was suggested that the World Bank Group and the Asian Development Bank should counter this with an Asian development strategy.

In January 2003, Dr. Salim met in Guillin-Beijing with officials from the Government of China, extractive industry business leaders, the academic community, and a number of NGOs to learn about their views on EIR-related issues. Given China's huge population and aspirations to develop according to the dominant energy-intensive trend, Dr. Salim particularly wanted to know what related environmental strategies existed and what climate-friendly energy strategies were being developed. Dr. Salim invited people to participate in the Asia Pacific regional workshop. He also met with World Bank and IFC staff in Beijing.

In India, Dr. Salim met in February 2003 with business leaders, government officials, World Bank Group representatives, and NGOs. Discussions focused on efforts to mitigate and adapt to climate change, exploring how the WBG could encourage developing country giants like India and China to fast-track adoption of climate-friendly energy technologies, policies, and practices.

Stakeholders were encouraged to contribute submissions to the EIR and to participate in the upcoming Asia Pacific consultation.

The Process of Report Writing

The EIR's terms of reference set the following guidelines for the report: "Describe the process of consultation, summarize the views and concerns expressed by stakeholders on the future role of the World Bank Group in the extractive industries, identifying, where appropriate, areas of broad consensus and significant alternative views; as well as make recommendations for the World Bank Group to focus, redesign or reconsider, as needed, future World Bank Group policies, programs, projects, and processes in the sector."

The EIR's Eminent Person was responsible for drafting the final report, with assistance from the secretariat and from a 10-person Advisory Group, which convened three times to review and comment on each draft.

The writing process followed the same principles as the consultation process: inclusiveness, transparency, independence, and relevance. The Advisory Group helped to ensure these principles. Moreover, each draft was posted on the Web site and sent to all workshop participants, which enabled a wider array of stakeholders to channel their comments into the writing process. The minutes from each Advisory Group meeting also were posted on the Web site.

Advisory Group

The Advisory Group was set up in June 2003 to support the report writing process, and to help ensure that the final report was credible and honestly reflected all stakeholder views.

The advisors specifically were asked to ensure that:

- the EIR Report focused on whether or not the WBG's support for extractive industries has or could promote the Bank's commitment to poverty alleviation and sustainable development, with due regards to the impacts on women and indigenous peoples;
- the EIR Final Report provided concrete recommendations for the World Bank Group's possible future role in the extractive industries;
- the EIR Final Report accurately reflected the results of the consultations and recommendations put forward by stakeholders within these consultations; and
- the Eminent Person accurately defined the areas of agreement and disagreement resulting from the consultations.

The members of the Advisory Group were selected based on their merit, experience, knowledge, and expertise in the extractives sector, and from a mixed stakeholder background in order to provide a balanced reflection of different stakeholder perspectives on the role of the Bank in the sector. They did not, however, have a formal representative role for any specific stakeholder group, nor does their participation in the Advisory Group indicate endorsement of the report. Organizations are listed for identification purposes only:

- Dr. Herman Daly, Professor, School of Public Affairs, University of Maryland, United States
- Gino Govender, International Federation of Chemical, Energy and Mine and General Workers' Unions (ICEM)
- Wanda Hoskin, Senior Advisor–International, Minerals and Metals Sector, Natural Resources Canada
- Petr Hlobil, International Oil and Climate Coordinator, Central and Eastern Europe Bankwatch Network
- Veronica Huilipan, Coordinator of Mapuche People, Argentina
- The Honorable Mamadou Lamine Loum, Chairman of the Independent Advisory Group for the IFC-IBRD related Chad-Cameroon Oil Pipeline Project and former Prime Minister for Senegal, Senegal
- Fergus MacKay, Coordinator, Legal and Human Rights Programme, Forest Peoples Programme, United Kingdom
- Sir Mark Moody-Stuart, Chairman, Anglo American, plc., United Kingdom
- Petter Nore, Vice-President, Norsk Hydro ASA, Norway
- Dr. Michael Ross, Associate Professor, Department of Political Sciences, University of California, United States

Secretariat

The EIR maintained offices in Jakarta, Indonesia, and Washington, D.C. From time to time the small secretariat was aided by consultants who assisted with specific short-term assignments.

At the time of writing the report, EIR team members were: Chandra Kirana, Julia Grutzner, Rini Sulaiman, Bardolf Paul, Roberta Lovatelli, Roslita Arsyad, Charity Agorsor, Maiko Church, David Cumming, and Jacquelyn Dille. In a part-time capacity, the team was supported by Luke Danielson and Robert Goodland, Contributors to the EIR report; by Ismid Haddad, Personal Advisor to Dr. Salim; and by Linda Starke, Editor.

The EIR is grateful for the contributions of past EIR staff and consultants: Bernard Salome, Ina-Marlene Ruthenberg, Agus Sari, Amy Sweeting, Emily Horgan, Amy Corley, Didier Rancher, Peter Ellwood, Mardi Minangsari, Mohamad Reza, Erlina Jeniwati, Ioana Zamfir, and Corina Cotenescu.

Delivery of the EIR Final Report to the WBG President and the Public

The report was delivered to World Bank Group President James Wolfensohn in January 2004. It was released to the public before the Lisbon workshop through the EIR Web site.

Annex 2: World Bank in the Extractive Industries

Annex 2. The World Bank Group in Extractive Industries

This Annex draws on information from the World Bank Group and elsewhere to look at the WBG's activities in extractive industries, including what they are and how they have evolved over time. Only upstream activities, exploration and production, are considered; downstream activities, refining and marketing, are not included.

The WBG consists of five institutions, each with a distinct role in the effort to fight poverty and improve living standards for people in the developing world. These institutions are the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA), which combined are also known as the World Bank; the International Finance Corporation (IFC); the Multilateral Investment Guarantee Agency (MIGA); and the International Centre for Settlement of Investment Disputes (ICSID).

The role played by the WBG in extractive industries is seen as part of its commitment to reducing poverty and meeting the Millennium Development Goals adopted by the international community at the United Nations in September 2000. These goals are to eradicate extreme poverty and hunger; achieve universal primary education; promote gender equality and empower women; reduce child mortality; improve maternal health; combat HIV/AIDS, malaria, and other diseases; ensure environmental sustainability; and develop a Global Partnership for Development.

The WBG believes that the development of extractive industries can contribute to sustainable development and poverty alleviation. Extractive industries can encourage economic growth in developing countries by generating revenue and employment and by acting as a trigger for infrastructure development, education, training, and entrepreneurial activity. The large revenues that governments receive from extractive industries projects can be used effectively to support other development priorities. Extractive industries in developing countries are expected to continue to grow over the next two to three decades, in large part responding to growing demand for their outputs in these countries. The sector will thus be an important one for economic development for many WBG developing-country members.

Yet investments in extractive industries involve tradeoffs between benefits, costs, and risks that need to be managed carefully by governments, investors, and communities. These tradeoffs fall into three broad categories of impact: economic, social, and environmental. WBG involvement in extractive industries is designed to help in managing these tradeoffs and in maximizing the contribution that extractive industries will make to sustainable development and to meeting the Millennium Development Goals.

The World Bank Group works with governments, private industry, civil society, and other stakeholders in the extractive industries sector. The objectives of WBG activities include:

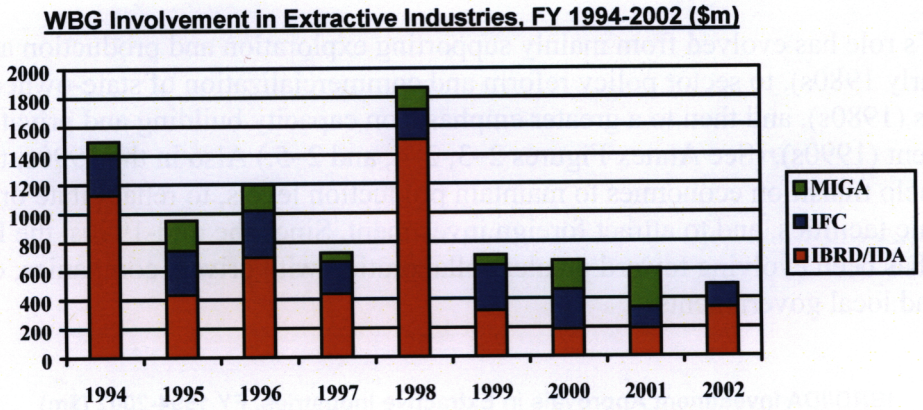
1. Supporting the contribution of extractive industries to economic growth and poverty alleviation by:
   - assisting governments to reform their oil, gas, and mining sectors and creating effective frameworks for sustainable private-sector investments;
   - mobilizing finance for private investments and working with private-sector clients to enhance the effectiveness of their operations;
   - helping governments manage the transition to market-based and sustainable development, including restructuring and privatizing state enterprises; and
   - helping governments improve their governance and management of resource revenues.

2. Helping improve governance in developing countries by:
   - reducing poverty through the wise use of resource wealth;
   - equipping governments to effectively manage natural resources, focus on revenue management and governance, work with local communities, and deal with the legacies of past investments;
   - helping governments provide the best framework for private industry;
   - providing support for the private sector in high-risk and frontier countries; and
   - adding development value by promoting small- and medium-sized enterprise development, building local skills, and maximizing local benefits.

3. Helping mitigate adverse social and environmental impacts by:
   - advising private investors on environmental impact and social impact assessments and on their remediation and consultation plans and activities;
   - providing assistance to governments to deal with negative environmental and social legacies;
   - using best practice groups and partnerships to develop consensus and best practices in the application of WBG guidelines, even in projects where the WBG is not directly involved; and
   - encouraging the preparation of strategic studies to assess the environmental and social costs of potential investment in a given area and to analyze potential alternatives.

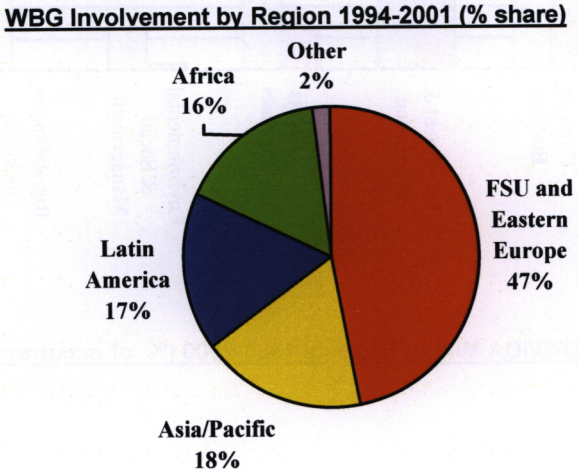
The WBG's Portfolio in the Extractive Industries

In the years since the 1992 Rio Declaration at the U.N. Conference on Environment and Development, the pattern of WBG lending in extractive industries has been volatile, with an overall decline in recent years.[1] (See Annex Figure 2–1.) The share of extractive industries in the Bank's overall lending declined from 4 percent in the 1980s to under 2 percent in the 1990s. This reflects in part changing WBG priorities and industry trends. IBRD and IDA have increasingly withdrawn from direct lending to governments and state-owned entities looking to finance new investment in productive capacity in favor of sector reform and institutional capacity building. At the same time, the WBG has become involved in the Former Soviet Union and Eastern Europe, particularly in connection with privatization initiatives or mitigation of the impacts of the closure of uneconomic mines. More and more investment in extractive industries is taking place in the private sector. Accordingly, the IFC and MIGA share of overall investment has increased.



The majority of WBG lending in the past decade has been to the Former Soviet Union and Eastern European countries (see Annex Figure 2–2), many of which have restructured their extractive industries sectors, opening them to outside investment. Since the mid-1990s, there have been increased opportunities for investment in Asian countries.

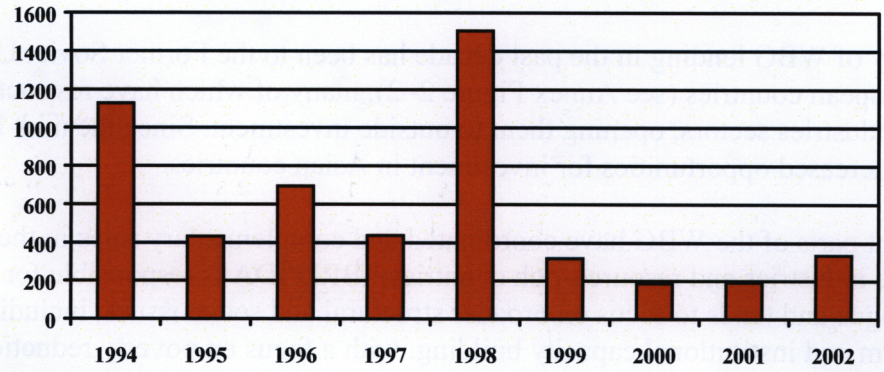
The different parts of the WBG have coordinated and complementary roles in their approach to extractive industries and resource-rich countries. IBRD/IDA is responsible for country policy dialogue and tends to focus on broader structural and social issues, including sector policy reform and institutional capacity building, with a focus on poverty reduction. IFC focuses on attracting private-sector investment, particularly in "high-risk" countries, where its projects were expected to have a catalytic effect in attracting new investments and demonstrating sound management of environmental and social impacts. MIGA specializes in providing political risk guarantees and ensures that the projects it supports comply with applicable environmental and social performance standards. Since the late 1990s, WBG project and policy work in the extractive industries has been coordinated through joint Bank-IFC Global Product Groups in the oil and gas and the mining sectors and through joint Bank-IFC-MIGA Country Assistance Strategies.



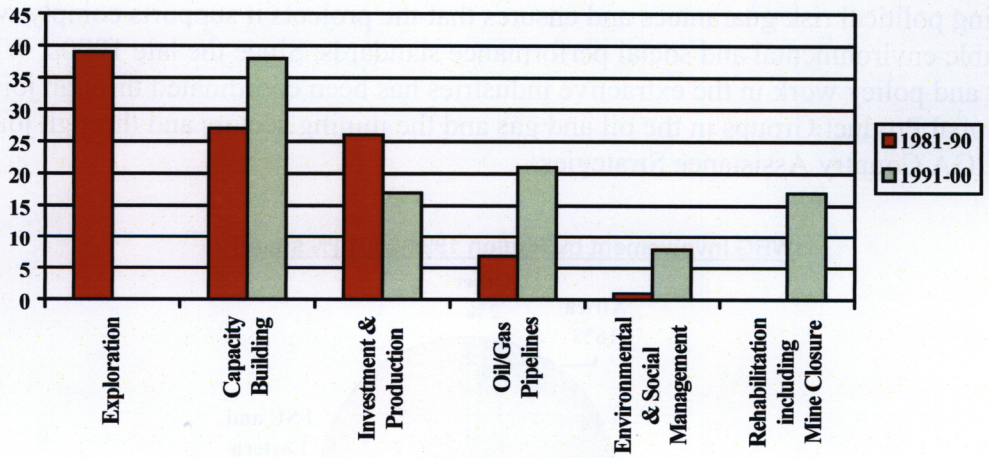
The World Bank (IBRD/IDA)

The Bank's role has evolved from mainly supporting exploration and production activities (1960s–early 1980s), to sector policy reform and commercialization of state-owned enterprises (1980s), and then to a greater emphasis on capacity building and private-sector development (1990s). (See Annex Figures 2–3, 2–4, and 2–5.) Also in the 1990s, the Bank began to help transition economies to maintain production levels, to rehabilitate or close uneconomic facilities, and to attract foreign investment. Since the mid-1990s, the Bank's approach has been evolving toward greater collaboration with private companies, civil society, and local governments.

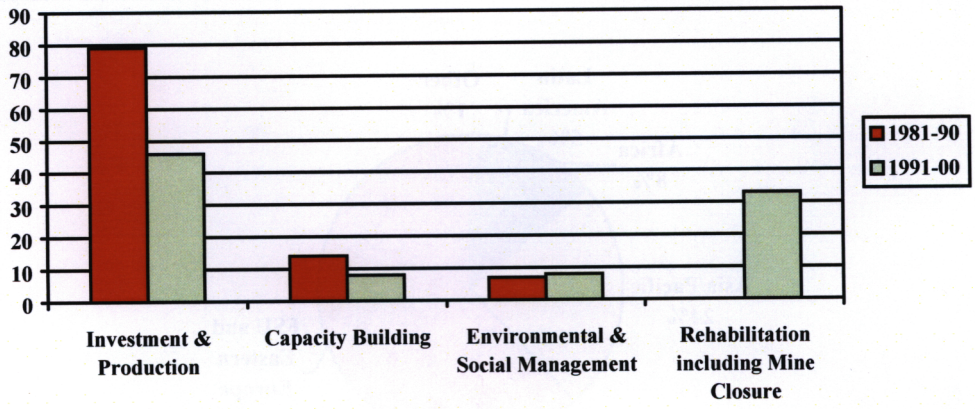
IBRD/IDA Investment Approvals in Extractive Industries, FY 1994-2002 ($m)



Primary objectives of IBRD/IDA Oil & Gas Projects 1980-2000 (% of occurrences of objective)

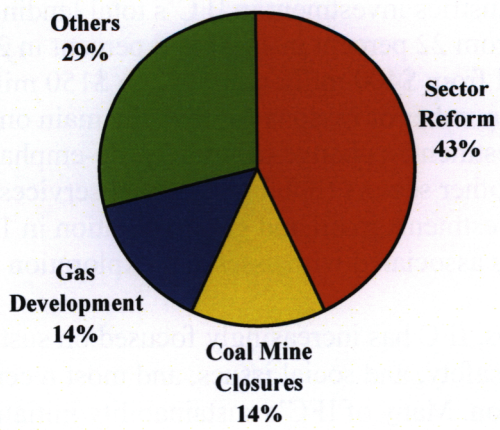


Primary objectives of IBRD/IDA Mining Projects 1980-2000 (% of occurrences of objective)



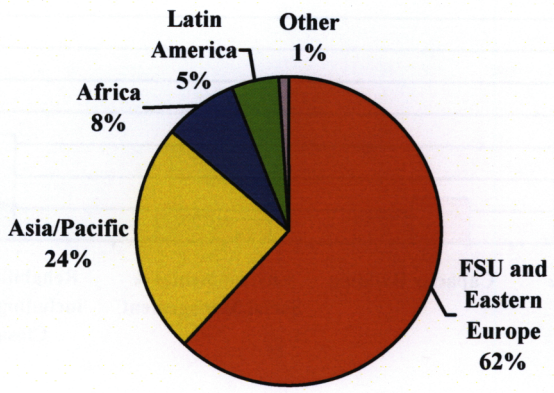
The World Bank has to a large extent withdrawn from financing government/state-owned projects whose sole or dominant objective is to invest in new production capacity in oil and mining. The WBG approach is predicated on the evidence that production investments and operations are generally best made and operated by the private sector within an appropriate regulatory and market framework. As a result, as of the late 1980s IBRD/IDA programs emphasized financial and technical support to countries to enable them to undertake regulatory and institutional reforms. Exceptions to this general approach have included a few large "sector rehabilitation projects," the objectives of which included a combination of reform measures and steps to increase production or productivity, and some gas development projects. (See Annex Figure 2–6.)

IBRD/IDA Approvals by sub-sector FY 1994-2001 (% share of total number of projects)



The fall of the Soviet Union led to a significant increase in WBG extractive industry activities in the Former Soviet Union and Eastern Europe. IBRD/IDA investment approvals in this region accounted for more than 60 percent of total extractive industry lending by volume for the period 1994–2001. (See Annex Figure 2–7.)

IBRD/IDA Investment Approvals by Region 1994-2001 (% share of total lending volume)



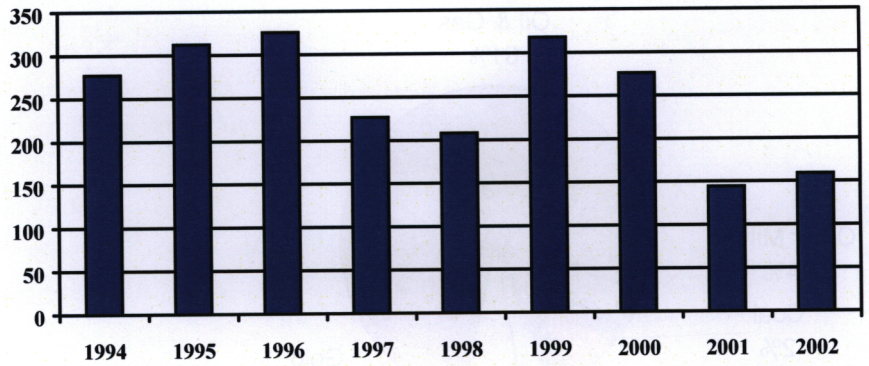
The International Finance Corporation

IFC has focused on countries where its value added, as a catalytic agent and neutral third party between governments and private investors, was greatest. During the period 1980–92, IFC approvals in extractive industries increased dramatically, from $80 million to $400 million. This increase was broadly inline with overall growth throughout the institution. Investments in extractive industries are volatile, due to the large size of individual projects and commodity price cycles. Approval volumes during 1980–92 ranged from $30 million to $400 million, and the sector accounted for between 5 and 25 percent of total IFC approval volume.

The share of extractive industries investment in IFC's total lending portfolio has decreased substantially since 1992, from 22 percent in 1990 to 6 percent in 2001. Overall approval volume, while volatile, fell from $400 million in 1992 to $150 million in 2001. (See Annex Figure 2–8.) There were a number of reasons for this, the main ones being falling commodity prices, which lowered investment; a change in strategy, de-emphasizing extractive industries in favor of investments in other sectors (notably financial services and infrastructure); and a decision to discontinue investments in oil and gas exploration in 1992, mainly because of poor results and difficulties associated with assessing exploration risks.

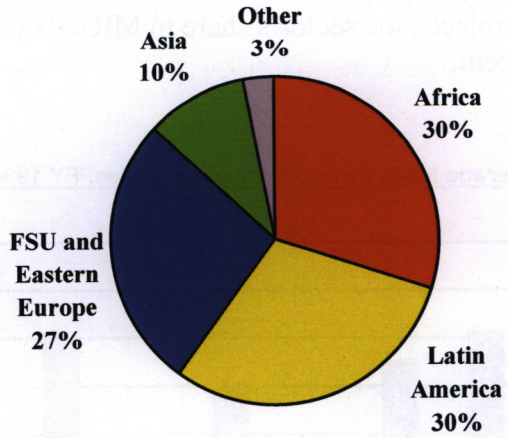
Since the mid- to late 1990s, IFC has increasingly focused on sustainability, especially environmental, health and safety, and social issues, and most recently, on revenue management and distribution. Many of IFC's sustainability initiatives (such as SME linkages and IFC Against AIDS) have a particular relevance to and focus on the extractive industries sector.

IFC Investment Approvals in Extractive Industries, FY 1994-2002 ($m)



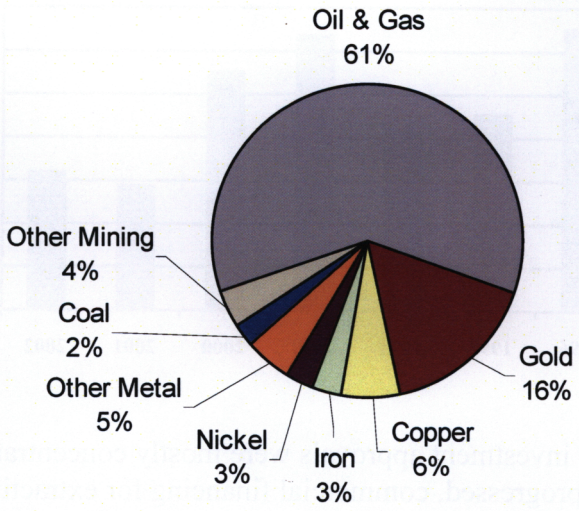
During the 1980s and 1990s, IFC's investment approvals were mostly concentrated in Latin America and Africa. As the 1990s progressed, commercial financing for extractive industries became more readily available in Latin America, and IFC began to scale back involvement in the region, largely withdrawing from new investments in Chile, Brazil and Argentina. After the fall of the Soviet Union, governments in the region began opening up their resources to private investors, and IFC began making investments. (See Annex Figure 2–9.) With the Asia crisis in the late 1990s, IFC found itself facing new demands to support private sector investment areas where it had not been active for some time.

IFC Investment Approvals by Region 1994-2001 (% share of total lending volume)



IFC's extractive industries portfolio is concentrated in oil and gas, while gold and copper are the most important minerals. (See Annex Figure 2–10.)

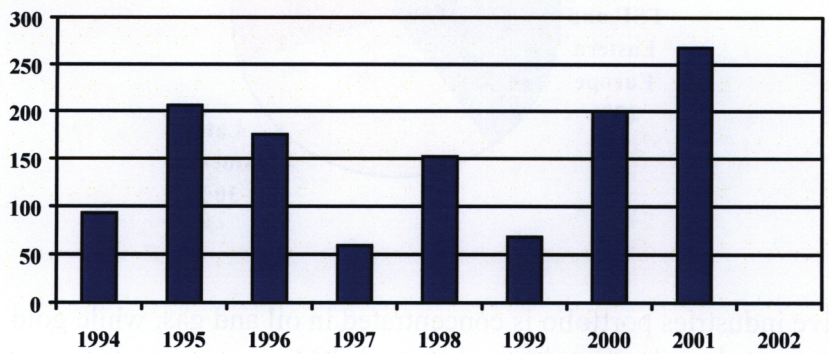
IFC Investment Approvals by Sector 1990-2002 (% share of total lending volume)



The Multilateral Investment Guarantee Agency

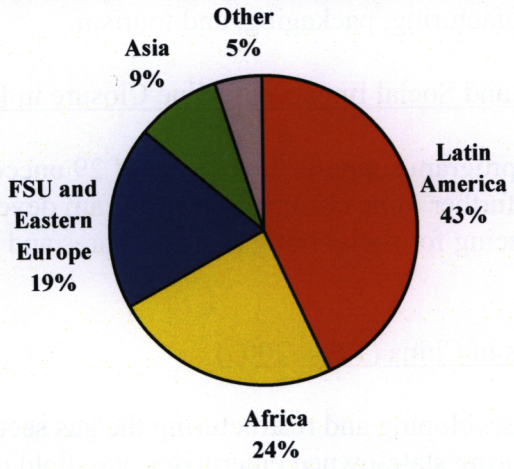
MIGA has supported extractive industries with political risk guarantees and, to a lesser extent, technical assistance and advisory services. MIGA's early involvement was heavily concentrated in the mining sector. Between 1990 and December 2002, MIGA provided guarantees for 31 projects in extractive industries, most of them in mining. Throughout the 1990s, there was high demand for MIGA insurance, with large operations in countries with higher political risk profiles. (See Annex Figure 2–11.) Due to the low volume of new guarantees in extractive industries projects since 2001, and cancellation and expiration of MIGA coverage for some projects, the sector's share in MIGA's portfolio has continued to decrease and is now 11 percent.

MIGA Coverage Issued in Extractive industries, FY 1994-2002 ($m)

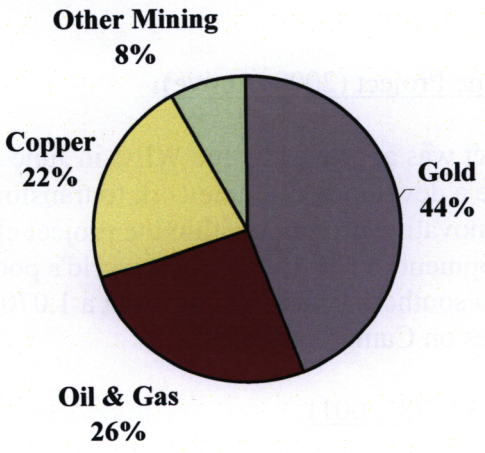


Latin America has been the most important destination for coverage offered by MIGA in extractive industries, followed by Africa and FSU/Eastern Europe. (See Annex Figure 2–12.) MIGA's guarantee portfolio is concentrated in gold, oil and gas, and copper. (See Annex Figure 2–13.)

MIGA Coverage Issued by Region 1994-2001 (% share)



MIGA Coverage Issued by Sector 1990-2002 (% share)



Examples of WBG Projects

Mineral Resources Governance in Madagascar (1998–Active)

The project is intended to build capacity and improve governance at a local and regional level through strengthened transparency and governance in mining, key institutional reforms for the decentralized management of mineral resources, promotion of private investment and value-added in the sector, and project coordination and management.

Building Mining Sector Capacity in Mauritania (1999–Active)

IDA is working to develop capacity through local economic development in mining areas, geo-information and development, capacity building of public mining institutions, and project management. IDA is also implementing a small grants program to help artisanal and small-scale miners diversify into other areas of economic activity, including supply-chain activities, services, agriculture, manufacturing, packaging, and tourism.

Mitigating Environmental and Social Impacts of Mine Closure in Romania (2000–Active)

An IBRD/IDA assistance program supports the closure of 29 uneconomic mines, which serves as a model for 174 further mine closures. The program developed a manual for mine closure and provided financing for social mitigation measures and environmental rehabilitation.

Developing Gas Resources in China (1994–2003)

IBRD/IDA is involved in developing and restructuring the gas sector in Sichuan province. Activities include restructuring state-owned enterprises, gas-field development and rehabilitation, and institution-building. Project aims are to improve gas production and conservation, improve efficiency and reduce shortages, and reduce negative environmental impacts.

The Chad Cameroon Pipeline Project (2000–Active)

This joint IBRD/IDA project was approved by the WBG in June 2000. It involves a pioneering attempt to create a development framework to transform oil resources into direct benefits for the poor. An innovative program within the project channels revenues for economic and social development in Chad, one of the world's poorest countries. The project will develop the oil fields in southern Chad and construct a 1,070-kilometer pipeline to offshore oil loading facilities on Cameroon's coast.

Bolivia-Brazil Gas Pipeline (1998–2001)

In 1997, the IBRD approved a $130-million loan and partial risk guarantee for the $2.2-billion Bolivia-Brazil gas pipeline, thereby catalyzing private investment. The project aims to help Bolivia earn export revenue while allowing Brazil to meet short-term future power needs and diversify away from environmentally polluting fuels, such as high-sulfur fuel oil and wood. Given the environmentally sensitive location of the project, an environmental management system unprecedented in Latin America was set up to ensure effective implementation of environmental and compensation measures, including an ombudsman to act as liaison to civil society groups and NGOs.

Why Has WBG Involvement in Extractive Industries Changed?

WBG involvement in extractive industries has changed over time. In the past decade, the shift in the pattern of involvement has generally reflected changes in economic and financial realities. IBRD/IDA's decision to scale back involvement in exploration and production reflected a view that these activities are more efficiently carried out in the private sector. IBRD/IDA activity is now concentrated in sector reform, capacity building, rehabilitation, and mitigation of social and environmental impacts of extractive industries. The role of extractive industries as a share of IFC has fallen in recent years, as noted earlier, in part due to falling commodity prices and a decision to exit from exploration of oil and gas fields for commercial purposes. The geographic dispersion of investments has also changed to reflect political and economic trends. Eastern Europe and the Former Soviet Union have become important areas for investment as the collapse of communism opened up these areas to the World Bank Group. Latin America has become less important for the IFC as private sources of funding become increasingly available.

The falling share of WBG involvement in extractive industries as a percentage of total WBG investments is also due to a strategic shift in management thinking in favor of investment in other areas, notably financial services and infrastructure. The new focus on these areas reflects an increasing belief in their importance for economic development.

Contribution of WBG Involvement in Extractive Industries to Poverty Alleviation and Sustainable Development

IBRD/IDA's Operations Evaluation Department (OED) has described the rationale for IBRD/IDA projects in extractive industries as "based on the expectation that they will support the country's development goals"—an expectation based on an economic appraisal of projects. Economic benefits, as listed by the OED, can include: increased production, increased investment, increased productivity, increased fiscal revenues, job creation, improved environmental conditions (for example, for cleanup projects), and improved legal and regulatory frameworks. There can also be negative social and environmental impacts, including: disruption to local populations, toxic spills, deforestation, air pollution, soil erosion, and increased unemployment after a project's closure.

The WBG has many ways of gathering and analyzing information for measuring development impacts. The Country Assistance Strategy (CAS) is a WBG document prepared in consultation with the country authorities and other stakeholders, intended to provide a framework for development. Based on a country's own development objectives and strategy, the CAS sets out a tailored program to be supported by the WBG. The expected benefits of projects are calculated by using net present value and internal rate of return analysis to calculate the expected financial performance of the project and using economic rate of return analysis to capture all economic impacts of the project within the country, including social and environmental impacts where possible. Project impacts that cannot be quantified are also discussed. IBRD/IDA uses Implementation Completion Reports to document and evaluate the outcomes and impacts of the project. Many of these reports include revised estimates of the economic impact of the project.

In the past, development specialists have focused of assessing the impact of development on economic growth, on the assumption that growth is a prerequisite for poverty alleviation. Research commissioned by the EIR examined the impact of extractive industries on poverty alleviation and found that it is very difficult to draw a direct connection, due to a lack of available data.[2] Among the issues raised by the report are the lack of regional data on poverty alleviation in the area around a project, a lack of qualitative information on the changes of the quality of life for those affected by the project, and inconsistencies in how and when data are gathered. The report states that the WBG often has to resort to proxy estimates of poverty alleviation based on information on employment data from the project, assuming spin-off effects of employment and adding government revenues and taxes.

WBG Partnerships in the Extractive Industries Sector

The WBG uses its convening power to enter into partnerships with other development actors, organize conferences, and encourage the sharing of knowledge and best practice in the extractive industries arena. Examples include the Global Gas Flaring Reduction Initiative, the World Forum on Energy Regulation, and the Communities and Small-Scale Mining initiative (CASM).

The WBG was one of the sponsors of the CASM initiative in March 2001. CASM aims to improve the economic, social, and environmental performance of artisanal and small-scale mining (ASM) activity. It operates as a forum bringing shareholders together to discuss and share "best practice" in ASM, and to improve the level of information available regarding the sector. It also aims to match potential projects with sources of funding. Several IBRD/IDA projects have had ASM issues as significant components; project involvement included improvement of the legal framework or formalization of ASM activities, increasing tax revenues, capacity building for the government in dealing with the ASM sector, improving production and efficiency, and improving environmental awareness and management.

Safeguard Policies

IBRD and IDA have the following Safeguard Policies and procedures in effect; IFC and MIGA policies and procedures are broadly similar:

- OP/BP 4.01 Environmental Assessment
- OP/BP 4.04 Natural Habitats
- OP 4.09 Pest Management
- OP/BP 4.12 Involuntary Resettlement
- OD 4.20 Indigenous Peoples
- OP 4.36 Forestry
- OP/BP 4.37 Safety of Dams
- OPN 11.03 Cultural Property
- OP/BP 7.50 Projects on International Waterways
- OP/BP 7.60 Projects in Disputed Areas

Several of these have particular relevance to projects involving extractive industries. OP/BP 4.01, for example, requires an assessment of projects proposed for IBRD/IDA financing to help ensure they are environmentally sound and sustainable. The diligence of the environmental assessment (EA) depends on the potential impact of the project; IBRD/IDA undertakes an environmental screening of each proposed project to determine the appropriate scope of the EA. Projects are categorized depending on their likely environmental impact:

- *Category A:* Likely to have significant adverse environmental impacts. Borrower is required to conduct a full EA, examining the project's potential negative and positive environmental impacts, comparing alternatives (including a "no project" option), and recommending any measures needed to prevent, minimize, mitigate, or compensate for adverse effects and improve environmental performance.

- *Category B:* Likely to have less significant adverse effects than a Category A project. As before, an EA is required to examine impacts and provide remedies. The scope of the EA varies from project to project, but is narrower than for Category A projects.

- *Category C:* Likely to have no or minimal environmental impact. No EA required.

Under OP/BP 4.04, IBRD/IDA does not support projects that degrade or convert critical habitats. Projects that affect noncritical natural habitats should only be supported where no alternative exists, where the benefits significantly outweigh the costs, and where acceptable mitigation procedures are established (for example, minimizing habitat loss or establishing and maintaining an ecologically similar protected area).

Under OP/BP 4.12, involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs. Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs. Displaced persons should be assisted in their efforts to improve their livelihoods and standard of living, or at least to restore them in real terms to pre-displacement level or to the level prevailing prior to the beginning of project implementation, whichever is higher.

IBRD/IDA's objective under OD 4.20 is to ensure that indigenous peoples do not suffer adverse effects during the development process, particularly from IBRD/IDA-financed projects, and that they receive culturally compatible social and economic benefits. IBRD/IDA's policy is that the strategy for action must be based on the informed participation of indigenous peoples themselves. If an investment project affects indigenous peoples, the borrower should prepare an indigenous peoples development plan that is consistent with this policy. The plan should incorporate:

- a legal framework covering the status and rights of the indigenous peoples;
- baseline studies covering, for example, the habitat and social structure of the Indigenous population;
- information on land tenure of the indigenous peoples, which should be strengthened where necessary;
- a strategy for local participation by indigenous peoples; and

- provisions for independent monitoring and evaluation when the borrower has weak capacity.

Under OP/BP 7.60, IBRD/IDA should only undertake projects in internationally disputed areas when all parties have no objection to the project, unless it can be shown that an objecting party would not be adversely affected or if IBRD/IDA is satisfied that the claim to the area has not won international recognition or been actively pursued.

Notes

[1] WBG 2003c; OED, OEG, and OEU 2003; WBG 2001j.
[2] Gibson 2003.

Annex 3: Industry's Views

Annex 3. Industry's Views

Multinational Corporations

The EIR consulted with a mix of multinational corporations from the oil, gas, and mining sectors, both through informal consultations and discussions as well as through the five EIR Regional Consultations. A number of companies also provided formal submissions to the EIR. The inputs received from all these different activities provided the basis for this presentation of multinational corporation views.

Within the EIR context, companies point out the importance of focusing on "sustainable development" rather than "sustainability," as the latter focuses on whether a particular activity can be maintained in likely future scenarios. Sustainable development, on the other hand, focuses on the scope for continuing human development, which does not necessarily require sustaining particular resources. Indeed, extractive industry projects can be seen as the conversion of natural capital into the human and other forms of capital that are required to realize human development. Sustainable development requires that the opportunities available to future generations should be no less than those available to current generations. It is not expected that these opportunities will be identical. The important consideration is that the "basket" of opportunities is greater than before—in other words, that the sustainable standard of living, adjusted to account for all external costs, has grown.[1]

The oil and gas industries fully recognize the importance of setting environmental, social, health, and product stewardship policies that have global objectives and applications.[2] Similarly, the mining industry is also moving forward in achieving higher standards of environmental and social responsibility, while fully recognizing the business case for sustainable development, which includes the following benefits: lower labor costs and more innovative solutions, lower health costs, savings due to cleaner production methods, lower closure and post-closure costs, easier access to lenders and insurers, and improved reputation and enhanced market value.[3]

The World Bank Group is considered to have an important role in promoting sustainable development and poverty alleviation in connection with several main issues: climate change, small-scale mining, cleaning up the legacy of the past, promoting good governance, and raising the bar in setting high standards oriented toward sustainable development and poverty alleviation within the extractive industry sector.

The Potential Role of Extractive Industries in Poverty Alleviation

Many countries around the world receive large incomes from the oil, gas, and mining sector. Recent figures show annual oil and gas incomes of around $35 billion for Mexico, $30 billion for Venezuela, and $22 billion for Nigeria. Similarly, mining often constitutes a large percentage of foreign direct investment in poor countries, especially in Africa, where it

constitutes 23 percent of these funds.[4] These incomes are seen as having enormous potential for good. Good revenue management can help the extractive industry sector have positive impacts on poverty alleviation. In Campos, Brazil, for example, oil and gas revenues received by the city are used to construct hospitals and clinics, provide paved roads and modern sewer systems, and place street children in schools. The extractive industry community admits this is not always the case, commonly recognizing that the temptation to abuse this wealth is also immense.[5] However, this high economic rent also should be seen in positive terms as a transfer from a consuming to a producing country. Strong governance systems can prevent negative economic outcomes.

Mining is not a major employer. The International Labour Organization (ILO) estimates that following significant job losses throughout the formal mining industry over the past 15 years or so due to widespread restructuring and privatization, global mining employment is now about 10–11 million, more than half of whom are in coal mines. This is well under 1 percent of the world's work force and is now about the same or less than the 11–13 million estimated to be engaged in small-scale mining—the first time that employment in these two parts of the sector have been on a par. Taking into account dependants, it is estimated that the number of people relying on mining for a living, both large-scale and small-scale, is likely to be about 150 million people.[6]

Transfer of technology and the training of work forces is also an area where industry significantly benefits poverty alleviation through the creation of potentially sustainable employment and other income-generating opportunities. Many companies are increasingly seeking to use nationals of countries in which they invest and to provide training to make the necessary skills available and resolve skill gaps. Anglo American, for example, has a specialist small and medium scale enterprise support unit and venture capital fund in South Africa named Zimele that offers assistance, including finance, training, and advice, to the development of the smaller companies associated with its operations. Zimele's portfolio in 2002 included 21 black empowerment ventures with a collective turnover of $17 million and employment of over 1,200 people.[7]

Most companies also provide direct benefits to the communities they are operating in, such as educational facilities or opportunities through scholarships in the form of corporate support or trust funds or foundations.[8] Mining companies are also working more closely with nongovernmental organizations (NGOs) to improve social responsibility records. For example, Compania Minera Antamina S.A., a Peruvian mining company, collaborates with many NGOs through financing a range of projects to improve the quality of education, economic development programs, cultural development, livestock breeding, agriculture, and many other subjects.[9] The EIR received many other illustrations of such positive examples from the industry. (See Annex Box 3–1.)

Despite the wealth of examples on how the extractive industries are contributing to poverty alleviation, the industry recognizes that this is not always the case. All EIR regional consultations revealed that industry is critically aware of the "paradox of plenty," whereby communities and nations are not benefiting from their oil, gas, and mining wealth because this wealth is being squandered through bad governance and corruption. Having said that, industry

is of the opinion that there is no automatic correlation between dependence on mining, oil, and gas production and poor economic growth and that the way forward should be to focus on the factors associated with good performance and build on them.

Annex Box 3–1. The Case of Colombia and Cerro Matoso

Cerro Matoso S.A. (CMSA), operating in the northern part of Colombia since 1982, produces approximately 5 percent of the world's nickel output in the form of ferronickel, a preferred product for the manufacture of Stainless Steel. Virtually all its production is exported. CMSA has enjoyed strong support from its work force and host communities in its region of operation. This has been attributed to the company's proactive approach to social and environmental issues, as well as its positive impact on the local economy. From the start of the development phase of the mine and production facility in 1980, CMSA has implemented a policy of social responsibility and a well-considered and sensitive approach to development of the local economy, which has created acceptance and support within the region. Irrespective of the difficult political and economic circumstances in the country, an expansion project to double processing capacity was approved in 1998, resulting in the direct investment of an additional $300 million.

Between 1989 and 1999, CMSA generated an average of $145 million per year in export revenues. The new investment is expected to increase annual export revenues to $375 million, forecast for the year 2004. CMSA employs 940 people directly and, perhaps more important, at least 3,000 indirectly. Cerro Matoso is a Colombian-managed company that has invested heavily in training its work force and is recognized as a preferred employer in the country. Normally only two or three of Cerro Matoso's employees are non-Colombian, and at least that many of its Colombian employees are gaining experience and giving their support, on secondment, to related companies outside Colombia.

World Bank environmental standards were employed for the expansion project. It is an explicit CMSA policy that safety, occupational health, and environmental protection have priority over production; ISO 9001 and ISO 14001 certifications are part of the Cerro Matoso total quality management system. The combination of high standards on environmental and social programs is considered to be a key success factor for the business.

On the social side, three foundations have been established with a total expenditure in FY02 of $5.3 million. The Montelibano Educational Foundation focuses on education for employees and their families and also provides places for local students with no links to the company, while the Panzenu Foundation concentrates on health services for the workers and their families. The San Isidro Foundation is an independent body supported by Cerro Matoso. It aims to improve the quality of life of the communities within the CMSA area of influence, and typically Cerro Matoso invests in excess of $1 million a year in this foundation's work. Its efforts are focused on building a robust local economy that will continue to develop and thrive beyond the life of the Cerro Matoso operation itself. It provides planning, technical support and financial assistance to local enterprises and communities in the areas of commerce, economic development, education, and training of public officials and community leaders, and it also spearheads technology transfer initiatives in the local communities. These activities, developed in the spirit of true sustainable development and managed by or in

essential "license to operate" in Colombia, enabling the business to deliver improved economic and social outcomes while generating increased direct investment and significant employment and export earnings.

Source: International Council on Mining & Metals (ICMM), December 2002. *Spreading the Wealth: The Role of the World Bank Group in Mining.*

Countries should focus on promoting good policy and sound governance instead of rejecting their resource industries. ICMM believes there is every reason for mining to contribute very positively to sustainable development and poverty alleviation. Even if extractive industry companies pay greater respect to their social, economic, and environmental impacts than in the past, however, many countries continue to be poorly governed. Good governance needs to be ensured, and the WBG is well placed to influence this.[10]

The Importance of Government's Role

Industry is very clear in asserting that they cannot and will not take the role of government in providing public services that should be the responsibility of government. *Agenda 21*, from the Rio Conference in 1992, states quite clearly that "the ultimate responsibility for sustainable development rests first and foremost with national governments." The mining industry also feels strongly that governments need to face the challenges in promoting the metal and mineral industry's contribution to sustainable development by, for example:

- ensuring that metals are produced, transported, used, recycled and disposed of safely by the industry;
- ensuring that decisionmaking (for instance, material selection and regulations) is based on precise and explicit criteria, as well as on cost-effective and timely risk assessment that takes into account the special characteristic of metals and metal-containing products;
- ensuring openness and transparency and that the views of all stakeholders are taken into account in decisionmaking processes likely to affect them;
- establishing market incentives to encourage product design, technologies, and uses that promotes the recycle-ability as well as the economic collection and recovery of metals; and
- taking the lead in ensuring that the benefits from mineral development are fully realized through effective economic and development policies and to encourage partnership involving other organizations, stakeholder groups, and the industry.[11]

The importance of good governance as a prerequisite for extractive industries to be able to contribute to sustainable development and poverty alleviation was emphasized and articulated over and over by stakeholders from the private sector throughout the EIR process. The most important aspects of governance that received attention were transparency of revenues, corruption, weak legal systems, the lack of capacity at all levels, and, in some cases, political instability and security issues.

<u>Transparency and Corruption</u>

One of the most important governance issues for the extractive industries in resource-rich developing countries is the ability to collect and manage revenue for the benefit of sustainable development and poverty alleviation. Many resource-rich countries receive large amounts of revenue and income from their extractive industries, but the lack of transparency and rampant corruption may prevent this income from benefiting development and poor people. This observation surfaced in all EIR regional consultations, informal discussions, and submissions from various extractive industries companies. The UK Government's Extractive Industries Transparency Initiative, which the World Bank, host governments, NGOs, and industry are engaged in, provides a way to address this issue. In addition, industry stakeholders point out that positive examples do exist where resource-dependent developing countries have managed to use their resource incomes wisely—for example, Botswana. This country is now an upper-middle-income country with a real gross domestic product (GDP) growth of 10 percent, a rise in employment from 31 percent to 46 percent, tertiary education, and improved infrastructure between 1971 and 1996. Diamond mining makes up to 36 percent of GDP, but up to 70 percent of GDP is dependent on diamond mining.[12] Other examples of effective resource management would be Oman and Malaysia.

Lack of Capacity and Weak Legal Systems

Companies are often faced with situations where the policies and practices of governments of host countries are problematic; sometimes policies and practices at the national and local level are not aligned. Furthermore, sometimes government practices and policies may limit the ability of companies to implement their social policies.[13] Weak regulations and lack of capacity may also result in serious environmental problems—for example, the inability of the Indonesian government to address conservation issues in the Lorentz World Heritage Site, adjacent to Freeport McMoRan's Grasberg mine. As a result of this lack of capacity, 28,000 illegal gold miners are operating in the area and releasing about 14 tons of mercury a year into the environment.[14]

Within the context of sustainable development many resource-rich developing countries may lack the capacity:

- to set strong environmental, social, and economic regulations that promote sustainable development within the extractive industry sector;
- to negotiate large projects for the benefit of the country's sustainable development;[15] and
- to set and implement sound pro-poor fiscal policies that are transparent and accountable.

Political Stability and Security

Many companies continuously face major external issues such as the political stability and organization of the countries in which projects are operating. In many developing countries, extractive industry companies must learn how to work with the army and police force to ensure protection. This becomes problematic for these companies when these forces have human rights violation records.[16] Companies are aware that the methods they use to address major security events may affect the way projects are perceived by the public, and they regard security of employees and property as an important part of ongoing project management.

Many of the more progressive companies have written policies and guidelines to govern arrangements with security forces that are sensitive to human rights issues and are consistent with international standards of law enforcement such as the U.S. and U.K. Voluntary Principles on Security and Human Rights.[17]

The Importance of the WBG's Involvement

Industry in general notes that the World Bank Group plays a very important role and that there is a continued need for the WBG to be involved in the extractive sector as it works to move closer to sustainable development principles and contribute more proactively to poverty alleviation.

Helping Countries Open Economies by Providing Political Risk Insurance

Until now the WBG has played a positive role in a number of industry projects, and it has also had an indirect influence on the mining or petroleum business environment of many developing countries. In BHP Billiton's experience, for example, "the WBG has often brought an independent 'voice of reason' during difficult periods, as well as bringing financial capital and political risk insurance."[18] This can help projects to start in otherwise entirely unattractive circumstances. For example, the Mozal project in Mozambique was conceived immediately after significant political turmoil had caused great difficulty for the country to attract foreign direct investment. Within this kind of context, the WBG plays an important role in helping countries open their economies to investment and trade at a critical point of their histories. This role needs to continue in the future.[19]

Ensuring More Responsible Practices through Safeguard Policies

The WBG potentially has the convening power to ensure that environmental and social standards are achieved in the extractive sector, thus helping to ensure that social and environmental costs are internalized by companies and their equity owners or beneficiaries.[20] The World Bank's guidelines are seen as an important asset of the Bank. They have been very influential as guidance, even where the Bank is not directly participating in projects. But the priority now has to be to find ways to make the influence of "best practice" and Safeguard Policies extend through more of the project cycle. The impact at present is too focused on the project design and loan approval stage, and mechanisms have to be found to extend it through the whole life of the project, including the closure and post-closure periods. One mechanism that may be able to help is greater use of third-party monitors, along with greater transparency and dissemination of their evaluation efforts.

Helping Governments Improve Governance Capacity

The fact that the WBG is endowed with specific expertise and has programs available to develop capacity in revenue management in the mining, oil, and gas sector is essential in helping developing countries to design and manage government revenue systems to ensure sustainable development and poverty alleviation.[21] The recent launch of the Equator

Principles, based on WBG principles, is one encouraging governance initiative. (See Annex Box 3–2.) The WBG can take a number of steps itself to help promote good governance.

Annex Box 3–2. The Equator Principles

A growing number of private financial partners, most notably the large banks involved in project finance, are incorporating environmental and social guidelines into their financing criteria. This trend gained significant momentum with the June 2003 announcement by 10 leading banks from seven countries of their adoption of the Equator Principles. By the end of July the number had grown to 13 banks from nine countries: ABN Amro Bank, N.V., Barclays PLC, Citigroup, Inc., Credit Lyonnais, Credit Suisse Group, HVB Group, ING Group, MCC, Rabobank, Royal Bank of Canada, Royal Bank of Scotland, WestLB AG, and Westpac Banking Corp.

This move codifies a voluntary set of guidelines for managing social and environmental issues related to the financing of development projects. The principles were developed by the banks, working in conjunction with the IFC, and they are based on World Bank and IFC environmental and social policies and guidelines. They are applicable to project financing activities in all sectors, including mining and oil and gas projects.

Under the Equator Principles, the banks commit to using the IFC's environmental and social screening process, which categorizes projects as A, B, or C (high, medium, or low environmental or social risk). For Category A and B projects, banks will require detailed Environmental Assessments, modeled on existing IFC criteria, and including—where necessary—Environmental Management Plans that address mitigation and monitoring of environmental and social risks.

Significantly, the banks agree to "not provide loans directly to projects where the borrower will not or is unable to comply with our environmental and social policies and practices." In addition, the banks agree to include covenants in their loan conditions to ensure that if environmental and social management plans are not followed and problems are not remedied by borrowers, the banks will have the ability to declare the loans in default. Thus financial partners adopting these principles will have potential leverage in both the project design and execution phases to encourage borrower compliance with WBG environmental and social standards. These banks represent 30 percent of the loan syndication market, underwriting approximately $14.5 billion worth of project loans in 2002 (for all sectors, not just extractive projects), according to Dealogic, a firm that tracks project finance statistics. Their commitment to these principles could serve to accelerate the adoption of environmental and social lending criteria by other financial partners.

The new Equator Principles and their signatories are not without their critics. Citibank has come under heavy criticism for its involvement with Enron, and has been a target of NGOs for some of the projects it has financed in developing countries. The Rainforest Action Network, which has run U.S. television ads criticizing Citibank's environmental practices, also criticized the new Equator Principles as having "loopholes" and insufficient mechanisms to monitor borrowers' practices. "We're not seeing the most ecologically endangered areas pulled off-limits for investment and mega-development projects," said Ilyse Hogue, the Network's global finance campaign director, in a Reuters interview.[3]

Sources: Associates for Global Change, *Impact of the World Bank Group's Social and Environmental Policies on Extractive Companies and Financial Institutions*, submitted to EIR Review, June 2003; Equator Principles Web site, at www.equator-principles.com; IFC, "Leading Banks Adopt Equator Principles," press release, 4 June 2003; Jonathan Stempel, "Banks to Adopt Environmental Rules amid Opposition," Reuters newswire, 3 June 2003.

- The WBG Country Assistance Strategy (CAS) for countries significantly dependent on mining should address the policy framework and capacity-building needs of the sector systematically, especially with respect to better and more transparent management of national expenditure programs and their integration with regional planning needs and local community priorities. The CAS should also focus on pro-poor policymaking and strong civil society participation to ensure executive arms are accountable.[22]

- The WBG should help governments develop resource sector policy by more actively facilitating the transfer of knowledge concerning global best practice in environmental and social standards. WBG support should be offered to support government capacity to impose these high standards.[23]

- In assisting governments to improve their policies to meet best environmental, social, and economic standards the WBG should not stop at influencing policy alone. It is important that the WBG continues to maintain a level of ongoing involvement with established alliances to ensure these policies are accompanied by a mature, transparent, and functioning system of implementation and compliance.[24]

- To improve government planning, the WBG should assist governments to carry out geophysical surveys and mapping. These surveys are costly and often can only be carried out sensibly under the auspices of government agencies. They can have multiple benefits, including land use planning, environmental management, agriculture planning, and water management.[25]

- The WBG could also help improve government capacity by training and educating extractive industries–related civil servants and by helping with the education syllabus and the content of course work.[26]

- Support to individual projects should only be given where the WBG is confident that governance is of sufficient quality to ensure the industry contributes effectively to poverty alleviation and sustainable development.[27]

- The WBG should continue to provide and expand its capacity-building efforts to help regional and central governments set up development plans in mining areas, in order to ensure that the full range of potential benefits can be achieved and the base for sustainable development can be established.[28]

Climate Change

Climate change is recognized as an important issue by the oil, gas, and mining industries.[29] Understandably, there is a distinction between the mining industry and the oil and gas industry in addressing this issue, with the former seeing itself as a producer of resources and the latter as a supplier of energy in all its forms. While actions differ from company to company, the oil and gas industry is acting proactively on the renewable energy issue. The mining sector involved in energy provision is the coal industry, which is addressing the issues predominantly through energy efficiency and technological solutions within the industry itself. The main argument for this is the belief that coal is a must if the world is to meet the global energy needs of the future, especially the energy needs of the poor. The industry points out that huge reductions in carbon dioxide (CO_2) emissions could be made simply by installing state-of-the-art coal-burning technology (with efficiencies of 40–45 percent) in place of older plants, which in many parts of the developing world have efficiencies of 30 percent or even less. Bringing coal-fired plants worldwide up to best practice levels could save more CO_2 emissions than adherence to the Kyoto Protocol would. In the longer run, technology offers the possibility of ultra-low emissions, on a par with renewables and at comparable or lower costs. Two current initiatives in this area with strong coal industry involvement include:

- FutureGen—a U.S. proposal for an Integrated Gasification Coal Plant equipped with CO_2 capture and storage, to be operational within the next decade; and
- Coal 21—an initiative sponsored by Australian coal producers to develop near zero emissions coal-based electricity generation.

The oil and gas industry and mining industry are working in partnership with other industries, national governments, and international bodies to address concerns, while at the same time meeting the growing needs of society for energy by:

- encouraging the development of currently non-commercial technologies for cleaner fuel (in many cases including renewables investment by the oil and gas industry) and fuel cell technologies (both energy and metal mining companies), and promoting the dissemination and use of efficient commercial technology;
- improving scientific understanding of climate change and its impacts by addressing well-known uncertainties and supporting policy research;
- assessing and implementing approaches to reduce the level of greenhouse gas production;
- supporting research and projects to capture and sequester CO_2 emissions from operations and to store carbon in forests and underground reservoirs;
- participating in voluntary market-based initiatives and agreements such as emissions trading, Joint Implementation, and the Clean Development Mechanism;
- continuing to participate in and support the climate change debate to encourage development of appropriate options and strategies; and
- investing in research and development of lower carbon-intensive and alternative, renewable energy resources—some multinational oil and gas companies have invested in extensive manufacturing capabilities (such as in photovoltaics) and have large pilot projects under way.

Industry participants noted several ways that the WBG can help mitigate climate change:

- A few leading oil and gas companies believe that the WBG could play a powerful role as the bridge to a sustainable energy future by concentrating on promoting an enabling framework for the development of less carbon-intensive sources (for example, gas) as well as new energy sources. Big companies have no difficulty in financing research for new technologies and energy sources, but the role of the WBG in helping governments create the enabling environment is crucial if clean and sustainable energy sources are to take off in the foreseeable future.

- The WBG could expand its projects to contain gas flaring and help countries develop frameworks to use this gas. Also the WBG could help the switch to gas in developing countries dependent on coal. Turkey was provided as an example of a country dependent on indigenous coal until the early 1990s that successfully switched to gas with very positive environmental improvements. It was suggested that maybe the same could be encouraged for countries like China and India. One way to promote the transfer to gas would be by providing governments with technical assistance in removing the current distorting subsidies.

- Some mining industry stakeholders recommended supporting the reduction of climate-changing emissions by the use of advanced technologies and higher efficiencies, given the very significant reductions that can be achieved in an economic fashion.

- The WBG could support efforts to adhere to international climate change policies—for example, to internalize costs, enact carbon-based policies and measures, and remove perverse subsidies.[30]

Artisanal and Small-Scale Mining

Artisanal and small-scale mining (ASM) issues were raised by industry participants across the board in all EIR consultations with the exception of Eastern Europe and Central Asia. Industry has different views from region to region. The Mining Industry Association of Southern Africa, for example, maintains that uncontrolled small-scale mining is undesirable, since any benefits it brings are outweighed by its damaging social and environmental consequences. In contrast, a formal ASM sector can play an important development role (see Annex Box 3–3) and can help maximize the mineral potential of countries, create employment, support communities, and provide additional demand for goods and services, thereby boosting the development of a secondary sector.[31]

Annex Box 3–3. Small-Scale Mining in Papua New Guinea

In Papua New Guinea (PNG), small-scale gold mining is legally recognized by the State

is reserved for national citizens only. Small-scale mining is well regulated in PNG as a consequence of the country's mining history, the development of its mining law, and very strong customary ownership rights to land. Today 97 percent of the land is owned by indigenous peoples and 3 percent by government. Mining regulations are enforced by Mining Wardens and Mines Inspectors. Courts and police also are used to ensure enforcement.

Small-scale mining in PNG is also well supported by international aid agencies and industry. The support includes education and training, as well as micro-finance programs, and comes from AusAid, the World Bank Group, the Japanese Social Development Bank, the Asian Development Bank, and Sysmin (the European Union). Overall, these programs have significantly improved miners' awareness of the hazards of mercury. Miners in large river systems, from which thousands of people derive their food, have stopped using mercury. There is also greater awareness of overall environment and safety issues and a steady increase in annual production.

It is estimated that PNG has 50,000 small-scale miners, whose income benefits approximately 400,000 other people and who produce up to 145,000 ounces of gold per year, equivalent to $45 million. The average annual income per miner is $900, which is substantially higher than the overall average income of $250.

With good regulations in place, mine closures can be planned in a more sustainable way. At the Bulolo mine, for example, a well-planned closure led a small-scale mining company to develop a sustainable timber plantation project, using infrastructure established by the mining operations. This plantation is still viable today, sustaining a local community, many of whom are descendants of the former mine workers, 35 years after mine closure.

Source: "Program Successes in Small Scale Mining in PNG," presented by Trevor Neale at the Extractive Industry Review Consultation in Bali, April 2003.

Some industry participants, especially small-scale gold mining companies, maintained that formal ASM should be made into an attractive option for poverty alleviation and sustainable development. Artisanal miners should not be deprived of their livelihoods; rather, the establishment of a multistakeholder cooperation would be an option. This possibility is being explored in Tanzania with funding from the U.S. Agency for International Development, managed by the Tanzanian government and executed in part by the Chamber of Mines in Tanzania. Many industry participants in the Asia-Pacific EIR consultation held similar opinions on this issue.

Industry participants noted several ways that the WBG can improve the environment performance of ASM and contribute to poverty alleviation[32]:

- The WBG could assist in promoting the quality of the lives of millions of small-scale miners around the world by helping them acquire legal title to mineral rights. Such ownerships will permit these miners to trade their rights or use them for collateral to obtain financing. In relation to this, the WBG could help governments improve policies

and their ability to regulate a successful small-scale mining sector that can truly contribute to sustainable development.

- Many industry representatives who participated in the Africa Consultation suggested the WBG should adopt the Harare Declaration, which contains guidelines to provide a framework encouraging the development of the small-scale mining sector as a legal and sustainable activity and to optimize its contribution to social and economic development.[33]

- The WBG could play a role in improving small-scale miners' expertise and resources, metallurgic skills, and access to markets.

Legacy of the Past

In almost all the consultations the EIR had with industry stakeholders, the issue of past legacies was raised. There was general recognition that this issue is one of the most challenging problems facing industry in dealing with other stakeholders, especially with civil society representatives. While future closure plans are being dealt with seriously by industry, past legacies are a different matter. Industry regards the legacy issue as primarily the responsibility of other institutions, including the WBG and governments.

Industry participants noted several ways that the WBG can help cleanup the legacies of the past:

- The IBRD and IDA should expand the scope of their activities in the sector by helping to tackle the legacy problems of abandoned mines.[34]

- The WBG, in funding projects related to the oil and gas industry, should maintain a strong commitment to solving environmental legacy problems. The existence of these problems can deter direct foreign investment in the sector. By addressing these issues, the WBG can help open up possibilities for further investment affecting poverty alleviation.[35]

Corporate Responsibility and Accountability: Improving Standards and Practices within the Industry

<u>Environmental Responsibility</u>

The effects of extractive industries on the environment are being managed increasingly to reduce their negative impacts. ICMM companies, for example, have adopted a series of actions for responsible management of the environmental impacts from mining. The three most important of these are adoption of responsible environmental policies and introduction of independent audit systems to ensure that environmental policies are applied in practice as intended by policy, comprehensive public environmental reports that are increasingly published and are verified by independent bodies, and environmental impact assessments that are now standard practice for projects. Most company policies on the environment aspire to minimize operational impacts on the environment and, where feasible, to enhance and protect the environment quality in their operating areas.

Biodiversity

Extractive industries often operate in tropical rain forests, wetlands, deserts, and arctic tundra. This exposure, together with increased awareness and demand from civil society, has increased the industry's sensitivity to biodiversity. The oil, gas, and mining industries recognize that their record on this issue in the past has not been perfect. However, many of their efforts to improve have been communicated to the EIR.

During its visit to the Kutubu Petroleum Development Project in Papua New Guinea, for example, the EIR learned of the Kutubu Wildlife Management Authority that was founded by the company in collaboration with the Department of Environment and Conservation and with landowners; they also declared Kutubu a protected area. The plan stipulated the need for a policy of minimum disturbance to the tropical rainforest; the prevention of accidental spills into Lake Kutubu; burial of the pipeline to protect flora and fauna; the re-injection of all production water into the reservoir; and a 24-hour emergency response plan for oil spills. Furthermore, the sponsor of the Kutubu project (Chevron New Guinea) initiated an agreement with World Wildlife Fund–US and the office of Environment and Conservation to develop a collaborative biodiversity protection effort aimed at preserving Papua New Guinea's unique ecology and wildlife.[36]

Companies are increasingly forming partnerships to improve their effectiveness in protecting biodiversity. During informal discussions with a number of companies, the EIR learned of some of these partnerships—for example, between BP, Chevron-Texaco, Shell, and Statoil, which are working with Conservation International, Fauna and Flora International, the World Conservation Union–IUCN, the Smithsonian Institution, and The Nature Conservancy on the Energy and Biodiversity Initiative.

Mining industries are also contributing proactively to biodiversity conservation through data gathering and monitoring in remote areas, often in conjunction with academic and conservation partners, and by managing land in a way that contributes to biodiversity objectives. In a response to the challenge laid out in the Mining, Minerals and Sustainable Development (MMSD) report concerning biodiversity conservation, ICMM established a Terms of Reference for dialogue with IUCN. In the long term, this dialogue aims at continuing the promotion of performance improvement and at convening a broad working group to establish more transparent, consistent, and equitable processes for reconciling development and conservation needs in land access decisions.[37] Among the key activities of the dialogue in 2003 are a review of protected area and mining legislation in selected countries and the preparation of a scoping paper aimed at developing integrated and transparent approaches to land use planning, biodiversity conservation, and mining, including "no-go" zones.[38] Furthermore, ICMM understands that the analysis of all options for land use will sometimes mean that mining projects cannot proceed because unique and sensitive biological or cultural values would be compromised if they did.[39]

One controversial issue for the extractive industry and civil society organizations is mining in protected areas. Industry agrees that mining may not be appropriate in some rare, fragile, and

unique ecosystems, but that multiple land use principles can generally be applied, thereby allowing the industry to operate in many protected areas (such as in IUCN category VI areas). The industry is fully aware of the strong opposition from most conservation interests, and in recognizing this strongly encourages cooperation and partnership with protected area agencies.[40]

Project closure

The oil, gas, and mining industries are equally concerned about project closure, although the mining industry seems to give more emphasis to the social aspect of mine closure. This could be due to the fact that mining projects employ many more workers. The sustainability of communities in the post-mining and post-project period, especially in remote areas where large resource projects are located, is of primary concern to extractive industries. It is admitted that closure of projects can be devastating unless adequate planning and preparation have been carried out long in advance.[41] Recognizing this, mining, oil, and gas companies have developed various approaches to mitigate closure problems, ranging from environmental rehabilitation to community trust funds and retrenchment programs.

Industry submitted many examples of closure plan to the EIR. One example is the PNG Sustainable Development Program Company. Funds for this company will come from future dividend payments from shares in OK Tedi Mining Limited (OTML) transferred by BHP Billiton. The dividend flows will fund sustainable development programs throughout the remaining 10 years of the mine's economic life and for up to 40 years following the mine's closure. This example could be adapted for other extractive industries projects where economic opportunities will be significantly curtailed when the mine or project closes.[42] Other initiatives involving stakeholder participation and shared decisionmaking with regard to both mine development and closure are documented in the MMSD report. However, a number of industry players were of the opinion that even the best closure plans cannot guarantee full employment of workers beyond the life of a project, highlighting the importance of coordinating these efforts with the actions of governments.

Water management

The oil and gas industry considers water management one of its main concerns. Water is essential for production and refining processes. Industry is faced with the difficult task of balancing severe water shortage in some cases with the growing demand to use water for production. This will be achieved by restricting the use of potable water, treating and reusing water, and using exploration and drilling skills to find new water to meet various needs, including the needs of local communities for potable water, as done, for example, by Nexen Inc. in Yemen.[43]

The mining and metals industry also pays important attention to water issues: specifically, to water conservation and the impact on surface and groundwater. To conserve water, efficiency targets are set, and the impacts of groundwater extraction on underground aquifers are monitored. To lower impacts on surface and groundwater, the industry is constantly

improving technologies that will reduce discharge, prevent sediment run-off, better manage processing and tailings retention systems, and recover contaminated water.[44]

Hazardous materials and waste management

Oil spill preparedness and response is a major focus for the oil and shipping industry. Oil spills have declined significantly since the 1970s due to successful preventive actions by the International Maritime Organization (IMO), the U.N. Environment Programme (UNEP), and the oil shipping industry. In 2000, for example, 99.9992 percent of oil transported worldwide by sea was delivered safely. The oil industry has also established oil spill response cooperatives in strategic locations around the world to address the lack of expertise in managing and operating oil spill equipment and to ensure expert maintenance and effective deployment by trained personnel when needed. The oil and shipping industries also fund international conventions that were developed under the auspices of the IMO to ensure that compensation can be paid to victims of oil spills, without the need of litigation in the vast majority of cases.[45]

Risk management in the mining and metals sector has become increasingly important, as the continued occurrence of industrial/technological emergencies, such as chemical spills and tailings dam failures, have had devastating effects for both the environment and the public. Some 150 mining environmental accidents occurred between 1983 and 2002. Of these, 15 involved cyanide, of which 7 were tailing dams failures, 4 involved pipe failures, and 4 involved truck accidents.[46] In many of these cases, companies, response bodies, and communities were not fully prepared or sufficiently informed to deal with the incidents.

In response to these incidents, the gold-producing industry and UNEP, together with multistakeholder input, recently developed a voluntary code for the manufacture, transport, and use of cyanide in the production of gold. It is known as the International Cyanide Management Code. This is a transparent, verifiable, and voluntary program for gold mining companies that focuses exclusively on the safe management of cyanide and cyanidation mill tailings and leach solutions. Companies that adopt the code must be audited by an independent third party to determine the status of code implementation.[47]

The mining industry has also collaborated with other stakeholders in developing other voluntary initiatives for dealing with emergency preparedness and prevention issues. One example is the work with UNEP on the Awareness and Preparedness for Emergencies at Local Level (APELL) for Mining program. Through a consultative process at the regional and national level, the key mining industry associations have updated their tailings management guidelines to provide better guidance on dam failure prevention.

Established in 1988, the APELL integrated emergency plan involves communities, governments, companies, and relevant national response bodies. It provides local communities with greater awareness of hazards and helps them prepare for and respond to emergencies. The chemical industry's Responsible Care initiative has its origins in APELL. Subsequently, the APELL approach has been applied to ports, to the transport of hazardous materials, and most recently to mining. Since 2001, the *APELL for Mining Handbook* has

been influential in helping mining companies, communities, and governments develop their own emergency prevention and preparedness plans. This work continues through ICMM, which is actively promoting APELL among its members, sharing experiences of good practice and examining how best to get the community involved in the planning.

Peru provides a specific example of recent improvements in local-level planning. Following the Yanacocha mercury spill in 2000, the Peruvian government requires all mining operations to prepare an emergency response/contingency plan for handling and transporting hazardous materials. In response, three companies—Antamina, Barrick at Pierina, and Newmont at Yanacocha—got together to develop a safe transportation initiative that includes APELL implementation. The initiative involves establishing a system to audit and monitor the transport of hazardous materials to and from the three mines and developing a coordinated spill response program, which included training local firefighters and police. At the same time, these companies have been working with the government, with technical guidance from UNEP, to implement a nationally coordinated APELL plan.

On a company, most of the large multinational companies have put in place specific policies, procedures, management systems, and training that deal with emergency preparedness. Emergency response plans involve risk identification and evaluation, development of emergency response procedures and communication guidelines, identification of available resources (including integrated response coordination groups that include communities and local emergency response services), training for the response group, and periodic testing and evaluation of the plans.

Waste management for the oil and gas industry includes reuse, recycling, reduction, and disposal throughout every stage of operation—from exploration throughout the entire lifecycle of products, including product stewardship. (See Annex Box 3–4.) A variety of techniques and technological innovations are constantly evolving to address the issue of waste management. Decommissioning of facilities is also carefully considered, as is the remediation and rehabilitation of sites when necessary. Innovative examples of how the industry is increasing its quality of waste management include the Abu Dhabi National Oil Company's reduction of 9 million cubic feet of gas venting per day in its Asab and Bab fields and Statoil's elimination of the release of 550 metric tons of sulfur dioxide at Denmark's Kalunborg refinery by constructing a new plant producing agricultural fertilizer from the leftover sulfur.[48]

Annex Box 3–4. Product Stewardship and Recycling for Sustainable Patterns of Consumption

Major metal industries are increasingly extending their business outlook to include consideration of the complete life cycle of their products, from the time a metal is mined to its recycling or disposal in a safe way that does not endanger human health or the environment. This approach is called product stewardship. The practice of product stewardship includes:

- the provision of information concerning any potential product related hazards, as well as information on the best ways to use metals to minimize possible risks;

- investing in research to further understand the properties of metals and their life cycle effects on human health and the environment to improve the safe use of metals;
- the promotion of recycling and support of efficient and competitive recycling networks and industry; and
- work with government, downstream users, and others in the development of sound, balanced, and scientifically based legislation, regulations, and product standards that protect employees, the community, and the environment.

Source: W.G. Jeffrey, *A World of Metals; Finding, Making and Using Metals, Second Edition* (Ottawa, Canada: International Council on Metals and the Environment, 2001).

Mining, smelting, and refining companies are working on reducing hazardous emissions from their operations through tight monitoring and by establishing reduction targets. Addressing water discharge can include volume reduction and reducing cyanide, suspended solids, and metals. Airborne reductions include sulfur oxide, fluoride, greenhouse gases, and oxides of nitrogen. While this does not yet seem to be common practice globally, the ARET program in Canada has demonstrated that considerable progress can be made: participating mining companies have achieved a 70 percent reduction in emissions during the 1990s.[49] There are many other good examples in progress within the industry, but these are mostly in industrial countries.

For the mining industry, tailing management is a very important issue. ICMM, for example, considers the worldwide frequency of two to five major tailings impoundments failures per year (about 0.1 percent) to be unacceptably high. Many initiatives are being taken to improve this situation—from efforts to improve monitoring and management to the development of better technologies.

Riverine tailing disposal is considered by some companies to be a practice of the past that is no longer acceptable. However, some mines, such as OK Tedi, Grasberg, and Porgera, are still employing the practice because the physical characteristics of their operating areas make other alternatives impractical. The companies involved have all conducted numerous studies on the effects of this method of tailings disposal and have programs in place to mitigate impacts. ICMM recommends further discussion between stakeholders on this issue.

Submarine tailings disposal is seen by the mining industry as a possible preferred alternative to tailings disposal, especially where land is scarce. The industry recognizes the strong concerns NGOs have on this method of tailings disposal, and companies recognize the need for research at mine sites that use submarine tailings disposal to further understand ecosystem recovery rates. There is an initiative to prepare a set of criteria and guidelines for operators, regulators, and communities on the conditions needed for submarine tailings disposal to be appropriate. The guidelines will be developed in a participatory way with all concerned stakeholders.[50]

Acid drainage from mine waste is yet another long-standing and intractable environmental issue faced by the mining industry. This is a problem created by mine wastes and tailings that contain sulfides, which can lead to the development of acid water and the mobilization of heavy metals into the environment.

How the WBG can help promote high extractive industry standards

- The WBG should promote comprehensive impact identification and mitigation planning, so that each identified impact of a project has a corresponding clearly articulated mitigation strategy.

- The WBG should engage in an environmental education role with civil society to communicate best practice and the inclusion of specific impact-based mitigation requirements. The WBG should also educate communities about its Safeguard Policies and the measures it implements to ensure compliance.

- The WBG needs to transfer the conflict resolution capacity of the Compliance Advisor Ombudsman to local institutions and people. This would empower local actors to build trust and confidence in each others' objectives. Many industry representatives see the value of having grievance mechanisms to ensure there are no unresolved conflicts or human rights abuses.

- The implementation of WBG standards over the life of a mine needs to be strengthened, and monitoring of the Safeguard Policies needs to be carried out beyond the term of the WBG's financial interest in the project. A critical requirement should include credible mine closure plans. It was also suggested to use third-party monitors more, as the transparency of their findings would help the effectiveness of the Safeguard Policies.

- The WBG should strengthen its partnership activities with governments, the private sector, local communities and the voluntary sector, with a view of promoting mine-related business enterprise, capacity-building activities, and community development. The IBRD should also reorient its activities toward the poorest developing countries. This could be done by providing advice and assistance in the development of various models of revenue trust funds to ensure benefits extend beyond the post-mine closure period, especially for communities in remote areas.

- The IBRD should reorient its activities toward the poorest developing countries.

- The WBG can encourage good practice in individual projects by applying and regularly reviewing standards and criteria for funding. This may be particularly valuable where national oil companies are involved, as they may not come under the same international pressure to conform to international good practice.

- The WBG should only lend to projects where the capability to deal with oil spills can be demonstrated.

- WBG funding for projects should be approved on a life-cycle basis, including decommissioning and rehabilitation plans with realistic cost provisions.

- Safeguards should include credible mine closure plans.

Social Responsibilities

Ethics and human rights

Industry today recognizes that an important consideration in the economic and social dimensions of sustainable development is the need for a deeper commitment to ethical behavior and respect for human rights. Industry must consider these matters since many of their business operations are in countries or regions where human rights abuses and unethical business practices are prevalent.[51] Many companies are now proactively changing the way they are working in communities. Freeport McMoRan, for example, has heard many allegations of involvement in human rights abuse that have been endorsed by, among others, the Indonesian National Commission on Human Rights. Today the company is working with the local community to address current human rights issues. In 2000, the company reached a memorandum of understanding with the Amungme and Komoro local community, which focused on socioeconomic resources, human rights, land, and environmental rights. This landmark agreement was achieved after five years of negotiation and is intended to foster continuous dialogue to improve mutual understanding and respect and to enable local people to achieve their aspirations and to continue harmonious relationships.[52]

While not all companies have explicit human rights policies, an encouraging example is the business and human rights exercise being carried out by the Prince of Wales International Business Leader Forum, featuring BG, BP, BHP Billiton, BOC, Premier Oil, Rio Tinto, and Shell.[53] The best practice categories featured in this exercise include:

- *Policy commitments*—Explicit human rights policies such as a declarations of support for the United Nations Universal Declaration of Human Rights, the Core Labour Conventions of ILO, the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy, and the Organisation for Economic Co-operation and Development's Guidelines for Multinational Enterprises; statements of business principles of conduct; a commitment to business integrity; application of policy in business partnership arrangements; and policy and guidelines governing arrangements with security forces, based on the U.S./U.K. Voluntary Principles on Security and Human Rights.

- *Assurance mechanism and management systems*—Board-level and senior management responsibility for overseeing human rights; assurance systems in place at operational level; internal communication and training on human rights; risk assessment and social impact studies; stakeholder dialogue; and performance audits and verifications.

- *Disclosure strategies*—Publication of social reports, disclosure of noncompliance, and disclosure of remedial steps over noncompliance.

- *Engagement in global human rights initiatives*—Support for the U.N. Global Compact, the Global Sullivan Principles, and the U.S./U.K. Voluntary Principles on Security and Human Rights.

Many corporations recognize the importance of community-based participation that leads to understanding and community support, as well as agreement on necessary precautions, mitigation, and compensation. Information, discussion, and understanding between stakeholders are seen as the correct prerequisite for sustainable development.

Dealing with local communities

More and more companies believe that resettlement is not always the best solution and that it is too often resorted to. It is recognized more commonly today that communities are part of the fabric of a project and that any relocation should be looked at very carefully. The more progressive companies often prefer to use better technology to prevent any resettlement.

Companies efforts to deal with local communities of indigenous peoples have been a major issue. In the industrial world, including the United States, Canada, and New Zealand, indigenous peoples enjoy First Nation status. (See Annex Box 3–5.) In Australia and many Pacific Island countries, they also enjoy recognition of their traditional land tenure rights. In these countries, extractive industries companies have dealt directly with national governments and traditional landowners and their representatives. This can result in fair deals for the indigenous community. In developing countries, however, the situation varies widely. Often indigenous peoples are disenfranchised by national regimes. There is a growing awareness among extractive industries companies about the importance of working directly with indigenous peoples in order to respond to local concerns and to create opportunities that meet the aspirations of these people.[54]

Annex Box 3–5. The Whitehorse Mining Initiative

The Whitehorse Mining Initiative (WMI) was an industry-proposed multistakeholder national initiative launched in September 1992 during the Mines Ministers annual conference to develop a common vision and strategy for the responsible development of Canada's mining industry.

Following an intensive "two-year multistakeholder national consultation process of discussion, argument, deliberation, negotiation and compromise," the WMI Leadership Accord was signed in September 1994 by the Minister of Natural Resources and representatives of 27 major stakeholder groups, including the majority of provinces and territories, industry, Aboriginal peoples, labor, and environmental associations. Their vision was of a socially, economically, and environmentally sustainable and prosperous mining industry, underpinned by political and community consensus.

The principles and goals became the first step toward revitalizing mining in Canada—changes needed to restore the industry's ability to attract investment for exploration and development and at the same time to ensure that the goals of Aboriginal peoples, the environmental community, labor, and governments would all be met.

The Aboriginal peoples stated their own perspective of WMI, including its recognition that mineral exploration and development had occurred on lands the Aboriginal peoples used and occupied for thousands of years and that mineral activity had disrupted their traditional lifestyle, leaving few traditional economic opportunities for Aboriginal peoples. Aboriginal peoples had not always been consulted on mineral activity nor invited to participate in environmental and infrastructure planning related to a mine project on their lands. They had not received cash compensation, been included in business opportunities, or been offered opportunities for quality training and quality employment. Similarly, environmental organizations have not consulted Aboriginal peoples, and environmentalists' lack of respect for community economic development goals and objectives has hindered community well-being and economic growth. The recommendations to bind and improve relations between Aboriginal peoples and the mining industry for present and future generations "will come out of the WMI."

WMI was the first multistakeholder dialogue involving the Canadian mining industry, governments, environmentalists, labor, Aboriginal peoples, and others. The trust and the partnerships that began at that time have contributed to, among other things, the Minerals and Metals Policy for Canada, the new species-at-risk legislation, the national biodiversity forum, and an attempt to address the issue of abandoned and orphaned mines. The Canadian mining industry contributes some $36 billion to the Canadian GDP ($50 billion to the minerals and metals export account); employs some 360,000 people, mostly in rural and remote areas; and contributes over 64 percent of port volume and 60 percent of rail freight revenues.

Source: W. Hoskin, Minerals and Metals Sector, Natural Resources Canada, 2003.

Oil and gas companies aim to become active and responsible members of the communities they are working in. The International Petroleum Industry Environmental Conservation Association (IPIECA) and the International Association of Oil & Gas Producers have articulated the importance of community participation as follows: "Early and continuing interaction with communities is important to identify and address their concerns and needs, and manage expectations and project commitments. Communities in the project area may have differing characteristics, objectives, and requirements that need to be considered. Community support is critical to success. Typically, it is important for communities to be able to give free and informed consent."[55]

Many in industry believe that private resource companies are achieving a much greater focus on development as a priority and understand how development success and effective partnership can benefit both developing societies and business. A number of companies brought forward examples or case studies pointing to successful development outcomes. In some cases one of the principal successes of development has been building human capital by hiring and training local workers. A number of companies have made considerable

investments in training their work forces. Raising the capacity of the work force is one of the deepest and most enduring ways in which mines contribute to sustainable development at the local level. A growing trend among the industry is to start early in implementing community development initiatives.

There are many examples where oil and gas companies are working to involve local communities for balanced development. In the BP Tangguh LNG project in West Papua, Indonesia, for instance, the area of the project is sparsely populated, with 5,000 people in 9 villages in the immediate area. This project intends to be a catalyst for community-driven development by establishing a forum and a foundation as a platform for discussing issues and planning community development, all to be funded by a trust fund. The project will seek to promote consultation, empowerment, participation, partnership, sustainability, transparency, and respect for human rights as its basic values. It will conduct annual participatory planning activities with directly affected villages, so that communities can drive their own development, assisted by project resources and partnerships with other stakeholders.[56]

The metals and mining industry is also progressing in its thinking concerning the ways it interacts with local communities and is continuously searching for ways to create sustainable community legacies. Recognizing that each mine and mining community is unique, the ICMM member companies have committed to follow a set of community responsibility principles:

- Respect cultures, customs, and values of individuals and groups whose livelihoods may be affected by exploration, mining, and processing.

- Recognize local communities and other affected organizations and engage with them in an open, transparent, and effective process of consultation and communication, from exploration through production to closure.

- Assess the social, cultural, environmental, and economic impacts of proposed activities and engage with local communities and other affected organizations in the design of community development strategies.

- Contribute to and participate in the social, economic, and institutional development of the communities where operations are located, and encourage the establishment of sustainable local and regional business activities.

- Reduce to acceptable levels the adverse environmental and social impacts on communities of activities related to exploration, extraction, and closure of mining and processing facilities.

- Respect the authority of national and regional governments—take into account their development objectives, contribute information related to mining and metals processing activities, and support the sharing of the economic benefits generated by operations.[57]

Health and safety

Extractive industries contribute significantly to improving health conditions in poor developing countries. For instance, Anglo American pays at least $40 million a year in health costs at its African operations alone. Many companies show a community component in their health and safety programs. Examples include a Placer Dome–sponsored vaccination program that has successfully eradicated filariasis and improved the life expectancy and health of babies on Misima and neighboring islands in Papua New Guinea and the Home-Based Care program in South Africa for HIV/AIDS patients that received a Development Marketplace Award in 2002 for venturing beyond preventative care (also a Placer Dome initiative).

In addressing health issues in the areas where they operate, extractive industries companies show a great wealth of creativity and a willingness to work with local partners, as well as with international organizations. Examples include Chevron-Texaco's on-line workshop on HIV/AIDS prevention, conducted by the African Women's Media Center; BP's sponsorship of *Soul City*, a popular soap opera that tackles some of South Africa's most pressing issues, including AIDS awareness; and ExxonMobil's support for the World Health Organization in the Roll Back Malaria campaign, alongside the governments of several malaria-infected countries, UNEP, UNICEF, and the World Bank.[58]

For many extractive companies, the impacts of operations and products on the health of employees, local communities, and consumers are also considered a core element of sustainable development.[59] This means that the safety of operations, products, and transport are of prime importance. Much is being done to continuously improve the safety within extractive industry operations and their products. For example, TotalFinaElf has the objective of achieving, as close as possible, "zero risks" through safety and awareness programs and by continuously developing new safety tools.[60]

Leading companies also put significant emphasis on safety issues. Compania Minera Antamina S.A. in Peru, for example, has entered into a contract with Ibero-American Science and Technology Education Consortium, a world-class safety company, to ensure an integrated environmental and safety system focusing on risk management to ensure control of all potential losses. The company's safety program includes mandatory training for all personnel and a safety practice that covers the following principles:

- All accidents can be prevented.
- Safety is the responsibility of any and all workers.
- Management is directly responsible for preventing accidents and losses.
- Working safely is a condition of employment.
- Management and line supervision are responsible for ensuring that workers receive proper safety training.[61]

Public Environmental and Social Reporting

Many extractive industry companies and associations are now voluntarily reporting their environmental and social initiatives. There are also efforts to harmonize this reporting. An example is the current corporate reporting initiative by IPIECA and the American Petroleum

Institute (API) to develop a tool that will help oil and gas companies and industry associations improve quality, scope, completeness, and capabilities of Health, Safety, and Environment programs, along with sustainability performance reporting. The tool will aim at meeting the needs of key internal and external stakeholders. The assessment phase of this initiative has produced a Compendium of Sustainability Reporting Practices and Trends for the Oil and Gas Industry, providing a baseline of current reporting practices, trends, challenges, and needs of oil and gas companies. IPIECA and API will use this information to facilitate progress in sustainability reporting for the oil and gas industry.[62]

State-Owned Companies

Developing countries have frequently chosen to concentrate some or all activities in the production of oil and gas or minerals in state-owned enterprises. Often, these have played a vital role in overcoming the legacy of the colonial past, giving developing countries the political autonomy to chart their own development futures free of overbearing foreign interference and providing a training ground in which their citizens have learned enough about the extractive industries to be more effective managers and participants in what were previously foreign-dominated enclave economies. They have also in general been strongly oriented toward acting as agents of development. Indeed, the unwillingness of international private companies to focus on development concerns was a major driver of nationalization.

Many countries have made the political decision to continue state participation in these sectors, or some aspects of it, through state-owned companies. Indonesia, Malaysia, Venezuela, and a host of Middle Eastern countries have state oil companies. The largest copper producer in the world, which produces 15 percent of total world copper output, is CODELCO, 100 percent owned by the Chilean government. There are many other examples.

There was considerable stakeholder comment in Eastern Europe to the effect that privatization had been rushed and often poorly handled: that privatization itself was seen as the goal rather than as a means to the objective of poverty alleviation or greater sustainability. Closure, some comments suggested, was pursued even in the absence of a clear vision of the future for affected workers.

In general, it is clear that there is a great diversity among these companies and what they do. To begin with, many of them have always existed in market economies and had to learn to cope with competitive pressures. While some of them have been subsidized, or sold gasoline or coal to their citizens at subsidized prices, they have existed in the context of an economy where most prices are set by markets.

Others were created in former socialist economies, with a predominance of state-administered prices. This economic model also featured relatively low cash salaries but provided a long list of services to workers and their families—education, housing, food, water, electricity, and so on. As these economies move away from the subsidized model, they need to adapt simultaneously to receiving market prices for their products and a new model of relations with their workers, emphasizing higher cash salaries and worker purchase of goods and services.

Unfortunately, the Extractive Industries Review had relatively little stakeholder input from these companies.

Notes

[1] ICMM 2002b.
[2] IPIECA and OGP 2002c.
[3] MMSD 2002.
[4] Anglo-American 2003.
[5] IPIECA and OGP 2002c.
[6] Jennings 2003.
[7] Anglo-American 2003.
[8] IDRC 2003.
[9] Compania Minera Antamina S.A. 2000.
[10] ICMM 2002b.
[11] ICMM 2002a.
[12] EIR Minutes of London Meetings, July 3–5, 2002.
[13] IPIECA and OGP 2002b.
[14] ICMM 2002a.
[15] BHP Billiton 2002.
[16] EIR Asia Pacific Notes of Evening Discussion on Militarization.
[17] IBLF n.d., Amis and Prescott 2002.
[18] BHP Billiton 2002.
[19] BHP Billiton 2002.
[20] BHP Billiton 2002.
[21] BHP Billiton 2002.
[22] ICMM 2002b.
[23] BHP Billiton 2002.
[24] Newmont Mining Corporation 2002.
[25] BHP Billiton 2002.
[26] BHP Billiton 2002.
[27] Anglo-American 2003.
[28] Newmont Mining Corporation 2002.
[29] This section is based on EIR informal discussions with industry during visits to Australia and the United Kingdom in 2002 and on EIR Regional Consultation Reports.
[30] BG Group 2002a.
[31] MIASA 2001.
[32] EIR Maputo Consultation notes.
[33] OAU 1989.
[34] Regional Consultations Reports and informal discussions with industry stakeholders.
[35] BG Group 2002a.
[36] EIR 2002b.
[37] IUCN and ICMM 2003.
[38] IUCN and ICMM 2003.
[39] IUCN and ICMM 2003, p. 35.
[40] ICMM 2002a.
[41] IPIECA and OGP 2002b.
[42] BHP Billiton 2002.
[43] IPIECA and OGP 2002c.
[44] IPIECA and OGP 2002c.
[45] IPIECA and OGP 2002c.
[46] ICOLD and UNEP 2001.
[47] http://www.cyanidecode.org.

[48] IPIECA and OGP 2002c.
[49] Mining Association of British Columbia 2003.
[50] ICMM 2002a.
[51] EIR Asia Pacific Notes of Evening Discussion on Militarization.
[52] Freeport-McMoRan Copper & Gold Inc. 2002.
[53] IBLF n.d., Amis and Prescott 2002.
[54] IPIECA and OGP 2002b.
[55] IPIECA and OGP 2002b.
[56] BP 2003.
[57] IPIECA and OGP 2002c.
[58] IPIECA and OGP 2002c.
[59] ICMM 2002b.
[60] TotalFinaElf, *The Path to Sustainable Development*, brochure, 2001.
[61] Compania Minera Antamina S.A. 2000.
[62] IPIECA 2001.

Annex 4: Civil Society's Views

Annex 4. Civil Society's Views

Increasing investment in extractive industries has had an immense negative impact on livelihoods in local communities around the world. Developing country governments typically have little capacity to prevent often extensive, negative consequences to human health, livelihoods and sustainability of ecosystems. The mining industry spews almost half of all toxic emissions in some countries, ess ruining agriculture and causing a substantial boost in respiratory disorders and raising cancer rates among workers and people in nearby communities. Oil and gas projects have led to rampant deforestation, spills and accidents. Extractive industries are also frequently pushing indigenous peoples and other rural communities off their land. Extractive industries may have the potential to promote economic growth and poverty alleviation, but only if they are properly regulated. Comprehensive and enforceable regulations are necessary in order to control the negative social and environmental impacts of these industries, and to guarantee equitable distribution of benefits to impacted areas.[1]

Oxfam America, 2003

The government and Banks are promoting oil and gas development as a key element of their economic strategy for Bolivia. However, the potential for this development approach to further concentrate wealth, displace people from their lands and degrade the resources upon which many poor people depend, raises serious questions about its contribution to poverty alleviation for the majority of Bolivians. Indigenous peoples are particularly at risk, since the lands which they have traditionally depended on for their survival are being overrun by logging, mining and oil and gas interests, while the legal process to grant land titles is stifled by lack of political will and inefficient bureaucracy.[2]

Amazon Watch

The Bretton Woods institutions (including the World Bank Group, the IMF and the regional development banks), together with bilateral aid agencies, and the World Trade Organization, have a major responsibility for promoting and enforcing the structural adjustment and liberalization policies which lead countries to exploit their fossil fuel reserves with devastating effects not only on the global climate, but also on regional ecosystems and local peoples.[3]

statement on climate change by
200 Southern and Northern NGOs and Community Groups

Civil society is obviously a large and complex constituency, ranging from local community groups and nongovernmental organizations (NGOs) to local and international labor unions and multinational environmental, human rights, and development NGOs. Despite this diversity, civil society's concerns regarding the extractive industries and the role of the World Bank Group (WBG) have tended to fall into the following broad categories:

- *Environmental impacts.* Environmentalists have long had reason to be concerned about the local and global impacts of fossil fuel and minerals extraction. Civil society sees oil

spills, tailing ponds, toxic emissions, and other local impacts as the well-documented rule around most extractive projects; well run projects seem to be the exception. While "best practices" can mitigate some environmental impacts, the issue of climate change from the burning of fossil fuels raises serious questions about the environmental sustainability of these projects.

- *Developmental impacts.* As a recent internal paper from the International Finance Corporation (IFC) pointed out, "the notion that governments invest incremental rents/returns from extractive industries profitably and for the benefit of poor people is all too often more of an aspiration than a reality." In Africa, for example, while the sector accounts for 40–60 percent of foreign exchange earnings, it contributes on the average less than 10 percent to gross domestic product (GDP) of the continent and accounts for, on the average, about 2 percent of total employment of the region. For all its mineral wealth and massive foreign direct investment to the sector, Africa remains impoverished and the number of poor people is on the increase.

- *Human Rights impacts.* Civil society points to and offers testimony regarding an alarming record of human rights abuses by governments and corporations associated with extractive operations, resulting in forced relocation and the brutal and sometimes deadly suppression of critics. Citizens in Chad and Cameroon voiced loud concerns to the WBG that the financing and revenues for the Chad-Cameroon oil project would fuel an ongoing civil war and intimidate citizens in affected communities. These fears were justified when it was revealed that the President of Chad spent millions of dollars of project funds on weapons.

- *Systemic rather than situational impacts.* Civil society concerns in recent years have often moved beyond individual projects, corporations, or countries to the social and economic systems behind them. Examples include studies and anecdotal evidence pointing to these conclusions:
  - Structural adjustment policies are facilitating increased extraction.
  - Increased reliance on extractive industries exacerbates poverty.
  - Increased reliance on extractive industries is associated with poor governance.
  - Increased reliance on extractive industries is associated with an increased likelihood of armed conflict and with a declining standard of living.

During the EIR process, civil society often referred to research findings from academia and to a number of international conventions and the views of U.N. agencies as well as to WBG policies in order to substantiate their views. This was especially the case with international and nationally based NGOs. With these general observations in mind, specific critiques that the EIR encountered are presented here from the perspective of communities, NGOs, and labor unions.

Indigenous Peoples and Other Affected Communities

Mining, oil, and gas extraction in most cases happens in isolated remote areas; thus not surprisingly a significant proportion of these operations are on indigenous peoples' lands. In

many developing countries with WBG projects, local communities often regard themselves as indigenous peoples, even if the related nation state in which they are located does not recognize them as such (for example, the 'Dayak' People in Borneo and the 'Papua' people in West Papua). Thus most of the reports and testimonies from the local level (in writing or in words) were received by the EIR from people who preferred to identify themselves as indigenous peoples.

Indigenous peoples consider mining, oil, and gas development as one of the greatest threats facing the lands, territories, and resources they depend on and their existence. As the global economy expands, pressure on indigenous peoples' lands to yield to extractive industries is intensifying. Existing human rights laws recognize indigenous peoples' rights to the ownership and control of their lands, territories. and natural resources and to free prior and informed consent over developments proposed on their lands. However, states also claim rights over natural resources and assert the right to control subsurface resources to develop them in the national interest. These competing rights are not easily reconciled, often resulting in the violations of the basic human rights of indigenous peoples.

The EIR received many grievances from indigenous peoples and affected communities alike who believe that WBG interventions in the extractive industries sector have had negative impacts on them and on other communities. This section reviews the grievances that were most consistently and acutely raised across the board in all regions by indigenous peoples and affected communities alike.

Loss of Land and Access to Land Resulting in Loss of Livelihoods and Cultural Erosion

In many countries rural farmers, forest dwellers, and indigenous peoples do not hold nationally recognized legal title to the lands on which they have lived from generation to generation for centuries. In this situation, when an extractive company is granted the legal right by national governments to exploit resources in certain territories, locals and indigenous peoples are often evicted from their traditional lands or lose access to land that may hold cultural and survival significance to them. Local communities living in remote forest or rural areas are entirely dependent on the land for their livelihoods and cultural identity. When a government gives a company the right over a territory without consulting and receiving the consent of its inhabitants, this can result in a breakdown of communities and cultural norms as well as cutting off the people from their sources of livelihood. The EIR received numerous reports on this issue, including situations where:

- communities no longer had access to traditional forests to gather products they had depended on for cash income and consumption;
- traditional small-scale miners had been displaced, most often without the provision of alternative income or compensation;
- sacred sites and burial grounds had been desecrated by extractive companies, and community elders complained about a growing disregard of traditional norms and values;
- well-functioning communities had broken down and social integrity eroded, breeding internal conflict within communities;
- communities no longer had access to the fish and potable water formerly freely available in rivers because of EI pollution; and

- the risk of corruption by local officials dealing with land issues had often increased, along with organized crime against landowners that receive compensation.

Human Rights Abuses

The EIR received many reports in which the military and police were often involved in securing company control over territory and protecting their operations. In other cases, companies were reported to be using private militia. When conflicts arise between corporations and local community interests, human rights abuses and violations are often reported. In the case of indigenous peoples, when extractive industries operate on traditional lands and territories without their consent, it is seen as a human rights violation in itself that, in turn, often leads to other human rights violations.

The EIR received reports of human rights violations ranging from intimidation, torture, kidnapping, and detention to rape and murder. Women and children are often the most severely harmed victims.[4] The human rights violations that surfaced during the EIR consultation process included cases where:

- inadequate respect was paid to community land rights and there was no effective protection for traditional livelihoods and cultures;[5]
- people were forcibly evicted from their lands;
- cultural rights were disregarded, such as the desecration of ancestral burial grounds and other sites considered sacred by local people;
- violent means were used by the military, police, or militia against local communities and indigenous peoples when these groups opposed a project,[6] or violent means were used against people by proponents of extractive industries projects;
- local communities were discouraged or hampered from seeking legal advice and help from concerned NGOs;[7]
- people were imprisoned without trial for up to four months;[8]
- people who were vocally questioning project operations were intimidated;
- indigenous peoples in mining areas were killed by military forces (examples include over 150 cases of individual killings of the Amungme and other indigenous peoples in and around the Freeport mine in West Papua since the 1970s);[9] and
- communities lived in constant fear of the threat of violent eviction, of using land for any economic activity, of the impacts of pollution, and of having community school buildings demolished.[10]

The information received by the EIR revealed a situation where the incidents of human rights violations were mostly not acknowledged by governments or courts. Even when they were, none of the individuals or communities had received compensation, creating deep resentment and distrust among communities toward extractive companies as a whole. (This is rather different in cases involving environmental degradation or the physical acquisition of land by extractive industry companies; in these cases, many companies have on occasion paid compensation to communities and individuals.)

Degradation of the Environment and Natural Resources

With the absence of adequate environmental regulations and laws, and the lack of capacity of governments to monitor what is going on, extractive industry operations may create serious environmental damage to their surroundings. This often has resulted in a loss of livelihood or a loss of access to resources such as clean water, even if in reality a community is not physically displaced from its existing habitat. The impacts of WBG-facilitated mining ventures have been severe, not just in terms of the direct social and environmental impacts of the mines or wells themselves, but also because of spills of poisonous chemicals such as cyanide and mercury, ruptured oil pipes, breached tailings dams, and long-term pollution through acid mine drainage. The case study from Papua New Guinea (PNG) reveals World Bank Group support for the use of the highly controversial technique of submarine tailings disposal (STD) without consideration of the long-term implications for marine ecosystems and the livelihoods that depend on them.[11]

Mining activities need to be reduced, with more emphasis put on substitution, efficiency and recycling. There is far more scope in recycling than has been achieved to date; new extraction should take place only when the limits of recycling are being approached. Product substitution should be fully explored before resorting to new mining. Recycling can be promoted by "cradle-to-grave" analyses, and use of the "full cost" concept. It is recognized, however, that some virgin mining done in a responsible way will remain necessary, but it will be at a fraction of today's level if recycling becomes the priority, if manufacturing is designed to ensure mostly recycling, and if manufacturing uses less damaging substitutes for what cannot be recycled.

Air pollution, much of it coming from coal power stations, coal-fired boilers, and domestic coal fires and stoves is one of the world's leading causes of preventable death and disease. Fossil fuels account for 80 percent of human-generated greenhouse gas emissions. Worldwide coal subsidies are inequitable, as they benefit industry and the private sector while harming the poor.

Numerous other examples of environmental degradation were reported to the EIR:

- Access to clean water was reduced.

- Fishing or other community hunting and gathering activities were reduced. For example, fisher people and coastal communities experienced a reduction in the availability of fish and "nener" experiences after their bay was used for STD in Indonesia.[12] Similarly in Lihir, PNG, it is feared that the pollution from dumping tailings into the ocean could destroy reefs and affect marine resources. This could have adverse impacts on the long-term sustainability of food production. The Lihir gold mine has also attracted in-migration that has significantly increased the island's population; previously, when the population was smaller, people could catch fish and the fish grew large.[13]

- Respiratory problems due to dust and other health problems have increased.

- A fishing community in the Asia-Pacific region could no longer gain access to its fishing port because it was replaced by a new port built by an oil and gas company, which

reoriented the mouth of the local river. Many hectares of village land adjacent to this new artificial port have eroded into the sea, leaving some villagers without homes and others without valuable farmland.[14]

- In Kenya, the Olkaria Geothermal Plant, the largest and longest running plant in Africa, is reported to be discharging toxic emissions and effluent into the immediate environment. Poor pipeline maintenance has resulted in frequent noxious gas emissions from burst wells.

- In Chad and Cameroon, the issue of noncompliance with the environmental management plan was reported: water quality was being degraded, rivers were being polluted, and poor quality reclamation of boor pits.

- The number of vehicles on roads increased, often degrading existing transportation infrastructure.

Lack of Consultation

Information and reports received by the EIR reveal that in most cases local communities and indigenous peoples in developing countries with WBG-related projects do not have the capacity or the institutions to negotiate in an international context. To compound these problems, consultations are often only done as a formality to fulfill legal obligations or the WBG procedures.

The following problems were recorded relating to the consultation process in many WBG-related projects:

- In the consultation process, the relevant documents that should be disclosed and provided to communities are often not physically accessible or are available only in a foreign language.

- Affected communities are often not informed about their rights or their entitlement to comment on the various project documents.

- People who oppose the project are often ignored, threatened, or harassed.

- Consultations are often not properly announced, only select people or groups are invited, or they are organized at an inconvenient time or location.

- The process of consultation is often not adequately monitored by WBG staff.

- There is a failure to include women in the consultation process, even where the local community follows a matrilineal tradition.

At the EIR Asia-Pacific consultation, a representative from Lihir Island spoke of how the Lihir gold mine, which received IBRD/IDA-MIGA support, had greatly affected her life and

those of local women and children. Even though Lihir is a matrilineal society, in which land and wealth are inherited through the female birth line, when negotiations concerning the mine occurred, only men were at the negotiating table. This is still the case today: "In terms of structural inequalities, politically and economically, Lihirian women are in a deteriorating position. There has been a shift in economic power to a relatively small group of men that has taken away from women the little power they have as recognised providers of food. No women have benefited in the ways that men have from the money paid as a result of the mine development."[15]

It has been pointed out to the EIR that gender inequalities are not natural, biological, or static: these injustices are caused by illegitimate cultural, historical, political, and economic barriers. In the case of Lihir, the injustices were the result of the MIGA-supported mining project negotiating inappropriately only with the men and failing to take account of the women's perspectives, thereby disenfranchising the local women, undermining their traditional roles and responsibilities, and increasing gender inequalities within the community. As a result, women have largely been denied access to the benefits from the mine, while at the same time they bear the burden of the negative impacts, including alcohol-related problems and marriage break-down.

Lack of Credible and Easily Accessible Grievance Mechanisms

Due to the lack of credible and easily accessible grievance mechanisms for communities, struggles against human rights violations often go on for a very long time—in some cases, up to 30–40 years—without any resolution. Often governments and companies refuse to discuss or provide compensation for these violations. In some cases, companies have paid compensation to communities for lands or resources, and even for the environmental damage they have created, but not for most human rights abuses that involve violence. Past violations of human rights are one of the most haunting legacies that extractive industries will need to address if they expect to be trusted by communities in the future.

Examples abound of communities not being able to seek recourse for the environmental, social, and human rights violations inflicted by extractive companies. Oxfam America documented a case in Ecuador in which a Chevron-Texaco oil venture spanning three decades left behind 350 contaminated waste sites containing 1.8 million gallons of spilled crude oil.[16] After leaving the country in 1992, the company sidestepped lawsuits filed by indigenous peoples demanding that they pay for the cleanup. In August 2002, the U.S. Court of Appeal in New York ruled that the case should be sent to Ecuador, as Chevron-Texaco originally wanted. The court also ruled that it could step back in if the plaintiffs were unable to bring their case to justice in Ecuador or if Chevron-Texaco failed to adhere to the Ecuadorian court's final decision; meanwhile, nearby communities continue to suffer the effects of soil and water contamination, deforestation, and cultural erosion.[17]

Accidents

The EIR received information about a number of accidents within the extractive industry sector in which communities and NGOs felt that companies were not entirely transparent

about impacts, the extent of the accident, or the nature of emergency plans in case of accidents. Reported accidents ranged from mercury spills, STD pipe ruptures, leaking pipelines, and oil spills to ruptured tailing dams. There is serious concern about the impacts of these kinds of accidents on the environment and the life of communities. (See Annex Box 4–1.) For example, testimonies from civil society highlighted social, environmental, and governance problems arising from cyanide spills in Romania in 1998, revealing insufficient emergency response plans, lack of access to information, reports of intimidation, and health issues resulting from the spill.

Civil society organizations often expressed skepticism concerning the effectiveness of company cleanup initiatives. For example, NGOs were concerned about the inadequate equipment for cleanup operations and health risks for the workers after the 1994 Komi oil spill in Northwest Russia.

Communities, as well as national and international NGOs, are highly concerned about the impacts and probability of accidents within the extractive industry sector. Communities are concerned predominantly with compensation, provision of mitigation services when accidents happen, freedom from fear of accidents, and transparency and accessibility to emergency plans. NGOs, while supporting the concerns of local communities, focus on the potential environmental damage such accidents can cause. They also focus on improving standards, policies, and compliance. International NGOs like WWF often can provide scientific information following an accident. For example, after the Baia Mare spill on the river Tisza in central Eastern Europe in early 2000, WWF released a report that was a synthesis of the various studies on the ecological consequences of the cyanide/heavy metal spill. This accident caused the release of 100,000 cubic meters of wastewater contaminated with heavy metal sludge and up to 120 tons of cyanide, resulting in a drastic decrease of water quality in the Tisza River system.[18]

NGOs also help to focus the international media spotlight on serious oil, gas, and mining accidents to ensure they do not go unnoticed and unmitigated and to push for better regulations and more responsible practices. It was Greenpeace, for example, that alerted the World Bank Group to work on the Komi oil spill.

Annex Box 4–1. Lessons from the *Prestige* Sinking

The 26-year-old *Prestige* sank off Galicia, Spain's richest fishery grounds, in November 2002 carrying 77,000 metric tons of heavy fuel oil, which is still spilling and may continue to have an impact for decades. This single-hulled tanker would have been banned from U.S. and Canadian territorial waters, while the European Union (EU) is struggling to catch up with industry practice. It was en route from Latvia, via Gibraltar, to Singapore. The *Prestige* was built in Japan, flagged in Liberia, operated by Greeks, chartered by the Swiss/Russian Crown Resources of Zug in Switzerland, with the U.S. American Bureau of Shipping (ABS) allegedly responsible for its safety supervision. The flag state is technically responsible under international law, but the Government of Spain is suing ABS for 2 billion Euro. The International Oil Compensation Fund mandates tanker owners to carry insurance, which would be only $25 million in the *Prestige* case.

The lessons are that unsafe tankers should be phased out. Old tankers cause most of the spills. Tanker inspection and Captains of the Ports need the capacity to inspect more thoroughly. International hazardous spill response teams need to be mandated and ready. The world's unsafe tankers are well known; the EU maintains a database containing the 66 riskiest ones. The Marpol Convention's phaseout of single-hulled tankers by 2015 needs to be accelerated. Insurance, compensation, and fines need to be mandated at realistic levels. Penal sanctions are probably needed. Especially sensitive areas of the ocean need to be "off-limits" to hazardous cargo.

The best practice is to avoid using Flags of Convenience (FOC), which allow unscrupulous ship owners to avoid international regulations. FOC users look for the cheapest and least regulated ways of operating their tankers. FOCs let owners use risky vessels and unjust labor standards while carrying illegal cargoes (such as immigrants, drugs, wildlife, timber, fish, armaments, and hazardous waste). FOCs contravene the Convention on the Law of the Sea. Article 91 states that there must be a genuine link between the flagging state and the vessel. Because FOC nations dominate the voting structure of the International Maritime Organization, it has been unable to enforce Article 91.

The Shipbuilders Council of America notes that profits are substantial for ship owners to keep using single hulls to the bitter end. Four of the five largest shipping registries by tonnage belong to FOC nations: Panama (122), Liberia (52), the Bahamas (22), and Malta (27), according to Lee. Of Japan's FOC fleet, for example, 43 percent is flagged in Panama; 71 percent of Greek FOC vessels are flagged in Cyprus; 24 percent of U.S. ones are flagged in the Bahamas.

Source: Lee, M. 2003. Flags of convenience. *Ecologist* 48–49. [[date being checked]] The numbers refer to million gross metric tons, according to the UNCTAD 2001 Review of Maritime Transport, International Transport Workers Federation Flags of Convenience campaign report 2002.

Armed Conflict

EIR heard one testimony directly from a person living close to a U.S. oil and gas project situated within an armed conflict zone between government and separatist armed forces. The testimony revealed that while the company was seen partly as a victim, having to pay "security fees" to both sides, its very presence helped financially to fuel the conflict. Also, it was perceived that the project further endangered surrounding communities by increasing the possibilities of intimidation and terror from both sides in the conflict.

Lack of Perceived Benefits from Projects and Social-Economic Problems

Local communities and NGOs working with them have continuously raised the issue of the lack of perceived benefits from locally based projects. It is reported that companies often promise various benefits to local communities but seldom keep their promises. From Eastern Europe and Africa it was reported that local communities whose lands were being used for big energy projects were living without electricity and, in Africa, without health clinics, schools, or roads.

Beyond failing to provide benefits for local communities, extractive industry projects often were instrumental in creating many social and economic problems:

- In the Chad-Cameroon pipeline project, people felt intimidated when they spoke up in the consultation process; there were disputes over funds for compensation; there was a proliferation of prostitution along the pipeline route; and a notable increase in HIV/AIDS cases due to the influx of workers. The majority of people living in the vicinity of the oil field and along the pipelines feel that their standard of living has not improved. NGOs pointed out that the WBG Inspection Panel and the International Advisory Group have also documented the project's serious failure to put in place the necessary conditions for poverty alleviation prior to or at least in conjunction with project construction. Capacity-building, environmental protection, and regional development were falling seriously behind.

- From Lihir, in Papua New Guinea, women reported the increased problem of squatters, alcohol-related violence, criminal activities, marriage breakdown, and an increased number of single mothers in the villages.[19]

- In Chad, some husbands took new wives after receiving compensation money from the Chad-Cameroon pipeline project, leaving their first wives at best no better off than before.[20]

Mine Closure and Past Legacies

Legacies of the past were by far the most frequent grievance voiced by community members in the EIR hearings, many of which continue to haunt communities to the present day. Examples included the testimony of a Mapuche, whose people traditionally straddle the border between Argentina and Chile, who described a struggle that had continued for approximately 30 years to seek indemnity for ecological debt.

EIR also received many materials documenting the dark legacy that trails many oil, gas, and mining projects around the world, including some in the United States, where for example the source of grievances goes back as far as 1948, when Navajos worked in the uranium mines in the northern and western Carizzo Mountains near Arizona. By that time science had already determined that uranium mining caused cancer. The Navajo miners knew nothing about this and were prevented from finding out about it by the complicity of the mining companies and the government in choosing not to tell them. In the 1960s, miners began to fall ill, sparking a process of learning and advocacy. Some 30 years later, the Radiation Exposure Compensation Act was passed. However, the broad intent of this legislation failed to provide compensation to many deserving claimants. An analysis of recent interviews suggest that the communities adjacent to present-day abandoned mines that have not been reclaimed may be exposed to the hazardous constituents of uranium ore and as a result could be experiencing incidents of disease.[21]

Civil society organizations and communities also are very often concerned about the perceived lack of closure plans for extraction projects, including projects that still are in the proposal stage. Some communities felt these plans are put in place too late, as was observed by some in Misima, PNG.

In Eastern Europe, testimonials reported that many WBG mine closure projects in the coal sector were under-funded, at the expense of social and other concerns. The WBG was seen as providing bad advice to governments which, for example, established a single company to monopolize mine closure programs. It was felt that: projects had not always been suitably categorized in accordance with their real impacts; inappropriate models for restructuring had been used; and too little time had been left between the pilot and follow up stages. This has resulted in situations where communities are much poorer off than before.

Ineffective WBG Safeguard Policies

Indigenous peoples and other affected communities are strongly critical of the ability of WBG's Safeguard Policies to protect them from the many adverse impacts of oil, gas, and mining projects they have described to the EIR. These policies are considered to be ineffective due to, among others, the following reasons:

- WBG policies make little mention of human rights. For example, the Safeguard Policies on indigenous peoples and involuntary resettlement seek only to mitigate the impacts of destructive development schemes. They permit forced resettlement. However, in order to lessen the consequences for vulnerable social groups, specific plans are required during project preparation, which, in the case of indigenous peoples are meant to secure their lands and ensure participation in WBG-funded projects.

- Communities and Indigenous peoples were not involved in the development of these Safeguard Policies; the indigenous peoples policy, for instance, was developed without the participation of indigenous peoples and has since been strongly criticized by them. The World Bank Group is currently reviewing this policy. The revision has been repeatedly repudiated by indigenous peoples, both for the manner in which consultations have been carried out and for the fact that the revised draft fails to uphold their rights and is weaker than the previous policy. In resisting indigenous demands for a policy that respects their rights, the WBG claims that it is prohibited from addressing human rights by its Articles of Agreement, arguing that it cannot require its borrowers or clients to observe even the human rights agreements to which they are party. This argument, while legally questionable, is routinely deployed by WBG staff and can be said to be part of the culture of the institution. In an era when discourse about "rights-based development" has become routine, the World Bank Group appears out of date and out of touch.

- Successive reviews show that these safeguard policies are routinely flouted in practice. WBG studies show that more than a third of its projects that affect indigenous peoples have not applied the Safeguard Policy in any way at all. Even in the projects that did apply the policy, only 14 percent had the required Indigenous Peoples Development Plan, and

then only on paper. Case studies presented from India and the Cameroon revealed the shocking consequences of this negligence for indigenous peoples.

- The Cameroon case also illustrates how application of the Natural Habitats Safeguard Policy, which requires the funding of compensatory conservation measures to "offset" habitat destruction, has had negative impacts on indigenous peoples by excluding them from the national parks set up in their forests. They thus suffer a double jeopardy—losing rights in the area affected by the WBG-funded oil pipeline and also in the GEF-funded conservation zones.

- In Chad, the World Bank Group's independent Inspection Panel in its September 2002 report found that the institution's own policy on consultation with affected communities had been violated. At least prior to 1997, consultations with affected communities were conducted in the presence of armed security forces, and later they were in the presence of government officials—a practice not conducive to an open airing of views.[22]

National and International NGOs

WBG Policy Lending (Structural and Sector Adjustment Loans)

In the last few decades global mining, oil, and gas industries have seen substantial restructuring, moving from direct state ownership and control to private ownership and control. A critical element of this restructuring has been the role of the World Bank Group in the formulation or revision of mineral codes of mineral- and petroleum-endowed developing countries worldwide and in financing mining and petroleum projects. The global economic paradigm prescribed by the WBG has contributed to the growing resurgence in the mining, oil, and gas industries over the past few decades.

Responding to this paradigm, several mineral-endowed developing countries have implemented policy and institutional reforms focusing on promoting private (mainly foreign) companies to take the lead in operating, managing, and owning mining, oil, and gas enterprises. In Africa, for instance, at least 30 countries (some of them without known mineral potential), have revised or developed mining codes to radically deregulate the mining, oil, and gas sectors and to provide generous incentive packages to investors in these sectors. By the mid-1980s, the World Bank Group had assumed leadership in the process of redefining the role and functions of the state in mineral- and petroleum-endowed developing countries.

As a result of these measures, developing countries experienced an investment boom in their mining, oil, and gas sectors. In Africa, exploration investment, which stood at 4 percent of worldwide exploration expenditure in 1991, rose to 17.5 percent ($494 million) in 1998. Mineral exploration and mine development investment in the continent also more than doubled between 1990 and 1997.

Unfortunately, the boom in mining, oil, and gas production has had serious negative impacts on the economic development of African countries endowed with extractive resources, as well

as on their environment and the rights of their citizens, particularly in the communities where these projects are located. In Africa, while the sector accounts for 40–60 percent of foreign exchange earnings, on average it contributes less than 10 percent to the continent's GDP and accounts for about 2 percent of total employment of the region. For all the mineral wealth and massive foreign direct investment to the sector, Africa remains impoverished and the number of poor people is on the increase. Africa's role in the world economy is shrinking. Its share of world trade has fallen from 3 percent in the 1950s to only 1 percent in 1995. Ghana, which was once regarded as the darling of WBG reform programs, is now one of the highly indebted poor countries, after 19 years of adjustments.

Measures implemented under the global mining, oil, and gas sector restructuring replaced subsistence economies with market-based economies in rural communities around the fringes of WBG-supported EI projects. This change has resulted in increased dependency and poverty.

Extractive industries projects tend not to support economic conditions that the WBG argues are necessary for poverty alleviation, including sustained economic growth, economic diversification, and the creation of income-generating opportunities for the poor. With regard to growth, extractive-based economies tend to grow more slowly than other economies. By drawing capital away from other sectors and by inflating the value of a country's currency during a resource boom, extractive sectors can make diversification into higher-value-added forms of production extremely difficult. Thus countries can remain trapped in a vicious circle of extractive commodity dependence.

Several studies have concluded that the benefits from developing extractive industries, and the structural and policy reforms that encourage the expansion of these sectors, are often outweighed by the associated social and environmental costs.[23]

An analysis based on three country case studies in Peru, Tanzania, and Indonesia, all involving World Bank Group and International Monetary Fund (IMF) structural adjustment programs and accompanying policy and institutional reforms linked to the extractive sectors, including privatization, investment liberalization, trade liberalization, labor market liberalization, and decentralization, reached the following conclusions:[24]

- *Development policy lending linked to the expansion of the extractive industries did not adequately address core elements essential for poverty alleviation and sustainable development.*

  The World Bank Group development policy lending programs associated with extractive industries are significantly concentrated on providing opportunities for private business, mainly foreign, to expand investment and production while giving little attention to strengthening the rights of the poor and improving environmental management. As a result, development of extractive industries directly led to unacceptable and unnecessary social and environmental costs.

Examples of important social and environmental issues that did not receive adequate consideration in development policy lending associated with extractive industries include formalization, competition capacity, and environmental performance of small-scale mining; access of domestic firms to long-term finance; good governance reforms benefiting the poor and the environment, such as land use issues; military involvement in extractive industries; environmental and social quality of the new contract models; revenue management; external market constraints to creating more value-added economic sectors; employment creation; and environmental regulation and mitigation of degradation.

- *Expansion of these sectors, driven and shaped by development policy lending, has increased environmental degradation, has not reduced poverty, and has produced harmful macroeconomic imbalances.*

The WBG's *ex-post*, complementary technical assistance approach to improving social and environmental performance of the extractive sectors is not a reasonable approach, as development of these sectors significantly outpaces progress on social and environmental governance, and, moreover, governments typically do not follow up on the good advice provided by technical assistance programs.

Examples of important outcomes related to poverty include no reduction in rural poverty (EI development is predominantly in rural areas); increased vulnerability to shocks from mineral and oil prices; decreases in payroll and long-term employment; negative health impacts associated with increased environmental degradation; EI revenue often not being transferred to affected communities, thereby increasing social antagonism and conflict.

Examples of important environmental outcomes include marginal gains in environmental mitigation associated with WBG assistance being unable to offset the overall increase in exploration and production of the EI sectors; exploration and production that have moved to more socially and environmentally sensitive areas, including protected areas supported by WBG project funding; negative climate change and air pollution effects due to significant increase in thermal generation using diesel, fuel oil, and coal in the mining sector; and increases in greenhouse gas emissions with increased EI production and the combustion of fossil fuels.

Examples of important macro imbalances include increased economic dependency on primary commodities; increased vulnerability to external shocks; negative pressure on balance of payments from increased energy imports in the mining sector; and overly concentrated investment by large foreign enterprises.

- *Negative economic, social, and environmental outcomes of development policy lending were due to market, policy, and institutional failures that were either left uncorrected or were created by structural adjustment processes and policy/institutional reforms.*[25]

In some cases, WBG and IMF development policy lending corrected important market, policy, and institutional failures. However, in all the study countries significant failures persisted and, moreover, new failures were created by program reforms. As a result, the

development of extractive industries moved forward prior to addressing important failures that were harmful to the poor, the environment, and the economy.

Furthermore, under these harmful conditions, structural adjustment processes induced the selling off of many of the country's core mineral and hydrocarbon assets, mostly to foreign investors. In some countries, structural adjustment and policy reforms ushered investment into extractive industries heavily troubled by military involvement. Also, there are several cases of weak environmental and social standards that are contractually locked in for 10–20 years.

Examples of important market, policy, or institutional failures created by WBG-supported reforms in the country case studies include dismantling and privatizing State-owned extractive enterprises without adequately building State capacity to regulate the sectors regarding, for example, competition and the environment; unclear roles and responsibilities of EI sector actors; absence of governmental authority, independent of the EI sector, promoting institutions to address social and environmental compliance issues; preferential tax treatment for the EI sectors; and new EI contract models providing no size limits on EI concessions.

- *The World Bank Group's current arrangement with the IMF regarding collaboration on structural adjustment programs and IMF program prerequisites for WBG lending is often incompatible with objectives of sustainable development and poverty alleviation.*

To begin with, the IMF's objective for structural adjustment is for immediate macroeconomic stabilization. For example, in the case study countries the IMF promoted aggressive privatization of significant mining and hydrocarbon assets for short-term financing of the deficit. Such an objective did not ensure the creation of competition, efficiency gains, development of a domestic private sector, or environmentally and socially sound development strategies for the extractive sectors.

Currently, adjustment lending is not normally undertaken by the WBG unless a country has an IMF arrangement in place. Furthermore, in the case study countries socially and environmentally based WBG loans were cancelled due to a lack of progress on IMF structural benchmarks. Thus difficulties with structural adjustment, for whatever reasons, became a barrier to progress on social and environmental programs. Given a mission of sustainable development and poverty alleviation, it would be more reasonable to cancel adjustment lending when progress is not made on social and environmental objectives.

Moreover, the WBG has repeatedly stated that it has no responsibility for assessing the environmental or social impacts of IMF macroeconomic policy prescriptions or structural benchmarks (even though, according to the framework for collaboration, the WBG is the lead agency responsible for environmental policy areas). This includes IMF reforms and structural benchmarks that could potentially undermine WBG-supported social and environmental operations, such as the Peru-Camisea natural gas concession and WBG project support for the Vilcabamba Indigenous Peoples Reserve.

Structural Adjustment Programs and Indigenous Peoples

In pursuit of national development through trade liberalization, structural adjustment, and the promotion of foreign direct investment, the World Bank Group has routinely advised countries to rewrite national mining codes to facilitate large-scale mining by foreign companies. The revised codes have been pushed through without the participation of indigenous peoples and without taking into account their interests and rights. Case studies from Colombia and the Philippines show how the new codes have intensified pressure on indigenous peoples' lands and have weakened or overridden the legal protections previously enjoyed by indigenous peoples. In Colombia, mineral, oil, and gas reserves are exploited by unaccountable companies, which enjoy legal impunity while regularly violating national laws and using severely repressive measures to overcome local resistance. In Ecuador, the WBG has also promoted national mineral surveys, again without taking the rights of indigenous peoples into account or assessing the likely consequences of intensified mineral extraction.[26]

Structural Adjustment Programs and Women

Extreme poverty affects women differently and often more severely than men. While the gender impacts of structural adjustment programs is not uniformly negative throughout the reform process and across countries and economies, it is clear that it is women who—as workers, producers, consumers, wives, and mothers—are the main shock absorbers of adjustment efforts, at immense cost to their well-being.

WBG structural adjustment programs that promote the deregulation, liberalization, and privatization of extractive industries within resource-rich but economically poor countries have not considered the impacts of such programs on gender equity and women's rights. Feminist economists have identified how such reform programs have failed women:[27]

- They do not recognize the large contribution to economies provided by women through the production and maintenance of labor supply through childbirth and childcare, shopping, housework, and cooking. Women's unpaid contributions to the informal economy are largely "invisible" in these economic models, which obscures the economic and social costs of extractive industries on women's work and lives. An export-driven, privatized, and deregulated extractives sector dominated by foreign transnational corporations has had enormous impacts on women, and this has not been considered by the WBG.

- Productive or income-generating activities relate to the market, while reproductive activities such as caring for the young and old, maintaining health and sanitation, and taking responsibility for food, fodder, fuel, and water are unpaid and usually female activities. Extractive industries have a detrimental impact on the reproductive economy by increasing the burden on women in non-income-generating areas. In short, World Bank Group support for government reform packages that seek to liberalize, privatize, and de-regulate extractive industry sectors transfer the negative burdens from the paid economy to the unpaid economy, exacerbate existing gender inequities in the household and the workplace, and worsen conditions of poverty and deprivation for women.

Biodiversity Conservation and the Importance of Protected Areas

Many large international environmental NGOs are seriously concerned with the impacts that the oil, gas, and mining industries have had and can continue to have on fragile ecosystems and the biodiversity they contain. While these organizations are highly critical of extractive industries, they also focus on producing work they hope will help guide companies to becoming more responsible and improving their operations. WWF, for example, in a 1992 publication called "To Dig or Not to Dig" developed criteria to help companies determine the sustainability or acceptability of mineral exploration, extraction, and transport from ecological and social perspectives. Ultimately the aim is to help industry conserve biodiversity and protect the rights of people who depend on it for survival. As a first step, WWF requests industry to respect IUCN's Amman 2000 Resolution, which calls on the industry to stay out of Categories I–IV Protected Areas, which cover 4 percent of the global terrestrial area. WWF also asks industry to help conserve critical areas of high biodiversity wherever they are found.[28] Many NGOs at the international and national level strongly oppose mining and oil and gas extraction in protected areas and demand they be declared "no-go zones."

During the EIR consultation in Eastern Europe and Central Asia, civil society participants from CEE Bank Watch pointed out that "no-go zones" should also include all areas of high conservation value, territories of indigenous peoples and nations, areas where local communities oppose oil, gas, and mining projects, and areas where investment may exacerbate armed conflict.

EIR observed that in many cases the indigenous peoples' representatives who participated in the consultation process did not demand their territories and lands be made into "no-go zones." However, they did demand that their rights to self-determination be respected and that extractive industry companies obtain the "prior, free and informed consent" of indigenous peoples before operating in their lands and territories. EIR also heard that many indigenous peoples do not feel that their rights over territories and lands are respected by extractive industry companies, governments, and the WBG. This has resulted in a strong demand from many regions for the WBG to put a moratorium on oil, gas, and mining investments until these rights are formally recognized.

Human Rights

Lacking legitimate and trusted grievance mechanisms in the case of conflict with companies, many remote communities turn to concerned national and international NGOs for support. For many years national and international NGOs have documented serious human rights violations within the extractive sector. The Oxfam Community Aid Abroad Mining Ombudsman is an NGO that provides an accessible mechanism worldwide to communities with grievances against or facing conflicts with Australian-based mining companies. It has found that the grievances of local communities affected by mining activities often come from direct denials of their basic human rights, especially their rights to prior, free and informed consent, to self-determination, and to land and livelihoods. These grievances have proved to

be largely similar across the industry and throughout the life of exploration and mining projects.[29]

In some countries, the Catholic Church has also been active in recording and witnessing human rights violations perpetrated by some big multinational companies doing natural resource extraction. For example, EIR was shown a report released in 1995 by the Catholic Church in West Papua, Indonesia, that documented incidents of torture at the Freeport security post and in Freeport shipping containers; these events resulted in bloodied heads, bruised faces, multiple wounds, loss of consciousness, and, in one case, death due to a broken neck.

There's a large body of opinion that women are the most discriminated against, the most vulnerable, and least empowered members of many societies, including those with rich endowments of mining, oil, and gas resources. Women account for 70 percent of the poor and this proportion is growing. The Oxfam Community Aid Abroad Mining Ombudsman has listened to and documented the following grievances from women in mining communities concerning violations and infringement of their human rights:[30]

- Negotiations being entered into only with men, making women neither party to the negotiations nor beneficiaries of royalties or compensation payments. This practice strips women of their traditional means of acquiring status and wealth;

- A lack of recognition for the religious and spiritual connections of indigenous women to their environment and land, especially when they are displaced by mining activities.

- Women generally have little or no control over and access to any of the benefits from mining developments, especially money and employment. They therefore become more dependent on men.

- The traditional roles and responsibilities of women are marginalized as the community becomes more dependent on the cash-based economy created by mining development.

- The workload of women increases as men work in the cash economy created by mining operations, and women bear increased responsibility for the household and food provision through traditional means.

- Women risk becoming more impoverished, particularly in women-headed households.

- Women bear both the physical and mental strain from mining development, especially when it involves resettlement.

- Women suffer from an increased risk of HIV/AIDS and other sexually transmitted diseases, family violence, rape, and prostitution—often fuelled by alcohol abuse or a transient male work force.

- Women suffer from environmental degradation and contamination, as they often are responsible for providing the family's water and food, which becomes increasingly more difficult when water sources and land are polluted.

- Women suffer active and often brutal discrimination in the workplace.

These impacts from extractive industries are a denial of the basic human rights of women. They are consistent across mining, oil, and gas projects and have been detailed in numerous conferences, testimonials, and studies on the detrimental impacts of extractive industries on the lives and rights of women and children.[31] They are the result of gender insensitivity in extractive projects as well as a false assumption of gender neutrality and are exacerbated by insufficient or non-existent gender analysis and planning. Therefore the WBG, with its mandate of poverty alleviation, should make improving gender equality and promoting women's rights a priority.

There is a broad group of gender impacts applicable to extractive industries:

- *Access to and Control over Natural, Economic, and Sociocultural Resources.* Displacement generates massive shifts in the ways that men and women gain access to and control resources; projects may build on and exacerbate existing inequalities in the distribution of resources.

- *Gender Relations.* The implementation of major projects causing changes in social and gender relations within a community, which may exacerbate rather than ease gender asymmetries.

- *Division of Labor and Economic Activities.* Processes such as resettlement may cause significant changes in the gender division of labor, the impacts of which will differ according to class and social standing.

- *Participation and Decisionmaking Processes.* Efforts to involve communities in decisionmaking may exclude women during the planning stages or may not include them in a culturally appropriate manner that does not antagonize or alienate male community members. Lack of consultation with women regarding resettlement leads to unanticipated consequences for the well-being and health of women and their families.

- *Sociocultural Well-being and Questions of Identity.* A change in community identity due to a change in the natural surroundings can affect a community's sense of well-being. Gender disparities embedded in social practice and tradition render women vulnerable to sexual and physical violence; when a community suffers the deleterious consequences of enforced change, women—outside and inside the family—can become more subject to violence.

- *Institutional Arrangements.* Institutions reflect the prevailing gender and power relations in a society, and those created because of a new project may be male-dominated and may not empower women or enhance their bargaining power.[32]

It is clear that the impacts of extractive industries are not gender-neutral. Women experience the direct and indirect consequences of mining in different and more pronounced ways than men. In its support for extractive industries, whether through structural adjustment programs promoting increased investment in extractive industries or in direct support for projects, the World Bank Group has helped to further disadvantage and disenfranchise women within their communities and to increase gender inequalities.

Lack of Transparency

In the actions of corporations, NGOs are concerned with the lack of transparency in the following:

- *How private companies are influencing public policies and laws.* Oxfam America gives the example of the expensive law suits that all the NAFTA participating governments have had to face as a result of too broadly defined investment agreement provisions. In Oxfam's words, "private corporations operating in these countries are using secretive, international arbitral tribunals to pressure governments to change governmental regulations and laws that protect public health or the environment, claiming they are a form of indirect expropriation."[33] If this is the case faced by the United States and Canada, as well as Mexico, there is cause for alarm about the situation faced by governments of less powerful governments in developing countries.

- *How companies make operational decisions that are relevant to the public.* For example, WWF and a coalition of British, European, Canadian, and American investors have filed a resolution calling on BP to disclose how it measures risk to shareholder value from drilling in environmentally and culturally sensitive areas. This resolution reflects investment guidelines issued by the Association of British Insurers, which encourages companies to adopt best practice and greater disclosure when responding to social, ethical, and environmental risks.[34]

- *How oil, gas, and mining revenues are paid to governments.* This is considered important to promote financial accountability within governments, for democratization, and to ensure the oil, gas, and mining sectors contribute to poverty alleviation and sustainable development. There is a growing coalition worldwide of NGOs and other civil society organizations, including Global Witness, Amnesty UK, CAFOD, Christian Aid, Environmental Defense, Friends of the Earth UK and US, Tearfund, and various chapters of Transparency International, united in the Publish What You Pay campaign, calling for oil gas and mining companies to disclose net payments made to national governments.[35]

- *How companies provide information to developing-country governments and local communities.*[36] EIR has received reports about how companies have not fulfilled best practice standards, including:
  - Lack of honest disclosure of information regarding closure and emergency plans, has been reported to the EIR in all regions—From Eastern Europe and Central Asia, for example, the EIR received the following information: "Oil companies have pressured

the Azerbaijani government to increase limits on waste dumping in the Caspian Sea and increased their activity in the Black Sea. The Black Sea has become one of the most polluted and degraded seas in the world. In Azerbaijan, where an oil spill could result in an ecological tragedy in the Caspian Sea, the oil consortium refuses to release its emergency plans."[37] Other reports of this kind have been received from all other regions that the EIR has consulted.

- Neglecting to identify and consult with relevant stakeholders interested in development issues, or initiating contact belatedly when an Environmental and Social Impact Assessment (ESIA) is being finalized—Lack of consultation is often also reflected in the fact that ESIA documents do not sufficiently reflect community perceptions and expectations of a project. Vague information on benefits and the lack of openness in managing community expectations often result in resentment and anger when hopes for employment, the provision of infrastructure, health and education, are not adequately met.[38]
- Vague and superficial environmental and social management plans that will make it difficult to effectively monitor and evaluate the operating performance of a company—The EIR also found that, in many cases, monitoring of environmental and social impacts was carried out by the extractive companies, but the results were often not communicated to the public.

Many civil society organizations in all the regions consulted by the EIR expressed discontent about the way the WBG conducts its business. Many feel it is not inclusive or transparent in informing the public about its plans, transactions, and deals with governments or with its corporate and private partners. The EIR received many strong recommendations to relay to the WBG on this issue. The most complete submission was received from CEE Bank Watch during the EIR's first planning meeting. It covered the following points:[39]

- It is vital that all elements of the WBG work in a clear and transparent manner, adhering to its own policies to make informed decisions guided by the rights and opinions of civil society. It is important that NGOs, affected communities, local authorities, expert groups, and trade unions are involved in the process and have a voice in deciding about projects that will affect their lives and futures. The participation processes at local, national, and international levels should have clear procedures and timelines that are known by all participants.

- Detailed information about WBG investments must be available to the public prior to project approval. During project preparation, environmental and social impact assessment processes should be followed scrupulously and the principles of the 1991 Convention on Environmental Impact Assessment in a Transboundary Context (the Espoo convention) should be applied for projects with transboundary impacts. The public also should have access to independent monitoring and evaluation during project implementation.

- The WBG should adhere to the principals and procedures of the U.N. Economic Commission for Europe's Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Aarhus Convention), making it mandatory for its own direct activities.

- There is an urgent need for new rules to include public participation in structural and sectoral adjustment lending programs of the WBG. These programs should also use enhanced Strategic Environmental Assessment and Social Assessment.

- The WBG needs to develop better guidelines for consultation, preparation, and implementation of Country Assistance Strategies (CASs). A CAS should be discussed at an earlier stage with broader public participation. This would also help decrease corruption.

- The WBG should focus on projects that will provide benefits to the widest possible segment of societies. This includes ensuring people's food and water supplies; access to transportation services; and access to clean and sustainable energy and providing support for social and health services. Structural adjustment lending operations should avoid negative impacts on social, educational, and healthcare services.

- To stimulate local production, special emphasis should be placed on microcredit lines for small-scale industry and services. The WBG should not promote practices that discriminate against local industry, such as tax and legal exemptions for foreign investors.

In the actions of governments, lack of transparency is a concern especially in terms of how resource revenues are used. Globally, oil, gas and mining is important for the economies of over 50 developing countries. Although these countries are endowed with resource wealth, however, many have not been able to break the cycle of poverty. It is estimated that up to 1.5 billion people in these countries live in dire poverty on less that $2 per day; 12 of the most mineral- dependent nations and 6 of the world's most oil-dependent states are classified by the World Bank Group as Highly Indebted Poor Countries, with among the worst human development indicators.

Algeria, Angola, Azerbaijan, Myanmar, Cape Verde, Cambodia, Chad, Congo-Brazzaville, Democratic Republic of Congo, Equatorial Guinea, Gabon, Indonesia, Kazakhstan, Nigeria, Sudan, Vanuatu, and Venezuela are all rich in extractive resources. Yet the *Human Development Report 2002* shows that many of these countries have the highest levels of mismanagement and failed development, indicated by the discrepancy between a country's Human Development Index (HDI) and its GDP ranking. For example, Equatorial Guinea's HDI ranking is 73 places below its GDP rank.[40] Many of these same countries also show a very high level of resource revenue misappropriation and diversion. The government of Angola, for instance, had not accounted for at least $1 billion of its oil receipts for five years in a row through 2001.[41]

The Publish What You Pay campaign demands that the WBG use its leverage in all new development projects to make sure that all revenues emerging from extractive industry projects are placed in an escrow account and managed transparently and accountably. In existing projects, where leverage is less clear, the WBG should provide aggregate net revenue payment information. The WBG should also help build civil society capacity to hold governments accountable in the management of such revenues.

Climate Change

There is a strong global civil society movement that sees global warming, or climate change, as the major global environmental threat of our time. Caused by the excessive buildup of heat-trapping "greenhouse gases" in Earth's atmosphere—in particular, carbon dioxide (CO_2) emissions from the burning of oil, gas and coal—climate change threatens virtually every segment of the biosphere and human society. NGOs note that the Intergovernmental Panel on Climate Change (IPCC) has stated that "atmospheric concentration of carbon dioxide has increased by 31 percent since 1750. The present CO_2 concentration has not been exceeded during the past 420,000 years and likely not during the past 20 million years. The current rate of increase is unprecedented during at least the past 20,000 years."[42]

Furthermore, according to civil society, it should be recognized that "about three-quarters of the anthropogenic emissions of CO_2 to the atmosphere during the past 20 years is due to fossil fuel burning. The rest is predominantly due to land-use change, especially deforestation."[43] The industrial world, home to most of the world's fossil fuel industries and the vast majority of its consumption, bears the historic responsibility for these gasses. But it is the developing world, particularly in the tropics and small island states, that will bear the brunt of the consequences.

The WBG recognizes the threat that climate change poses to the world's poor.[44] And yet, after the U.S. Government, the World Bank Group is the world's largest source of public funding for fossil fuels. There is an obvious tension between these two facts that many civil society organizations feel the Bank has consistently avoided to date.

Roughly one-fifth of all World Bank Group lending is devoted to increasing energy production and power supply in developing countries. The WBG's energy lending portfolio is dominated by fossil fuels; more than three-fourths of all its energy-related lending is spent on oil, gas, and coal or power projects that use these fuels.[45] From 1992 to 2002, total WBG financing for 229 fossil fuels projects amounted to $25 billion, leading to estimated emissions of 46.7 billions tons carbon equivalent. In the same period, only $ 1.35 billion of WBG funds were spent on 39 renewable energy or energy efficiency projects—less than 5.5 percent as much as fossil fuel projects.[46]

These WBG-financed fossil fuel projects will have a significant impact on the global climate: the projects approved since the 1992 Earth Summit will contribute 46.7 billion tons of carbon dioxide to Earth's atmosphere, equivalent to twice the total amount emitted from fossil fuel burning by all the world's countries in 2000.

It is pointed out that by funding fossil fuels projects, the WBG encourages more consumption of fossil fuels, particularly in industrial countries, hence increasing greenhouse gas emissions in the atmosphere.

In response to growing criticism regarding the carbon content of the WBG energy portfolio, in June 1997 at the Earth Summit II in New York, WBG President James Wolfensohn said "the World Bank will routinely calculate the potential impact of all its energy projects on climate change and, where there is cause for concern, assist developing country clients to finance more climate-friendly options." Despite this pledge, greenhouse gas accounting is not always undertaken for energy projects—and in particular not in relation to oil, gas, and coal extraction or transport projects that are funded by the World Bank Group.

Civil society organizations point out that many governments also endorse the idea that the WBG needs to take climate change into full account in their policies and operations, as reflected in the May 1998 G8 Summit, where the final communiqué noted that "We must ensure that the policies and operations of the World Bank and other International Financial Institutions take full account of climate change."

However, beyond efforts to simply ensure full accounting of the WBG's responsibility for additional greenhouse gases, many civil society organizations feel that the institution has focused unnecessarily on adaptation to climate change rather than mitigation of the problem. Mitigation would clearly include a limiting, and perhaps a reduction and phaseout of support for the primary source of anthropogenic greenhouse gases—fossil fuels. While new exploration for fossil fuels is usually undertaken for economic and political reasons, civil society organizations concerned with climate change often view these projects from an ecological perspective with an eye toward the amount of carbon they will ultimately release into the atmosphere.

Viewed from the perspective of climate change, ongoing exploration for additional coal, oil, and gas makes no sense at all. Current estimates of recoverable fossil fuel reserves indicate that they hold a great deal more carbon than can be released without triggering the worst effects of climate change.[47] This geological fact underscores the need for fossil fuels to be phased out—they will not run out first; there will have to be a conscious decision taken if the worst effects of climate change are to be avoided.[48]

According to the IPCC, reserves of oil, gas, and coal identified as economically recoverable are over 1,000 billion tons of carbon—or 820 billion tons excluding unconventional sources such as oil shale and tar sands. In reality, reserves are rapidly expanding due to economics, to oil, coal and gas exploration, and to the development of unconventional sources of oil. The resource base that could be brought into reserves is estimated to be over 4,000 billion tons of carbon.[49]

These figures beg the question of why the petroleum and coal industries are investing billions annually in ongoing exploration for new sources of oil and gas.[50] From the corporate perspective, at least part of the answer lies in the fact that industry financial analysts value oil and gas corporations primarily on the basis of their ability to replace their reserves (that is, find new oil and gas). Civil society maintains that public institutions such as the World Bank Group should not be burdened by such considerations.

Recognizing that extractive industries, particularly fossil fuels mining, are responsible for the major source of climate change, environmental NGOs are calling for an immediate moratorium on and subsequent phaseout of all financing of fossil fuels and mining project by multilateral development banks, including the IFC.[51] As a first step, NGOs are demanding the removal of incentives and various subsidies enjoyed by fossil fuels, while moving more aggressively to support non-fossil fuel alternatives.[52] During the Asia Pacific workshop, the Transition Institute stressed the urgent need to shift out of fossil fuels and move to renewable energy sources and technologies.

There is also a strong need to increase energy efficiency. Taking into account that the fastest energy consumption growth within the next 20 years will happen in Asia, several issues are emphasized:[53]

- the ecological limits of climate change require immediate action;
- Asian energy growth means the region should be a focus of attention;
- fuel switching and demand side management are not enough;
- interventions by the WBG can have the effect of locking out renewables unless market and policy consequences are understood and corrections are made; and
- WBG action should engender the creation of favorable market and policy conditions for renewable energy development and technology transfer.

Many NGOs point out that most developing countries have high potential for renewable energy, such as solar heating, biomass, micro-hydro, and wind power. However, the financial and institutional arrangements do not encourage the development of it. The WBG has the leverage to bring about this change. The WBG can send a strong message to encourage the development of renewables.[54]

Weak National Legislation and Capacity

Many organizations strongly maintain that while developing countries are rushing to exploit their wealth of oil, gas, and mining, often with the encouragement of the WBG, these nations do not have adequate policies in place to protect the environment or the people or to manage the resulting revenues for the greater benefit of the nation.

Through its various arms, the World Bank Group has directly supported mining, oil, and gas ventures without adequately assessing the social and environmental consequences and without taking heed of the lack of good governance and institutional or regulatory capacity in project areas or countries. In the case of the Chad-Cameroon pipeline, the World Bank Board voted to go ahead with the project even when the forest-dwelling Bagyeli indigenous peoples and supporting NGOs had clearly articulated the risks, although Board members admitted that the WBG Safeguard Policy on indigenous peoples had not been properly applied. (See Annex Box 4–2.) The IFC has even supported mining by companies with bad track records in war-torn countries like the Democratic Republic of the Congo—projects that have been condemned by the United Nations.[55]

The liberalization of the mining and petroleum sectors, plus generous investment incentives in the last two decades, has not been matched with the necessary environmental management

legislation to address the inevitable environmental impacts. The zeal to implement policy reforms to attract investment has led to the diminution of state power and regulation needed for protection of the environment and local communities. Some WWF case studies revealed that adjustment lending that is normally undertaken by the World Bank Group when a country has an IMF arrangement in place may result in the canceling of socially and environmentally based WBG loans due to lack of progress on IMF structural benchmarks. Thus, difficulties with structural adjustment, for whatever reasons, potentially become a barrier to progress on social and environmental programs. Given the mission of sustainable development and poverty alleviation, it would be more reasonable to cancel adjustment lending when progress is not made on social and environmental objectives.[56] Many developing countries, in the drive to achieve global competitiveness in the exploitation of oil, gas, and mining, are offering concessions such as tax breaks. This tax competition in natural resources has led the U.N. Economic Commission for Latin America and the Caribbean to warn about the dangers of exacerbating the concentration of economic activity in natural resources when the region still does not have an institutional environmental system fully able to deal with negative externalities of this phenomenon.[57]

Annex Box 4–2. Managing Oil Revenues Without Capacity

The Chad revenue management plan is widely showcased as an example for oil-exporting countries. As a requirement for its participation in the Chad-Cameroon project, the World Bank Group required the Chad government to pass a new revenue management law stipulating that 80 percent of petrodollar revenues would be devoted to education, health, rural development, infrastructure, and water and environmental issues; 5 percent to affected communities; and, until 2007, the remaining 15 percent could be used to finance recurrent government expenditures. The law established a Petroleum Revenue Oversight and Control Committee, an independent government-civil society committee whose task is to verify, authorize, and oversee expenditures of oil revenues. The WBG also provided a $41 million loan to develop a revenue management and financial control system, including financial support for key institutions.

Even if followed exactly as designed, the project still has major flaws that need to be addressed if revenues are to benefit the poor. These include:

- *Significant oil revenues fall outside of the scope of the Revenue Oversight Committee.* Fiscal revenue is only exercised over special accounts corresponding to direct revenues generated by royalties and dividends. Indirect revenues such as taxes and custom duties go into ordinary Treasury accounts. According to an analysis by Agence Francaise de Developpement, these levies may represent up to 45 percent over the life of the project. A WBG projection of the distribution of net revenues, using the assumption of 917 million barrels produced at an average of $25 per barrel, shows that $3.3 billion would go into general budget expenditures, while only $1.6 billion would go to priority sectors, the Doba Region, and the Future Generation Fund.
- *The law does not cover all of Chad's oil; it specifically covers only the three Doba fields.* This is of concern since there are high possibilities of finding more oil in the country. If more oil is indeed discovered and extracted, this could mean that a large amount of new petrodollars could fall outside the revenue management system.

management has said that the figure of 5 percent was reached through an internal political process in Chad. But given the human rights and security situation in southern Chad, observers doubt that the people in the region had much say, if any, in selecting that figure.

- *The 5 percent specified by the law for the Doba oil- producing region can be changed by presidential decree five years after passage of the law.* The President of Chad will have the power to change these allocations. There is no effort to strengthen other branches of government that might serve as a counterweight to presidential decree. Institutions related to the judiciary, or the rule of law, are not earmarked as priority sectors. This is troubling because, as the World Bank Inspection Panel noted, the successful "translation of oil revenues into equitable, effective economic development and poverty alleviation extends well beyond budget allocations, and the auditing and control of public expenditures." It also requires democratic institutions.
- *The law fails to create oil sterilization and stabilization funds.* According to project documents, windfall oil revenues that cannot be used immediately or efficiently for the objectives of the project or the spending of which would affect macroeconomic stability are to be "sterilized under arrangements acceptable to the Bank." This arrangement is not spelled out in the law; as of early 2003, negotiations for such an arrangement had not been concluded. The Inspection Panel report noted that no provision for sterilization is in the law or in the loan agreement documents for the petroleum revenue management program. There is also no provision for a stabilization fund to cushion a newly oil-dependent Chad against price fluctuations.
- *The law is vague regarding priority sector and regional spending.* While the law stipulates sectors such as health and education, spending within these areas is wide open. There is no directive about whether money may be spent on a state-of-the-art hospital in the capital or primary health care clinics in rural areas, for example. Regional allocations are also not specified. In a country with a history of ethnic and regional discrimination, this may sow seeds for future conflicts over the distribution of oil rents.

Source: Ian Gary, Catholic Relieve Services, and Terry Lynn Karl, Stanford University, *Bottom of the Barrel: Africa's Oil Boom and the Poor*, June 2003, p. 69–70.

Armed Conflict and Militarization

While many testimonials received by the EIR revealed the bare facts of human rights violations by the military, police, or commercial mercenaries often paid by extractive industry corporations in a number of countries, systematic documentation and investigation by international NGOs show that these phenomena are not unusual cases that stand alone. Michael Ross in the Oxfam America Report, *Extractive Sectors and the Poor*, for example, found that "Oil and mineral wealth heightens the risk of civil war in several ways. Poorly-governed mining operations can lead to the expropriation of land, environmental damage, and human rights violations; these factors, in turn may create grievances that lead to armed conflict, as in the Bougainville rebellion in Papua New Guinea, and the West Papua (Irian Jaya) rebellion in Indonesia. The discovery of resource wealth in a discontent region may add fuel to separatist sentiments, as in Nigeria (in the Biafra rebellion), Angola (the Cabinda rebellion) and Indonesia (the Aceh Rebellion)."[58]

The Oxfam Community Aid Abroad Mining Ombudsman of Australia in its 2003 annual report also documents many situations where security forces and the military in relation to extractive industry companies are responsible for violent actions against people and forced relocations of local people, mostly indigenous.[59] The EIR testimonials in Asia Pacific and Africa also revealed similar incidences.

In *All the Presidents' Men*, Global Witness reveals the alarming reality in Angola, where oil revenue is being used to finance arms deals and at the same time those deals are enriching an elite illegally. Furthermore, this report documents how the Angolan "oil for arms" corruption scandal involves key international political and business players.[60] In a country where every three minutes a baby dies of malnutrition and where life expectancy is as low as 45, the reality that oil wealth is being used to fuel war is unacceptable. Global Witness maintains that oil companies are complicit in this problem of "oil for arms and corruption" by refusing to publish what they pay to the Angolan government. The organization estimates that over the last four years $4–5 billion of Angola's oil revenue have gone missing, which should be compared with "the 200 million dollars in food aid raised by the UN to feed displaced refugees over the same period."[61]

There are many other distressing cases, including the civil suit filed by the International Labor Rights Fund on behalf of 11 anonymous plaintiffs alleging that the "the Indonesian military provided 'security services' for Exxon Mobil's joint venture in Indonesia's conflict ridden Aceh province," and that the Indonesian military committed "genocide, murder, torture, crimes against humanity, sexual violence and kidnapping" while providing security for the company from 1999 to 2001." [62] This has been a controversial case for the pro human rights community internationally and in Indonesia due to the U.S. State Department's involvement, in which a letter was sent to the judges to dismiss the case, claiming that the suit "may actually hurt progress on human rights in Indonesia."[63] A similar ongoing U.S. case was filed on behalf of Myanmar farmers, alleging the country's military of terrorizing, raping, and using forced labor in the construction of a jointly owned gas pipeline by Unocal, Myanmar's state-owned company, and the French oil firm Total.[64]

The phenomena of military violence against civilians in relation to extractive industry activities is also recorded in Latin America. It is alleged that one out of four Colombian soldiers, for example, is currently involved in protecting oil installations, and Occidental Petroleum (OXY) is said to estimate that 10 percent of its in-country budget is spent on security costs. A June 2001 report, *Drillbit and Tailings*, highlights a Colombian government enquiry about OXY's active collaboration with security forces to protect its oil operations, in which "according to testimony from Colombian military officials, AirScan (a private security firm based in the US and contracted by OXY) provided key strategic information to the Colombian military gathered during their security work for OXY and helped coordinate the air attack using the plane's infrared and video equipment to pinpoint targets on the ground. While allegedly targeting the Revolutionary Armed Forces of Colombia (FARC), a left wing guerilla group, the Attack actually killed 18 civilians, nine of which were children."[65]

To summarize, Catholic Relief Services notes clearly: "Fights over oil revenues become the reason for ratcheting up the level of preexisting conflict in society, and oil may even become

the very rational for starting war. . . .Petroleum revenues are also a central mechanism for prolonging violent conflict and only rarely a catalyst for resolution. Think, for example, of Sudan, Algeria, the Republic of Congo, Indonesia (Aceh), Nigeria, Iraq, Chechnya and Yemen."[66]

Many NGOs believe that the road to peace can be helped significantly if it became mandatory for oil companies to publish what they pay to governments. This would at least help citizens to hold their governments accountable and could help prevent revenues from flowing into illegal arms deals. This alone is not enough, however: "Companies must ensure that their operations cause no further harm to local communities. Oil companies must undertake to co-operate with independent assessment, ensure that security forces protecting oil installations adhere to the voluntary principles of security and human rights, and consider carefully the direct effects of their operations on the safety and rights of local people."[67] The WBG and G8 governments could help to make "Publish What You Pay" and the "Principles of Security and Human Rights" mandatory for extractive industry companies.

Corruption and the Need for Accountable EI Revenue Management

As Mary Robinson, Executive Director of the Ethical Globalization Initiative and Chairperson of Oxfam International, notes: "Corruption creates and perpetuates discrimination between the various groups in societies, minorities, castes, religious groups. It affects women in particular. Corruption attacks society as a whole and cripples essential societal functions. It results in an unlawful and undue gain for one party, be it a government official, private individual or business organization at the expense of the public good. Thus education, justice, health, law enforcement, and the provision of essential services, which the State is obligated to provide to everyone without discrimination, are mismanaged."[68]

It is necessary for extractive companies to publicly disclose all payments made to governments and others in order to help eradicate any corruption, misappropriation, mismanagement, and squandering of these funds. Otherwise known as the "resource curse," numerous studies, including Oxfam America's *Extractive Sectors and the Poor*, have shown that many of the world's most resource-rich countries are also the world's poorest in economic terms.[69] Oil, gas, and mining industries are important to more than 50 developing countries, which are home to 3.5 billion people. Resource-rich but economically poor states are among some of the lowest rated nations of the 102 countries listed in the Transparency International Corruption Perception Index.[70]

Despite enormous funds being generated through resource extraction, the monies largely have not been used to combat poverty. Instead, they often have been embezzled by corrupt elites, spent on military armaments by authoritarian regimes, or fuelled regional instability through groups warring over control of the revenue streams.[71] Principally, the people living in resource-rich countries have the constitutional right to benefit from the revenues resulting from mining, oil, and gas extraction. Many of these people remain impoverished, however, and their rights undermined due to corruption and economic mismanagement.

If EI companies become publicly transparent in terms of the aggregate payments made to governments (see Annex Box 4–3), this will assist people in holding governments accountable and thereby reduce corruption, increase good governance, and improve economic development. This is also in line with international trends in corporate disclosure and social responsibility. As stated in the Guidelines for Multinational Enterprises of the Organisation for Economic Co-operation and Development, "enterprises should be transparent in their operations and responsive to the public's increasingly sophisticated demands for information."[72]

Annex Box 4–3. Publish What You Pay

The Publish What You Pay coalition believes that countries should have extraterritorial regulations that require extractive companies to publicly report aggregate taxes, fees, and other payments made to all governments, on a country-by-country basis. This campaign "proposes that publicly listed natural resource and oil companies be required by market regulators, as a condition of public listing, to disclose aggregate information about tax payments, payments-in-kind, forward sales of future revenues, and commercial transactions with government and public sector entities."[73]

Such a legal rather than voluntary mechanism would ensure that nontransparent countries or corrupt government officials cannot require confidentiality agreements that prevent the company from disclosing any revenue payments made to the government. This industry-wide regulated proposal would help level the playing field between competing companies by ensuring that the companies that do disclose payments are not discriminated against by governments that do not want disclosure. As a result, while the recent U.K. Government's Extractive Industries Transparency Initiative is a step in the right direction in that it proposes requirements for the public disclosure of extractive industries payments to governments, it fails in its proposal of voluntary rather than regulatory requirements.[74] There will also be minimal regulatory burden and additional costs for companies, as the information already exists; it will just involve repackaging it for public disclosure.

Overall, this initiative will be good for business in developing countries by reducing corruption, increasing growth, increasing the accountability of governments to citizens, and ensuring that mining revenues are used for the public good rather than private gain. Mining companies will benefit through improved competitiveness, a more level playing field, greater security of legal rights, enhanced reputation, and consistency with the principles of corporate social responsibility and recent trends, such as the OECD Convention against bribery.

Source: www.publishwhatyoupay.org.

Joint Declarations by Civil Society Participants in EIR Consultations

The civil society and indigenous participants of the Extractive Industries Review Workshop in Rio De Janeiro, Brazil:

- Recommended the WBG should redirect its investments into other sectors, and reorient its development policies to activities that have a greater impact on poverty alleviation, such as education, health, sustainable agriculture and tourism.
- Rejected efforts to expand indiscriminately oil and mining activities in their countries, as they threaten the natural resource base on which current and future activities are based.
- Demanded development resources to be redirected to support small-scale mining, and towards mitigating environmental impacts caused by extractive industries.
- Demanded that the WBG and governments should respect local communities' wishes to oppose extractive industry projects threatening their way of life.

- Finally indigenous participants declared their support for the Inter-American Working Group on Indigenous Rights of the Organization of American States, regarding the WBG's revision of Operational Policy 4.10 on Indigenous People, as the document is judged to not emphasize recognition of the fundamental rights of Indigenous Peoples already guaranteed internationally, such as the right to land and territories, natural resources, cultural integrity, rights to self-determination, customary decision-making and conflict resolution processes, and the right to prior informed consent.

Indigenous Peoples' Declaration at the LAC EIR Consultation

We reiterate once more that the indigenous communities bear the overwhelming social, cultural, economic and environmental impacts of the extractive industries on indigenous territories, for which there must be indemnity to compensate for the negative effects of these activities. There has been a failure to recognize our fundamental rights, such as legal entitlement to our territories and our organizational structures.

There are constant attempts to manipulate our leaders, with the intention of dividing our communities.

There are no standards and procedures to guarantee previous consultation, and our right to participate in decision-making.

There are no policies and procedures to guarantee that communities benefit from profits generated by the extractive industries, and that these contribute to the development of our communities. This could directly contribute to poverty alleviation.

Indigenous communities' participation in the tripartite dialogue does not meet the basic principles of equity, given our unequal standing, not only financially but also in terms of capacity, against the government and the industry.

The World Bank's and the respective governments' information systems are extremely limiting, as they are inaccessible by indigenous communities.

Extractive activities in indigenous territories threaten biodiversity conservation, and our ancestral traditions, which are guaranteed by other international instruments such as the International Labor Organization's Convention 169 on Indigenous and Tribal Peoples in Independent Countries, as well as the Biological Diversity Convention.

African civil society in Maputo, Mozambique issued a position on the WBG investment in mining, oil, and gas with the following demands:

- The cancellation of the debts of poor African countries to allow these countries to invest in more productive and sustainable sectors.
- An extensive independent review of the impacts of existing WBG investments in the EI sector, to ascertain how to correct and compensate for the damages to communities.
- A clear guarantee from the World Bank Group that all new loans to government or private sector investors must be approved by the legislature of the host country and given extensive prior publicity in the interest of the citizens that are supposed to be beneficiaries.
- Genuine prior consultation with communities rather than the information sessions. Such consultations should respect and recognize the rights of host communities to reject investments that will harm their livelihood and violate human rights.
- A clear commitment by the World Bank Group to address and put an end to the culture of impunity that has characterized acts of gross human rights abuses involving members of the security forces and foreign multinationals operating in resource-rich areas.
- A clear guarantee from the World Bank Group that there should be no funding of projects in countries that are ruled by undemocratic regimes, involved in armed conflicts, or where extractive projects may create conflicts.
- A clear guarantee that there shall be no funding for projects located in ecological sensitive zones such as forest reserves and state and/or community protected areas.
- A clear guarantee from the World Bank Group that there shall be no loans for mining projects in countries where the rate of corruption is high and where there is no acceptable mechanism to tackle corrupt revenue management.
- All extractive investments should be subjected to prior independent Environmental Impact Assessment using the best available standards.
- The World Bank Group should ensure that the profit of beneficiary companies and the royalties to governments are disclosed to the citizens.
- Improve the accountability of the complaint investigation and resolution mechanisms of the World Bank Group by enhancing their transparency and strengthening their independence.
- A clear commitment by the World Bank Group and governments to support artisanal mining by protecting their land and mining rights, and through the provision of financial and technical assistance to improve their productivity, minimize social and environmental risks associated with their activities, and enhance access to markets for their produce.
- All conditions should apply to all members of the World Bank Group including the IFC and MIGA.

CEE Bankwatch Statement issued in Budapest, Hungary, contains the following recommendations:

- Extractive industry projects should not go on if there are no substantial social and economic benefits for a significant part of the local population.
- A strict ban on financing for any new fossil fuel and mineral exploration, transportation and industrial processing projects in areas of high conservation value, territories of Indigenous Peoples and nations, areas where local communities oppose such projects, and areas where investments may exacerbate armed conflict. The World Bank should immediately consult and work openly with civil society and governments to establish these critical 'no-go zones'.
- Plans for the sustainable and rational exploitation of mineral reserves must be enhanced, within a framework of environmental planning and taking into account the needs of future generations.
- The World Bank must assume responsibility for any damage caused by their projects to ecosystems and to the economic and social situation in communities. The World Bank must provide resources for compensation for damage and the physical restoration of affected areas, from its own capital base.
- The sovereign rights of communities to choose their own development path must be respected, based on their own priorities and preferences. Therefore, the World Bank must establish participatory systems through which communities to be affected by Bank-financed projects can freely make their decision about the project, with the capacity to modify or veto such projects. Also, the World Bank should guarantee the recognition of cultural and territorial rights of Indigenous Peoples and traditional communities, in relevant cases.
- Clear and logical environmental management plans should be incorporated into mining and oil projects, based upon active public participation and including development and public access to risk prevention schemes, in contrast to the ad hoc approach currently taken.
- Technical assistance towards cleaner production technologies for all scales of existing mining activity should be provided; the World Bank must clearly forbid the use of highly toxic methods of mining (eg, cyanide leaching) and oil exploration (eg, synthetic muds), and the generation of hazardous waste and/or dumping waste into the water.
- The World Bank must implement health and environmental monitoring schemes through the dynamic coordination of local authorities, companies and grassroots entities. These monitoring schemes should include full public disclosure of all documents related to safety, public health, environment and social impact of the operating facilities.
- Lending in the mining and oil sectors must be conditional on full transparency and public accessibility to production-sharing agreements, profit-sharing agreements and other similar documents. There must be full transparency in the use of the funds and an overview of the investment of mining and oil royalties and profits.
- World Bank activities must abide by, protect and promote the human rights embodied in international human rights instruments and customs. This includes political as well as economic, social and cultural rights.
- The World Bank Group should develop a concrete action plan for the complete phase-out of financing for any new fossil fuel and mineral exploration, transportation and industrial

processing within five years. This plan should systematically identify energy and other policies and projects that help phase in a positively targeted energy lending shift, and programs focused on mineral and metal use reduction, recycling and re-use. This plan should lead to limiting investments in projects that are based on technologies with a high use of fossil fuels and oil by-products. The plan should enable the World Bank to target social issues and prevent catastrophic climate change.

Recommendations from the Indigenous Peoples' Workshop in Oxford, United Kingdom:

In view of this experience and in line with precautionary principles:

- We call for a moratorium on further mining, oil and gas projects that may affect us until our human rights are secure. Existing concessions should be frozen. There should no further funding by international financial institutions such as the World Bank, no new extractive industry initiatives by governments, and no new investments by companies until respect for the rights of Indigenous Peoples is assured.
- Destructive practices such as riverine tailings disposal, submarine tailings disposal, and open pit mining should be banned.
- Moreover, before new investments and projects are embarked on, we demand - as a show of good faith - that governments, companies and development agencies make good the damages and losses caused by past projects which have despoiled our lands and fragmented our communities. Compensation for damages encompasses not only remuneration for economic losses, but also reparations for the social, cultural environmental and spiritual losses we have endured. Measures should be taken to rehabilitate degraded environments, farmlands, forests and landscapes, and to restitute our lands and territories taken from us. Promises and commitments made to our communities must be honored. Appropriate mechanisms must be established to address these outstanding problems, with the full participation of the affected peoples and communities.
- Once and if these conditions are met, we call for a change in all future mining, oil and gas development. All future extractive industries development must uphold Indigenous Peoples' rights.
- Equally, international development agencies must require borrower countries and private sector clients to uphold human rights in line with their international obligations. The international financial institutions and development agencies, such as the World Bank, must themselves observe international law and be bound by it in legally accountable ways.
- By human rights, we refer to our rights established under international law. We hold our rights to be inherent and indivisible, and seek recognition not only of our full social, cultural and economic rights, but also our civil and political rights. Respect for all our rights is essential if 'good governance' is to have any meaning for us.
- In particular we call for recognition of our collective right as peoples to self-determination, including a secure and full measure of self-governance and control over our territories, organizations and cultural development.

The Indigenous Peoples declared Plan of Implementation on Sustainable Development, declared in Johannesburg, South Africa, 2 September 2002, submitted to the EIR during the Asia Pacific Consultation:

- A demand for declaring a moratorium on mining activities until governments and corporations recognize and respect Indigenous Peoples fundamental rights to self-determination and to free, prior and informed consent on all forms of mining;
- A demand for multi-criteria assessment of mining activities, which incorporates environmental, social, cultural and health impact assessments;
- An urge for governments to establish laws, rules and constitutional provisions that prohibit the confiscation of lands for mining and for developing energy-related activities. Indigenous lands and territories must not be included in the planning zones for these activities;
- A call for declaring a moratorium on the expansion of new exploration for the extraction of oil, natural gas, and uranium and coal mining within or near indigenous lands and territories, especially in pristine areas and environmentally, socially, culturally and historically sensitive areas;
- A commitment to support and promote the use of renewable energy sources to meet energy needs of indigenous communities, and to work towards the development of international mechanisms to support capacity-building, financial mechanisms and technology transfer for communities to address renewable, clean energy development;
- A demand that in addition to environmental impact assessments, social, cultural and health impact assessments must also be conducted; and a commitment to participate actively in these assessments;
- A commitment to identify government subsidies of unsustainable forms of energy and demand that such subsidies be phased out under a five year time frame[75].

Labor

Few stakeholders have the multiple roles and involvement that workers bear in the extractive industries. For workers, the extractive industries are livelihoods. And they have a desire for industries that are sufficiently successful to offer increasingly attractive livelihoods, with higher skill levels, more diverse work, and higher pay. But workers have multiple roles and multiple interactions with the industry.

Individual mining and oil and gas projects tend to come and go. Project closure is something that many workers and their families live through, often several times. Sustainable development in the extractive industries really must imply the building of human capital, so that when the time of closure comes, workers have the skills to find other jobs. It also requires a more transparent atmosphere around closure, so that workers gradually learn where the project is going and have a chance to make their own plans or decisions rather than be subject to "surprise closures," as has too often occurred. And the transition to something new is a shared responsibility that must be planned for: government, unions, companies, and individual workers each have some of the responsibility. But social and economic planning for closure and economic transition—vital to sustainable development—have lagged far behind environmental planning for closure.

Safety and Health Issues

A major worker concern is health and safety. Historically, mining and the oil and gas sectors have often been dangerous and unhealthy places to work.

Modern companies have made progress in improving health and safety mostly by embracing and developing partnerships with workers and worker organizations. While the best companies have made great progress in health and safety, this is hardly the case everywhere. In the "shadow companies" prevalent in many developing countries, in smaller national companies, in artisanal and small-scale production, and elsewhere, these industries still present extremely dangerous and often seriously unhealthy working environments. It is estimated that each year 14,000 mine workers are killed in accidents on the job, and many more are exposed to chemicals and particulates that increase their risks of respiratory disorders and certain kinds of cancers. There have been significant improvements in mine safety in the last few decades, but mining is still the world's most hazardous occupation. According to the International Labour Organization (ILO) , the sector employs less than 1 percent of all workers but is responsible for 5 percent of all workers deaths on the job.[76]

The Right to Organize and Affiliate with Labor Organizations

ILO Conventions, other treaties, and international law recognize a series of workers' rights, including the right to organize and affiliate with labor organizations. Particularly in remote areas where companies are a dominant economic and political power, these rights are far from universally recognized. In the worst areas, intimidation of workers by paramilitaries, murders of union activists, and the like are still quite prevalent.

Quality of Life in the Community

Workers and their families live near project sites; they are vitally concerned about quality of life in the communities where they live. The following are a few examples of issues of concern:

- The all-male workers' barracks, with a nearby force of female sex workers, that was so characteristic of apartheid working conditions in southern Africa, has not disappeared everywhere. It provides near-ideal conditions for the spread of HIV/AIDS and other sexually transmitted diseases.

- Even where things are not at this extreme, the "mining camp" or "oil town" atmosphere may provide limited opportunity for workers and their families to enjoy many amenities taken for granted elsewhere. There tend to be more bars than movie theaters and limited opportunities for a more balanced social life.

- The history of many workers in these industries is one of mobility. This stresses family and social ties. It makes things such as the two-career family very difficult. It creates real challenges for educating children.

- Working schedules, including 10 days on, 4 days off at "fly in, fly out" sites, also stress family and social ties.

Sustainable Careers As Central to Sustainable Development

The main reason for the existence of the labor movement is to improve the quality of life not only for people in the workplace but also for their families and the communities they live in. That is why trade unions believe that they have some important insights to share on social sustainability and social indicators, won over many decades of learning how best to benefit the societies in which trade unions operate.

For labor, sustainable development principles involve:

- ensuring employment creation, job security, and promotion of quality of life at work and in the community;
- ensuring fair distribution of the costs and benefits of economic development;
- avoiding concentration of wealth and power by the few;
- respecting fundamental human rights, including rights of workers;
- respecting democracy and promoting participatory decisionmaking in the workplace and in society;
- ensuring transparency and access to relevant information;
- promoting responsible care for natural resources and the environment; and
- ensuring that adequate socioeconomic measures are in place in the event of downscaling and eventual closure of operations.

Labor Standards and Poverty Alleviation

As pointed out in a 2001 WBG publication, "The principles embedded in the ILO's Core Labor Standards can contribute to the World Bank's development mission. . . .[They] can contribute to economic growth and reduce workplace risks faced by the poor."[77]

The International Labour Conference of 1998 drafted and adopted the ILO Declaration on Fundamental Principles and Rights at Work. This Declaration, adopted by the ILO's highest decisionmaking body, makes observance of certain fundamental labor rights an obligation for all 177 ILO member countries arising from the very fact of their membership. Even if they have not ratified the conventions in question, all member states must provide regular reports to the ILO on how the specified rights are observed in the country. These rights, generally known as the Core Labor Standards (CLS), cover four areas of fundamental rights and are defined in eight ILO Conventions, out of a total of 185:

- elimination of all forms of forced or compulsory labor (C. 29 and C. 105);
- abolition and effective elimination of child labor (C. 138 and C. 182);
- elimination of discrimination in respect of employment and occupation (C. 100 and C. 111); and
- freedom of association and the effective recognition of the right to collective bargaining (C. 87 and C. 98).

The core ILO Conventions define certain basic workers' rights that are deemed to be of universal application. In addition, they are considered to be a joint and mutually supportive package. WBG publications produced over the past decade show some evolution in the institution's attitudes to the role of international labor standards in development and poverty alleviation.

In 1995 the theme of the *World Development Report* was "Workers in an Integrating World." This report contains positive language about the importance of free trade unions for achieving greater transparency and democracy in societies, for contributing to increased productivity, and for sharing the benefits of growth. It also speaks in favor of "standards that aim at protecting the vulnerable."

In early 2001, subsequent to the WBG having adopted poverty alleviation as its overall priority, the institution found an additional reason for supporting some, but not yet all, of the CLS: "since labor is often poor people's main or only asset, equitable access to safe and well paid employment is one of the most important aspects of risk reduction." The publication went on to speak positively of the role of the CLS in "the formalization of the labor relationship,"

Although within the WBG there is often hesitation or conflicting views about the benefits of CLS, the institution began to follow the observance of CLS somewhat more systematically in late 1999, at least in countries eligible for concessional lending. This was a result of the donors' agreement for the 12th Replenishment of the International Development Association, which contained a recommendation to include an assessment of CLS in CASs prepared for the 80 IDA countries. Brief assessments of CLS have been included in several CASs, particularly after WBG staff, with assistance from the ILO, produced a toolkit on CLS in early 2001. Although labor welcomed this development, it also pointed out the inconsistency of requiring these assessments only in CASs prepared for the poorest borrowing countries—that is, of countries eligible for concessional loans and grants—rather than in all CASs.

It should be remembered that since 1999 the WBG's overarching goal is poverty alleviation. Promotion of the CLS, which WBG research determines to be a factor that favors more equal distribution of income without harming growth, would appear to be consistent with the institution's stated mandate. It would seem to be even more called for given the evidence, highlighted by its own labor issues specialists, showing increasing earnings inequality in several developing countries: "Developing countries tend to have much higher levels of inequality than developed countries [and] inequality appears to be increasing in many developing countries."[78] Measures to combat child labor, forced labor, and discrimination have their greatest impact among low-income workers, but so do measures that would enhance unionization. Wage dispersion among unionized workers tends to be lower, to the benefit of lower-wage workers. In addition, high levels of unionization are often associated with things like higher minimum wages and better basic income support programs, the principal beneficiaries of which are usually unorganized workers.

The participation of unions in defining poverty alleviation strategies would very likely give a higher profile to concerns about employment goals and improved labor conditions than if they

were absent. Both the World Bank Group and the IMF have insisted that civil society organizations be involved in the formulation and implementation of Poverty Reduction Strategy Papers in order for these documents to obtain the institution's endorsement. Obviously, genuine civil society participation cannot take place if civil society organizations, including unions, do not have the right to exist or are completely marginalized. Once again, respect of the CLS would seem to be an important ingredient for poverty alleviation. However, WBG policy in many countries has ignored and undermined trade unions, often attacking wage agreements and social security provisions applicable to workers in the belief that deregulating the labor market is the cure for economic ills. In several transitional economies, affiliates have complained that WBG officials have pressured governments to bypass established mechanisms for social dialogue between labor, government, and employers. The WBG is active in many countries that do not respect the CLS and that suppress legitimate trade union activity.

The eight ILO conventions on which the CLS are based define fundamental workers' rights that clearly can help to combat poverty, but of course they do not cover all the standards that can contribute to this goal. In light of WBG concern for "access to safe employment" and reduction of "workplace risks faced by the poor," the institution could be expected to promote some of the basic ILO standards in the field of occupational health and safety. Key instruments in this field are the Labor Inspection Convention, the Employment Injury Benefits Convention, the Occupational Safety and Health Convention, and the Occupational Health Services Convention. Low-wage workers often tend to suffer problems of nonpayment or delayed payment of wages, as Ukraine coal miners have experienced. The WBG could act against this phenomenon by promoting the ILO Protection of Wages Convention, which stipulates the regular and full payment of wages. A concrete gesture in favor of the standards contained in these Conventions would be for the WBG to include within its procurement guidelines a requirement that the key health and safety and payment of wages conventions, as well as the CLS, be abided by in WBG-funded projects.

While trade unions have welcomed commitments in favor of the CLS by the World Bank Group and other international financial institutions, they have frequently complained about loan conditions or country-level policy advice from these same institutions that appear to work in the opposite direction. These often include recommendations that governments act to reduce wage levels or increase labor market flexibility through measures that can lead to job losses and downward pressure on wages and working conditions. This has led to questions being raised as to how seriously the institutions are applying their poverty-reduction mandate when, for example, they recommend reducing labor costs even in countries where many wage earners' incomes are below the poverty line.

In some cases, the IMF and the WBG have been on record as supporting measures that could even constitute de facto recommendations that countries violate some of the CLS, in spite of the institutions' policies supporting them. In 1999 and early 2000, for instance, WBG spokespersons in Argentina publicly promoted changes to the country's labor code that would restrict sector-level bargaining, and in effect remove access to collective bargaining procedures for many workers in small and medium enterprises. Later that same year, representatives in Croatia publicly urged the government to annul negotiated collective

agreements and decree wage reductions. In a CAS Progress Report for Pakistan in May 2001, the WBG supported a government decree annulling labor agreements in the education sector and naming panels to reassign or fire teachers.[79]

Also in May 2001, a Comprehensive Development Agenda for Mexico included recommendations that the government "phase out" several labor practices, including severance pay, seniority-based promotions, and industry-wide collective bargaining.[80] In Serbia and Montenegro and in the Republic of Srpska, WBG officials put enormous pressure on governments to privatize their electricity industries despite widespread public and union opposition. Unions have complained that their views have been completely ignored, creating more distrust and fear of massive job losses, thus contributing to unemployment and further poverty.

In these examples, and in several others, it would seem that the WBG's objective to reduce labor costs or "enhance labor market flexibility," along with sector restructuring and privatization, overrode concerns about poor working conditions, the need for social protection, or respect and promotion of CLS. Labor notes that the institution has stated it does not have any predisposition in favor of privatization as opposed to increased public investment in basic services. Yet public opinion, particularly in Latin America, Africa, and Asia, is turning against privatization because of the negative impact on employment, wealth, and income distribution, although the WBG continues to insist on this as a condition for aid.

Labor's Recommendations for the WBG

Labor argues that WBG policy support for the Core Labor Standards would be not only consistent with the institution's development mandate but should also be considered a vital component for helping achieve the WBG poverty alleviation objective. However, it is important that the WBG follow up on its position statements in support of promoting the CLS by ensuring that its operational practices are consistent with this support.

Adoption of the following measures could ensure that the WBG plays a positive and consistent role in improving working conditions through promotion of the CLS:

- The World Bank Group should apply the Hippocratic rule to "do no harm" by ensuring that country-level policy advice or loan conditions do not constitute de facto recommendations to violate CLS or other ILO Conventions ratified by the country.

- The labor standards policies of the IFC and MIGA, which were adopted in early 1998, should be updated by making respect of all, not just some, of the CLS a contractual requirement for project financing. These standards should also apply to export credits financed by the IFC and MIGA.

- The CLS should be integrated into World Bank Group procurement guidelines as mandatory elements of the Standard Bidding Document; currently only some voluntary labor standards are included in this document. Key ILO health and safety conventions, as

well as the convention guaranteeing regular and full payment of wages, should also be included.

- No WBG funding should be provided for restructuring or privatization of enterprises or sectors when employees do not have the freedom to join a union, when managers refuse to negotiate with the union when one exists, or when unions are not actively involved in such processes.

- Assessments of observance of CLS should be included in all Country Assistance Strategies, not just in those of IDA countries.

- As part of the institution's overall poverty alleviation strategy, the WBG should join with the ILO in projects to promote respect of the CLS, particularly concerning the most vulnerable and poor, such as rural workers and unprotected or informal economy workers.

- In conformity with the poverty alleviation objective and recognition of the necessity to reduce workplace risks faced by the poor, the WBG should also join with the ILO to promote key ILO health and safety conventions.

Notes

[1] Oxfam America 2003.
[2] Amazon Watch, http://amazon@amazonwatch.org.
[3] FOE et al. 1997.
[4] Testimonials from Regional EIR Consultations, including closed testimonials in the Asia Pacific Region and in Eastern Europe and Central Asia.
[5] Abrash 2002.
[6] Global Response action alert on Sarayacu (January 2003), see http://www.globalresponse.org/gra_index/gra0103.html.
[7] Kimerling 2001.
[8] Closed testimonial in the EIR Asia Pacific Consultation.
[9] Abrash 2002.
[10] Adam 2003.
[11] Forest Peoples Programme and the Tebtebba Foundation 2003.
[12] Opinion Article submitted to the EIR by Raja Siregar, Marine Policy Campaigner, WALHI Indonesia, Jakarta 2003.
[13] Tiogo and Pasap 2003.
[14] Information from closed confidential EIR testimonials for the Asia and Pacific Region, April 2003.
[15] Tiogo and Pasap 2003.
[16] Amazon Watch 2003; see also Epstein 2003.
[17] New York court ruling from *New York Times*, 8 May 2003; Oxfam America 2003.
[18] WWF 2002.
[19] Tiogo and Pasap 2003.
[20] Extractive Industries Review 2002a.
[21] ACHRE 1995; Eichstaedt 1994; Moure-Eraso 1999 quoted by Brugge, Benally, and Yazzie-Lewis n.d.
[22] Gary and Karl 2003.
[23] Reed 1992, 1996, 2001; Gibbon 1995; SAPRIN 2000; Asafu-Adjaye 2001; Chachage 1995; McPhail 2000
[24] Mainhardt-Gibbs 2003a.
[25] Given that there is a lack of primary social and environmental data on the impacts of structural and policy changes linked to the extractive sectors, the best indicator of impacts is to assess how program reforms affect socially and environmentally important market, policy, and institutional failures.
[26] Forest Peoples Programme and the Tebtebba Foundation 2003.
[27] Sadasivam 1997, pp. 636-37.
[28] Dudley and Stolton 2002.
[29] Oxfam Community Aid Abroad 2002a, pp. 2, 16-17.
[30] Oxfam Community Aid Abroad 2002b.
[31] Oxfam Community Aid Abroad 2002b, Minewatch-London 2000, Yukon Conservation Society and Yukon Status of Women Council 2001.
[32] Mehta and Srinivasan 2000.
[33] Oxfam America 2003.
[34] WWF calls on BP to disclose risk assessment criteria, press release, 23 January 2002, http://www.wwf.org.uk/news/n_0000000501.asp.
[35] Global Witness 2002c.
[36] Nielson 2002.
[37] CEE Bankwatch Network and Pacific Environment Resource Center 2000.
[38] WWF 2002.
[39] CEE Bankwatch Network, 2000.

[40] Global Witness 2002a.
[41] CEE Bankwatch Network 2000.
[42] IPCC 2001b.
[43] IPCC 2001b.
[44] WBG et al. 2003.
[45] "Energy lending portfolio" defined here as power projects plus energy-related extractive and transport projects
[46] SEEN 2002.
[47] Greenpeace International n.d.
[48] Where that limit is, and thus exactly how much carbon can be "safely" burned, is the subject of some ongoing debate. The Framework Convention on Climate Change signed at Rio de Janeiro in 1992 identified the need to stay within environmental limits as a central objective. Its objective is the "stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system." To keep long-term global temperature increases below 1 degree Celsius, Greenpeace n.d. calculated that 75 percent of the known, economically recoverable reserves of conventional fossil fuels can never be used as fuels.
[49] Greenpeace International n.d.
[50] Steve Kretzmann and Shannon Wright estimated annual petroleum industry exploration at $156 billion using PetroConsultants data in Project Underground and Rainforest Action Network 1998.
[51] FOE 2001b.
[52] FOE 2001b.
[53] Draft Report of EIR Asia and Pacific Regional Workshop, Bali, Indonesia, 26-30 April 2003.
[54] Draft Report of EIR Asia and Pacific Regional Workshop, Bali, Indonesia, 26-30 April 2003.
[55] Forest Peoples Programme and the Tebtebba Foundation 2003.
[56] Mainhardt-Gibbs 2003b.
[57] Oxfam America 2003.
[58] Ross 2001b.
[59] Oxfam Community Aid Abroad 2002a.
[60] Global Witness 2002a.
[61] http://www.monitor.upeace.org/innerpg.cfm?id_article=5.
[62] Human Rights Watch 2002.
[63] Human Rights Watch 2002.
[64] Benner 2003.
[65] Project Underground 2001.
[66] Gary and Karl 2003.
[67] Save the Children, Christian Aid, Oxfam, Care International, IRC, and TEARFUND 2002.
[68] Robinson 2003.
[69] Ross 2001b, p. 7.
[70] Hafield 2003.
[71] Ross 2001b, Global Witness 1999, Hafield 2003.
[72] OECD 2001, p.16.
[73] PWYP 2003a.
[74] See http://www.dfid.gov.uk for information on the Extractive Industries Transparency Initiative and http://www.publishwhatyoupay.org.
[75] Tebtebba Foundation 2003.
[76] Sampat 2003.
[77] World Bank 2001a.
[78] Betcherman 2003.
[79] World Bank 2001b.

[80] World Bank 2001c.

Annex 5: Government's Views

Annex 5. Governments' Views

Unlike industry and civil society, governments do not yet have a mechanism to respond collectively to global initiatives like the Extractive Industries Review (EIR). During the consultation process, the government perspective was not strongly represented. There were proportionately fewer government officials attending the regional consultation workshops—19 percent overall—and they mainly represented the viewpoints of ministries of Mining and Energy. Only a few papers were submitted from government, and with few exceptions, those that did come did not comment directly on the role of the World Bank Group (WBG) in extractive industries, let alone address the sector's impact on poverty alleviation and sustainable development. Because of the shortage of direct submissions, other sources, such as the Mines Ministries of the Americas and the World Mines Ministries Forum, were used to supplement what little came out of the workshops and informal discussions.

Governments are the main partner of the WBG and are the entry and focal point for most WBG programs. One of the Bank's most significant involvements is with structural adjustment, technical assistance, and capacity building programs, which are aimed directly at helping governments become more efficient and more effective. Usually, more than one government department may be engaged with the WBG in programs that are linked to the extractives sector. The official counterparts, and hence the initial contacts for the WBG—Finance, Planning, or Investment ministries—may often be the lead negotiating partner, with technical ministries such as Mining or Environment taking an executing role.[1] None of these counterpoint ministries engaged directly with the EIR, so an important perspective is missing from the discourse. Similarly, the perspective of Environment Departments is missing. So the picture is far from complete, especially in terms of a detailed outlook that takes into account poverty alleviation and sustainable development. Some of the most comprehensive inputs from government were provided directly to the EIR outside of the regional consultations. Submissions came from Canada, Chile, Peru, and the United Kingdom—each of which provided specific recommendations on the future role of the WBG in extractive industries.[2]

The Nature of Government

Government is unique among stakeholders in several ways. First and foremost, it has sovereigntyover lands and natural resources within its domain.[3] This makes it a powerful actor in the extractives sector, with the potential to control and manage resource development for better or for worse. Second, the administrative side of government can be subject to inefficiencies, political manipulation, and corruption, which can create grave distortions in how resources are managed and particularly the degree to which benefits are distributed and accounted for. Third, national governments usually have a seat in intergovernmental agencies and fora, such as the United Nations, where agreements, protocols, conventions, and codes of practice on social, economic, and environmental matters are negotiated. Once an international instrument is ratified, it comes into force and is binding on a signatory nation, which then is responsible for implementing and abiding by it.

The fundamental and unique responsibility of governments is to integrate the economic, environmental, and social factors in their country; protecting community rights; stipulating rights of land use, including a transparent ownership transfer of title, with dispute settlement systems for those weakest in society; setting emission levels of air and water; enforcing compensation; imposing and collecting taxes; and sharing revenues among other levels of government in their country.[4] It is for government to decide whether if or how resource extraction can be integrated into other sectors of the economy, and to ensure that there are positive net benefits for all projects after all costs are calculated, including the evenly distributed costs. Governments cannot and will not abrogate these responsibilities, nor will they devolve them to others.

There is tremendous variation among countries in the style and capacity of their governments. Some countries, such as many of those in the North, have governance systems that have evolved slowly and effectively over time, whereas in some other countries, government political and administrative systems are still evolving, often rather rapidly, and have not yet been able to fully develop strong governance mechanisms. This may exacerbate a weak sense of nationhood among citizens of different ethnicities or regions, and where valuable extractive resources are involved, strong conflicts may arise. Moreover, "newer" countries often have neither sufficient expertise or experience nor the financial resources to be able to fund a fully functional governance system, greatly limiting their capacity to govern and deliver services properly.

The nature and capacity of government also changes within a country vertically and horizontally, from the national to the local level. There can be great differences between regions as well as from village to village. Extractive industries will often create great demands at the local level, while all or most of the revenues from the project flow to the national level. Local administrative systems are frequently not sufficiently endowed to deal with these demands. Moreover, demands for new or additional services start early, during the exploration or construction phases, well before any revenues start flowing.

General Views from Government

Governments believe that extractive industries contribute to sustainable development and poverty alleviation.[5] (See, for example, Annex Box 5–1.) There has not been one dissenting voice from the government side. They view the development of these industries as an essential force for the greater good and welcome the revenues generated from taxes and fees, the foreign exchange earnings, and the multiplier effect in their economies.[6] Extractive resources are often viewed as the only asset available for kick-starting their economies.

Revenues from extractive industries can be used for social development programs, for health and education, for infrastructure development, and for capacity building in governments to improve the way they govern and provide public services. Extractive industries can provide jobs, stimulate local economies and entrepreneurs in providing goods and services, improve the competencies of workers, and provide social and developmental services and facilities for their own work force and for local communities.[7] They also can stimulate local economies

and entrepreneurs in providing goods and services. Extractive industries often provide the economic catalyzing factor to open up remote and underdeveloped regions in a country, enabling other development initiatives to piggyback on newly installed infrastructure, such as roads, water, and power.[8]

Annex Box 5–1. Extractives Policy and Sustainable Development

In its National Minerals Policy, the Government of the Philippines sets out the following :

Vision:

A minerals industry that is not only prosperous but also socially, economically and environmentally sustainable, with broad community and political support, while positively and progressively assisting in the Government's program on poverty alleviation and contributing to the general economic well-being of the nation.

Sustainable Development Thrusts:

- The *protection and rehabilitation of the environment* shall be of foremost consideration in mineral resources development and shall be done in the most efficient, conscientious, and environmentally responsible manner using *Best Practice.*
- The utilization of minerals, particularly the benefits derived from mineral wealth, must redound to the *promotion of social and community stability*, giving emphasis to the respect for the needs, values, and decisions of communities and indigenous peoples.
- A sustained effective identification and rational use of nonrenewable mineral resources, anchored on sound development plans and designs and prioritization of strategic minerals, shall be pursued to ensure that the *preservation of options for future generations* shall not be compromised.
- A *competitive and prosperous minerals industry* that must be set in place to fuel sustainable economic growth, under a condition where mineral exploration, extraction, utilization, value adding, and recycling are done in the most effective manner, and in the context of an open and liberal global trade and investment framework.

Source: Mines and Geosciences Bureau, DENR, Republic of the Philippines, "Philippine Government Initiatives on the Sustainable Development of the Country's Mineral Resources."

Governments by and large recognize the economic, social, and environmental "costs" generated by extractive industries. These companies can make quite heavy demands on governments, in terms of providing services and establishing the enabling environment for business to function efficiently. Governments then have to manage the multiple and wide-ranging impacts of oil, gas, and mining projects on the economy, the social fabric, and the environment. Quite often governments, especially those in developing countries, have neither the existing capacity nor the resources to respond to these demands, and they frequently lack the experience and skills to negotiate from a position of strength with potential investors. Because of this, the role of the WBG becomes potentially vitally important to these countries in providing wise counsel, technical assistance, and financial support. The WBG also can use

its intergovernmental contacts, influence, convening powers, and expertise to help national governments balance divergent interests to ensure that extractive industries projects contribute to poverty alleviation and sustainable development.

During the EIR, governments identified some major issues they have to deal with when working with the extractives sector. These have been grouped according as economic, social, environmental, and governance issues.

Economic Issues

Economic Challenges

Governments face a number of challenges in managing economic factors related to extractive industries. They are responsible for deciding and setting macroeconomic and fiscal policies that encourage inward and domestic investment in the sector. They have the ability to shape the investment environment through import duties, taxation, royalty rates, and special incentives.[9] At the same time, they are charged with maximizing benefits from extractive industries and seeing to an equitable distribution of the benefits to all levels of society, especially to local communities most directly affected by extractive operations. (See Annex Box 5–2.) Very often the fiscal mechanisms are not in place to allow this to happen, nor is there the capacity at the local level to foster social and economic development.[10]

Annex Box 5–2. Improving the Local Management of Mineral Wealth: The Philippines Experience

The national wealth-sharing scheme in the Philippines was initiated in the mid- to the late 1990s as a financial incentive for local government units (LGUs) to support new development projects, including mining projects. It recognized the important role of LGUs in supporting the catalytic role played by mining projects for community development in rural areas, and it gave LGUs a central position, as well as the resources, to facilitate more equitable and sustainable development in the areas surrounding mining operations.

The national government fostered a multistakeholder approach in which national government, LGUs, the mining contractor, and civil society organizations work together to address the multiplicity of issues that arise in developing a mining prospect. A revenue sharing mechanism has been put in place which distributes funds in a balanced and broad way at national, local, and community levels, ensuring that no "enclave" development takes place. There are social and environmental programs That anticipate and prevent negative social and environmental impacts and that involve the public throughout the project life cycle.

The following approaches have been incorporated to ensure maximum social responsibility:

- *Social profiling during exploration*: provides a mechanism for mutual education and familiarization between communities and the mining company.
- *Social impact assessment prior to mine development*: provides individuals, community

ramifications of a proposed mining project.

- *Social development and management program during the operating life of the mine*: an adaptive tool for developing, implementing, managing, and monitoring/auditing community programs and projects.
- *Social plan as part of the mine closure process*: designed to minimize the impacts of mine closure on employees, dependants, and communities.

Source: Adapted from Horacio C. Ramos and Manuel A. Banaag. *Challenges and Initiatives in Improving the Local Management of Mineral Wealth.* Paper presented during World Bank workshop, 10–11 June 2002, Washington, D.C.

Managing Extractive Revenues

Revenues from the extractives sector tend to be volatile, due to the cyclical nature of global commodity prices. Managing these revenue swings is one of government's most difficult challenges and was an oft-repeated concern raised during the EIR.[11] Governments have been completely silent on this issue. The distribution and use of revenues to benefit the population of a country equitably requires specific policies and a suitable legal and regulatory framework, as well as an efficient fiscal management system (see Annex Box 5–3), all of which seldom exists in the poorer countries. The internal capacity of both the political system and the administrative system often has to be strengthened, and this is where governments seek external assistance from the WBG in building their capacity to manage better.

Annex Box 5–3. Revenue Management in Botswana: How to Avoid the "Dutch Disease"

The diamond boom in Botswana, which began in 1965, was due to the discovery and development of large amounts of high-quality diamonds, not a price increase. From 1966 to 1989, Botswana's annual gross domestic product growth rate of 8.5 percent was the highest in the world. From 1990 to 1999, at 2.5 percent, it was second to Sudan in sub-Saharan Africa. In the 1980s, its manufacturing production even doubled, with manufacturing employment growing to the point where it was three times the size of mining employment. There was a significant rise in construction prices in the late 1980s, but there was no spillover of inflation to the rest of the economy or the foreign exchange rate.

Why hasn't Botswana been affected by Dutch disease? The reasons are not difficult to find. First, a large part of the windfall was put in foreign savings and only used when the absorptive capacity of the economy was deemed sufficient. Government spending policy paid close attention to two constraints: the availability of skilled workers and the future recurrent costs of development spending in relation to revenue forecasts. Second, very close attention was paid to the foreign exchange rate. On one hand, via management of the windfall savings, it was not allowed to appreciate widely. On the other hand, to help manage inflationary pressures caused by the boom, appreciation of Botswana's *pula* was allowed periodically. Third, the government never went on an investment-spending spree, except for a brief period in the late 1980s. When revenues from

quickly. Domestic credit growth was cut dramatically, interest rates were increased, wages and salaries were frozen, and the *pula* was devalued by 10 percent. The policies were generally successful and the drop in GDP was only 2.4 percent despite a 16 percent drop in total export revenues and a 43 percent drop in diamond revenues.

Source: Gary McMahon (1997), "The Natural Resource Curse: Myth or Reality," Economic Development Institute, World Bank, Washington, D.C., unpublished paper.

Structural Reform

WBG and International Monetary Fund (IMF) structural adjustment programs are intended to help governments become more efficient in how they manage the economy. There has been increasing pressure on governments to step away from direct involvement in the private sector and to concentrate on their public service responsibilities. Under structural reform, they have to face institutional reform as well as industrial reform, with the latter driven by Bank demands for privatization of state-owned enterprises. The ability to manage the impacts of these processes is often very limited, especially the social dislocation from privatization.

An example of a different government perspective on structural reform is Algeria, where the government has asked the WBG to help them separate the policy, regulatory, and commercial functions of SONATRACH, the state oil company. They expect this will ensure a more appropriate relationship between the government and the company.

Achieving "Balanced" Economic Development

Another common concern of governments is how to foster industrial development where there is a balance between large transnational companies, state-owned enterprises, and smaller in-country businesses (see Annex Box 5–4), as well as a balance between national, regional, and local development. The ideal is balanced development in all sectors of the economy. One government complaint about the WBG is that the policy reforms promoted often are not concerned about this kind of "balanced" development.[12] Some governments would like to retain as much wealth as possible and generate more employment from value-added and semi-finished extractives products, and they seek WBG support to foster relevant research and development.[13] However, this is an area that has not received much support from the WBG.

Annex Box 5–4. Small and Medium-Scale Enterprise Support in Chile

Small and medium-scale enterprises (SMEs) in Chile sell their ores and concentrates only to ENAMI, the National Mining Enterprise. This enables them to participate in international markets and receive a fair price for their products. The combined mineral sales of SMEs exceed $620 million per year, and because of their economic linkages in terms of

or medium scale, support and fostering of this sector has become a State policy.

ENAMI is State-owned. It consists of two smelters and one refinery, five concentration plants, and 14 mining offices for purchasing ores and concentrates, and it provides technical and financial assistance. The company also engages in businesses with large producers in order to fully use their smelting facilities and to develop mining projects of various kinds in their mining properties.

The fostering instruments that ENAMI applies to support SMEs are:

- a risk capital fund to reduce the risks entailed in exploring for new ore reserves;
- developing competitive capabilities through training;
- credits and loans for mining development, including productivity improvements;
- access to international markets for copper produced by small-scale miners; and
- mechanisms to support and mitigate low price cycles for small-scale miners.

Source: Chilean Ministry of Mining electronic communique provided by Advisory Group member Wanda Hoskin, September 2003.

Social Issues

Addressing the Social Dimension

Extractive industries create pressure on governments at all levels to address the social dimension of development, including social services and infrastructure, occupational safety and health standards for these industries, and mobilization of resources to regulate, inspect, and monitor compliance with standards.[14] Central governments are having to reassess their policies, strategies, and programs, as well as their role and responsibility in providing social services and social infrastructure. Local governments have to take on new responsibilities, providing community development support services, as well as beef up their services and facilities for health and education. Training programs are needed to equip the work force that will be employed in these industries; some of this training is provided by extractive industries, but most governments feel they have a long-term responsibility for this.[15]

The voice of government is conspicuously absent on issues of human rights, including conflicts over land rights and land use, indigenous peoples and free and informed consent, the imposed use of military forces to provide security for extractive industries, fair compensation for lost land, access to resources and livelihoods, and incidents of human rights abuses. Some governments, on paper at least, embrace a more progressive approach to certain human rights, such as the Government of the Philippines, which in the National Minerals Policy states "free and prior consent in ancestral domain areas recognizes the rights of indigenous groups to their lands and requires the provision of adequate mechanisms and compensation if their land is developed for mining."[16] In the EIR regional consultations, government representatives did take part where issues related to human rights were raised, discussed, and endorsed, so in

effect there was a *de facto* endorsement of human rights recommendations agreed on by the larger group.

Supporting Multistakeholder Processes

Beyond their standard role, governments are learning to take on new functions, such as facilitating multistakeholder interactions in processes leading up to the establishment of extractive industries.[17] (See Annex Box 5–5.) This facilitative role is being stressed more often, especially as governments become more active in supporting community development. Governments see themselves more and more as providers of information and a link for those in need to resources for technical and financial assistance.[18]

Annex Box 5–5. Papua New Guinea Mining Development Forum

The Papua New Guinea government recognized that involvement and participation of all levels of stakeholders in the decisionmaking process was essential to ensure sustainable outcomes, and it included a provision within the Mining Act of 1992 requiring the government to involve all major stakeholder groups in a Mining Development Forum prior to granting a Special Mining Lease. The forum's purpose is to ensure that the genuine needs and aspirations of the various land-owning clans and their provincial and local governments are accommodated prior to formal development approval being granted by the government.

The first use of the Mining Development Forum was with the Porgera mine development in 1989, and it subsequently has been used for the development of the Lihir mine and the Ramu nickel project. This same agreement has now been included in an "organic law" in Papua New Guinea, meaning that all new Acts of Parliament will be required to incorporate such consultation provisions prior to granting a development license.

Source: Graeme Hancock, *Mining and Sustainable Development: Is it a Contradiction in Terms?* World Bank Project Unit, Department of Mining, Papua New Guinea.

Facilitating Community Development

Governments acknowledge having to focus more on community development, and they are becoming increasingly concerned with diversifying livelihoods to avert the economic and social disruption that occurs when an extractive operation closes.[19] Governments recognize that capacity building is essential for sustainable community development, but their capability to provide these essentially new services is severely limited, especially at the local level. One of the other major concerns is providing local communities with direct benefits and compensation from extractives operations. Some governments mandate industry to provide a direct portion of their revenues to a community development fund that is managed by the community cooperatively.[20] Governments need to establish mechanisms like this for compensation and benefit-sharing, along with a complementary regulatory and policy framework.[21]

As described earlier, many governments recognize that they have to get better at dividing revenue between central authorities and the local authorities in regions affected by development of extractive industries.[22] It simply does not work if all the revenue is controlled and spent centrally, as this deprives local authorities of the resources they need to deal with very real challenges and to take advantage of the development opportunities.

Ensuring Occupational Safety and Health

Governments are responsible for setting policy, standards, and regulations to ensure that workers in extractive industries are working in conditions that are not threatening or damaging to their health and safety. Most governments have these standards, and many are signatories to, among others, International Labour Oorganization Convention 176 on safety and health in mines.[23] In the Philippines, this was the first occupational health and safety convention ratified by the government. Governments view health and safety as a shared responsibility between industry, workers, and government.[24] Trade unions, companies, and government jointly are responsible for training. Governments have to monitor health and safety conditions closely and enforce the consequences of noncompliance.

Promoting Artisanal and Small-scale Mining

Artisanal and small-scale mining (ASM) has been discussed by governments in intergovernmental fora since at least 1978, when the United Nations Institute for Training and Research held a conference on the Future of Small-scale Mining.[25] The conference called on support for many of the issues still being discussed today—formalizing the sector through legislation, providing technical support for improving the safety and efficiency of mining operations, providing outlets for processing and marketing, and facilitating access to training and financial services. Since then there has been a lot of discussion on the issues (see Annex Box 5–6) but very little action, in part because few resources have been mobilized to implement activities. Governments are aware of the problems, and perhaps also the opportunities, associated with ASM, but they need new approaches as well as financial and technical assistance from international agencies like the WBG to address this matter.

Annex Box 5–6. Policy Design for Small-scale Mining

Economic Commission for Africa's Report 2002 discussed the need to develop a mining policy that recognizes small-scale mining as a potential economic sector with clear identification of constraints and potential. International development agencies need to be involved in the consultation in mining policy design, which should be done in a participatory manner with different stakeholders.

The development of this sector in a country has to start at the policy level. It is necessary to enact a policy that recognizes small-scale mining as a distinct sector, notes its different categories, and proposes objectives and strategies to address the constraints that affect the sector. These include technical issues such as

and socioeconomic and institutional matters, such as institutional capacity, regulatory procedures, assistance programs, access to finance, marketing, and other relevant issues. Issues related to gender imbalances, child labor, integration of the sector into the national economy, relations between small- and large-scale operators, and strategies for addressing them should also form part of the mining policy.

Source: E. Bugnosen, "Results of a Literature Search on Stakeholders' Views on Small-Scale Mining," July 2003.

Some countries, such as Papua New Guinea, have long ago formalized and integrated ASM into their economy and legal structure.[26] ASM is a vibrant economic activity there and brings enormous benefits to local populations as well as the State treasury. The government provides training, social services, and a supportive fiscal and regulatory environment for local miners, with the result that the sector is safe, healthy, and stable and generates an above average wage to workers. Other countries, such as Chile, focus more on the marketing chain to ensure a stable outlet and price for small-scale miners.[27]

Most recently, governments and development agencies want to link ASM into an overall national strategy for rural and community development (see Annex Box 5–7); the same issues are in common—poverty alleviation, livelihood diversification, provision of basic social services, and improvement of environmental management.[28] ASM also has a very high involvement of women, up to 50 percent in some countries.[29] In many countries ASM is illegal, however, and the State is often hesitant to take action because it is a very difficult sector to control, with individual ASM operations often spread out over a wide area or with massive immigration of outsiders.[30]

Governments are increasingly recognizing that ASM in many countries is primarily driven by poverty and that they have a responsibility to bring ASM into the formal sector in order to reduce the vulnerability of poor people and to create better opportunities for sustainable development in the sector.[31] Accordingly, they want the WBG to expand its support to the ASM sector and to provide them with the means to develop the policies and strategies, the legal and regulatory mechanisms, the fiscal management mechanisms, and the social support and environmental control mechanisms.[32]

Annex Box 5–7. U.K. Government Viewpoint on Artisanal and Small-scale Mining

The U.K. Government's Department for International Development (DFID) suggests that:

The WBG, in conjunction with other groups, needs to develop a strategy to address how the artisanal and small-scale sector can be integrated into work on the formal sector. This should

that facilitate progress from artisanal to more formalized, legal small-scale operations in which fundamental rights and titles can be observed and protected, environmental and social management is introduced and revenues are collected and reinvested in more sustainable practices and livelihoods.

The key areas of policy action should be to reduce the vulnerability of those engages directly and indirectly in artisanal mining, strengthen their fundamental rights, enhance their capacity to better manage the resources upon which they depend, enhance government control over their industry and the consequential loss in revenue, increase transparency over the revenue payments and receipts and the award of various types of licenses, and promote SME development.

Artisanal mining is a means to an end. It should lead ultimately to more sustainable pursuits within a rural development framework. A strategy for artisanal mining needs to be reflected in relevant country assistance and Indigenous alleviation strategies.

DFID would like to see the current WBG-hosted coordinating body, Communities and Small-scale Mining (CASM), strengthened financially and provided with increased expertise so that it becomes more strategic and adopts an overall plan. CASM should also ensure the involvement of more development agencies and developing-country governments in the process.

Source: DFID (2003). "The UK Government's Submission to the World Bank's Extractive Industries Review."

Several governments are interested in initiating pilot projects with Bank support on mining cooperatives.[33] And at the EIR Asia Pacific consultation workshop, one of the collective recommendations was that the Bank must beef up CASM and initiate ASM pilot projects in each of its five global regions.

Environmental Issues

Command and Control

The environmental impact of extractive industries can be damaging and long-lasting, so governments are entrusted with regulating these industries to minimize any lasting imprint on the environment. Communities and businesses expect governments to create policy and a regulatory framework and to have the means to enforce compliance over the life of a project in order to control and minimize these environmental effects, including waste and tailings disposal; pollution control of soils, air, and water; reclamation of sites after closure; abandoned or orphaned mines; and emergency and disaster planning and action.

Annex Box 5–8. CAMMA's Mining and Environment Principles

- *Management and institutions in mining and environment*: Countries are facing environmental management problems in implementing the different institutional systems that regulate relations between mining and the environment. Problems arise due to the overlapping of responsibilities in related public agencies and to less than ideal communications among them. This is observed or reflected on national, federal, provincial, and other levels. As a result, the roles of the environment and the mining authorities in the development of mining projects need to be restructured and reoriented. This may mean the creation of mechanisms for harmonization, coordination or restructuring, depending upon the economic and political situation in each country.

- *Land use*: The development of mining is affected by the absence or lack of clarity of institutional policy on land use. This often means that for ecological reasons, large areas are excluded from mining activities (ecological reserves, protected wildlife areas, indigenous communities), with the corresponding harm to the economy caused by the failure to tap mineral wealth that can contribute to development. We do not have enough information on the soil and subsoil to establish a scientific foundation that can be used to determine use priorities.

- *Mining environmental liabilities*: In the past, mining has been the cause of environmental damage (physically unstable tailings deposits, mine openings that leach acids, etc.) that currently pollutes rivers and surface water sources, and in some cases is a hazard to the health of surrounding communities. The landscape in old mining areas has also been adversely affected.

- *Handling and transportation of hazardous materials*: Countries are concerned that mining activities frequently entail the handling and transportation of hazardous substances in the form of inputs or by-products. Improper handling of such substances can cause accidents with serious consequences for the environment and public health, and lead to incalculable damage.

Source: Mines Ministries of the Americas (2001). "Minerals, Metals and Sustainable Development."

At the Third Summit of the Americas in April 2001, government leaders committed their countries to "promote the development of environmentally sound exploitation and management of minerals and metals, recognizing the importance of the social and economic dimensions of the activities of the mining sector, and support the work of regional and international fora in this area."[34] Later in 2001, Ministers who belong to the Mines Ministries of the Americas (CAMMA) signed a Declaration on Minerals, Metals and Sustainable Development in preparation for the 2002 World Summit in Johannesburg. (See Annex Box 5–8.)

Project Life-cycle Management

In some parts of the world, there is a significant legacy of improperly closed, abandoned, or orphaned mines. Governments seldom have the financial or technical resources to clean up this legacy, and some governments consider it essentially the responsibility of the operator to manage their operations in an environmentally responsible manner and to pay the costs for damage to or for rehabilitation of the environment.[35] Other governments suggest that new partnerships and financing need to be found.[36] Still others would like the WBG to focus more resources on reclamation and transformation of degraded closed or abandoned sites and to help convert them into productive areas, using, for instance, agroforestry techniques where appropriate.[37]

Governments in some regions are demonstrating the political will to improve mine closure systems in order to protect the environment, recognizing the distinctive characteristics of small, medium, and large-scale mines. Ministries in the Americas are developing regulatory standards, identifying financing mechanisms, and promoting community awareness and participation in related processes.[38] They also have started an information exchange mechanism between themselves and are developing a network of scientific and technological cooperation.

Mine Wastes and Tailings Management

Although normally there are provisions for controlling and regulating disposal of wastes and tailings in a country's mining code and regulatory framework, the matter of wastes and tailings management received little open comment from government in the consultations.[39] The Government of the Philippines in the National Minerals Policy states: "All tailings management systems shall be rehabilitated to a physically and chemically stable state without permanent need for human intervention. Deep sea tailings placement (DSTP) was adopted as a tailings management option. It can be used when significant on-land constraints are present (e.g., poor geotechnical conditions, earthquake prone areas), and when environmental studies can show that DSTP will result in the least environmental and social impacts."[40]

They also use the "polluter pays principle," plus penalties for unauthorized release or disposal of tailings. The Philippines Government perspective is that "any decision on sustainable development must take into consideration not only the potential impacts on the ecological environment of a mining development, but also the sustainability of the social and economic environment and the risks to present and future generations inherent in each alternative development strategy."[41]

Artisanal and small-scale mining is viewed as particularly problematic, with widespread environmental damage resulting from the uncontrolled soil upheaval and use of toxic substances such as mercury.[42] Governments would like to control this sector much more effectively in order to contain and mitigate the negative impacts to the environment.[43] They face a daunting challenge in cleaning up the legacy from ASM.

Conflict Management

Governments frequently face conflicts over social and environmental matters related to EIs. There also can be conflicting interests between mining departments and other agencies responsible for environmental protection and forestry.[44] This is reflected on the ground when there is conflict over the use of public lands for an extractive activity, or, for instance, for some form of customary use such as farming or hunting. As the sovereign authority, governments are mandated to resolve such conflicts through appropriate mechanisms. The most common vehicle is the legal system, which may involve negotiation or arbitration. Few governments have formal grievance mechanisms, whereby individuals or groups can lay complaints or seek restitution for injury, damage, or loss arising from extractive activities.

A common conflict within government is when the mining department is also responsible for setting environmental policies and regulations and for overseeing compliance.[45] CAMMA's suggestion to avoid this conflict is to "promote official mechanisms for inter-agency coordination between mining and environmental authorities with the purpose of defining, implementing, reviewing and applying public policies on mining and the environment."[46]

Renewable Energy

Developing-country governments have not been outspoken about renewable energy and low carbon growth, especially when they are themselves heavily dependant upon fossil fuels, either for their own energy needs or for export trade. The desire to exploit fossil fuels, especially soft coal deposits, may generate conflicts between countries wanting to generate energy or revenue fairly quickly by tapping into these resources and other countries and lending or development agencies wanting to limit the release of greenhouse gases. Some governments have called for more research on renewable energy.[47]

During discussions about the minerals sector, there was little mention of this issue. However, governments are engaging with the WBG to explore energy efficiency and renewables, using the Global Environment Facility. Recently, the government of Morocco started three projects with the World Bank involving renewable energy and energy efficiency.[48]

Governance Issues

The Responsibility of Government

Throughout the EIR process, governance was consistently and universally pointed out as a major barrier to achieving the twin goals of poverty alleviation and sustainable development. (See Annex Box 5–9.) Governments have been quiet on the key enabling components of good governance—transparency, equity, participation, accountability, and absence of corruption. But they were identified as being most responsible for the quality of governance.

Governments, however, are concerned about this, as indicated by their frequent requests to the WBG and other agencies for help in improving efficiency and effectiveness. When assistance is received it often is directed toward improving their policy and regulatory frameworks. For instance in Ghana, the International Development Association (IDA) provided a credit to: "Enhance the capacity of the mining sector institutions—i.e., the Ministry of Mines, the

Minerals Commission, the Geological Survey Department and the Mines Department—to carry out their functions of policy formulation, encouraging and regulating investments in the mining sector in an environmentally sound manner; and support the use of techniques and mechanisms that will improve the productivity, financial viability, and reduce environmental impact of small-scale mining operations."[49]

And the Uganda government authorities at the EIR regional consultation in Maputo suggested that the WBG should help them establish clear mining policies, updated legislation, and fair and competitive fiscal terms.

Annex Box 5–9. Pre-Conditions for Development in Any Country

The country has:

- Transparent cadastral and legal systems.
- Transparent land registries and mining recorders.
- Transparent legal redress and dispute settlement.
- Transparent ownership of title.

Hence the country has:

- Conditions for the private sector to function.
- Ability for government to impose and collect taxes.
- Ability to fine-tune taxation systems.
- Ability to share revenues among governments.

Source: Adapted from Ministry of Natural Resources Canada, "Government Approaches to Mineral Policy, Taxation and Transparency," presentation to EIR, 5 March 2003.

Creating the Right Enabling Environment

A sound regulatory framework is a basic requirement for an extractives project to function properly and for there to be a reasonably predictable working environment. A government must have sound policies and a good legal framework to regulate the operations of extractive companies. This is not only to make sure they comply with standards and regulations, but also to provide a stable enabling environment for companies to operate in. Governments strive for the best balance between public and private sector involvement that will encourage and sustain investment.

Governments also need to have appropriate strategies and a development planning framework that integrates all relevant sectors, including power, natural resources, agriculture, transportation, human resources, and social welfare on a regional level (provincial or state).[50] An example of this is Morocco, where the design and management of the mining sector is integrated into a national development planning process.[51]

Transparency and Accountability

During the EIR, there was no individual comment from governments on the near-universal recommendation that they need to be more transparent in their reporting on revenue flows, although government representatives were involved actively in small group and plenary discussions during the regional workshops. These sessions produced very clear recommendations on what to do to achieve transparency within government.

More recently, some governments are participating actively in a U.K.-spearheaded Extractive Industries Transparency Initiative, which aims to "improve transparency over payments and revenues in the extractives sector based on a statement of principles and agreed joint action by governments, companies, civil society, international organisations, investors and other interested stakeholders."[52] This initiative will pilot the use of new reporting guidelines in volunteer countries, beginning possibly in Azerbaijan, Ghana, Indonesia, Nigeria, Timor-Leste, and Trinidad and Tobago.[53]

Managing Information and Communication

For governments to be fully accountable to the electorate, they also must be transparent with their other communications. This again is being recognized by many governments, especially with the advent of new computer-based information and communication technologies, which potentially make it easier for governments to be in close touch with their constituencies. Governments are also under pressure from civil society and the private sector to provide more up-to-date and accurate information and to open up two-way channels for active communication and dialogue. Several governments expressed concern over the poor understanding and level of awareness that the public has about the extractives sector and wanted help in launching public information campaigns.[54]

Modern information management systems are of great interest to governments. In mining and energy departments, one of the most common requests to the WBG is to upgrade the geological data base through field surveys, database development, geographic information system mapping, and software and hardware systems.[55] Governments see several benefits from this: first, it will enable them to plan land use more effectively and, second, it will provide potential investors and other interested parties with accurate information on the mineral resources in the country.[56] A well-defined inventory of mineral and other natural resources, such as forestry, provides government with a useful tool for deciding how to balance economic development with other values, such as biodiversity conservation.[57]

Opening up and maintaining information flows between local government and local communities is also essential.[58] Local and regional governments are obliged to ensure that locals are well informed about the status of nearby extractives projects, which requires a more intensive level of engagement from government authorities.

Participation

Governments are now often obliged to consult with and facilitate participation among multiple stakeholder groups throughout the life of extractives projects.[59] It is particularly critical to get this right before a project begins. Failure to allow for all the necessary inputs

beforehand leads to real and significant failure later, after the project starts to be implemented or when it is up and running. Inadequate participation from communities, civil society organizations, and indigenous peoples is perhaps one of the main reasons why projects fail to achieve positive social, environmental, and economic impacts. Governments at all levels can play a pivotal role in facilitating full involvement from these grassroots groups, and some governments are beginning to appreciate the involvement of civil society in projects.[60] At least one government official did, however, express concern about the WBG fostering "parallel institutions" to government by favoring civil society organizations.[61]

Governments have a key responsibility to see that balanced inputs are received from all sectors and that outputs achieve the objectives set by stakeholders. To maintain an unbiased perspective on compliance, some governments advocate using multistakeholder groups to monitor extractives operations.[62] Participation is also essential in formalizing the ASM sector and in other community development activities.[63]

Some governments perceive the WBG as a powerful convener of multistakeholder interests and want the institution to use this capacity on their behalf.[64] This point was raised repeatedly in the EIR consultation workshops. Governments also want the WBG to provide technical assistance and capacity building for government agencies, especially regional-level governments, in order for them to learn how to manage participatory processes such as pre-project impact assessments and community-based planning and management.

Local Governments

In countries with emerging and transition economies, local governments—province, district, sub-district—face a number of difficult challenges, not least of which is a desperate lack of resources, especially at the district and sub-district levels. Because they are one or more steps removed from the center, these levels are not involved in key program and budget decisions that directly affect their work. This leaves them significantly disempowered. If extractive industries are to catalyze sustainable development at the local level, this cannot be done without a stronger involvement from local governments. Indeed, the inadequacies of local governments may be at the heart of why it is so difficult to achieve poverty alleviation and so hard to keep development on a sustainable path.

Local government representatives did not have a direct voice during the EIR consultation; other voices that spoke on their behalf, however, acknowledging the critical role they have to play in the struggle for poverty alleviation and sustainable development. These are some of the main issues and constraints that local governments face in dealing with demands in the context of extractive industries:

- One of the main constraints is a lack of expertise and resources for responding to local development demands; central government organizations usually receive the bulk of technical assistance and material support, leaving little for building capacity at local levels.

- The influx of people, the demand for infrastructure and services, and other changes may come very quickly when an extractive project is developed. It likely will overwhelm the

capacity of local government, especially those located in remote rural areas of developing countries, where local government usually has limited capacity to deal with these kinds of changes and demands.

- When all the revenue from a project goes to national government, that revenue is often not shared equitably with local government. This results in local government facing enormous new challenges without sufficient resources to confront them.

- Even when revenue does get shared with local government, it is not usually available until the project is operational, which may be five years or more after all the construction and disruption of local life takes place. This leaves local government seriously under-resourced for dealing with the critical upfront demands from both industry and civil society.

- During the life of the project, the contribution to the local economy from an extractives project may fluctuate considerably as commodity prices go up and down. Employment will fluctuate, as will demands for housing, schools, water, electricity, transportation, health care, police protection and other things. At the same time, the revenues available to local government may also fluctuate wildly. Usually they tend to decrease when the demand for social spending increases—low commodity prices lead to low tax payments just when there is increased unemployment.

- Where there has been no planning for the social, environmental, and economic aspects of closure, the consequences of this planning failure may all land on local government just at a time when revenues from the project fall to zero. If the national economy is also highly mineral-dependent, this may also coincide with a crisis in national finance as well.

- Local government are often absent from processes such as the EIR, which means that discussions take place, recommendations are made, decisions are taken, and directives are given with little or no input from those working at the critical interface with communities and populations most likely to be affected by extractive projects.

Role of the World Bank Group

During the course of the EIR, governments made comments on the involvement and role of the WBG in the extractives sector. Some of these comments were delivered verbally during EIR events and some came in the form of written submissions at EIR events or directly to the EIR Secretariat.

WBG Safeguard Policies

Individual governments have not commented in detail on each WBG Safeguard Policy, but they have through their actions in their countries and through participation in intraregional and international fora acknowledged and promoted the importance of safeguards, especially to protect important environmental values.

Governments in general have endorsed the continuation of the WBG's involvement in creating an appropriate "enabling environment" in countries; one important element in this is the regulatory environment that encompasses safeguards. The U.K. government stated that "the nature of the extractives sector puts it at the heart of WB safeguard policies and their implementation."[65] The statement also referred to the WBG's safeguards as the benchmark used by many others in their project work and noted that the WBG policies and guidelines "have helped put environmental and social considerations on a par with economic and technical considerations in project planning." It is further suggested that the Safeguard Policies provide civil society with a platform and that the WBG has an important role in convening multistakeholder engagement and participation in this area.

One recommendation from the U.K. government is to move beyond the project-specific application and use the safeguards more strategically in order to influence policy and better manage overall development opportunities, so that countries can assess whether or not exploiting extractive resources is the best way for them to move toward sustainable development.

Structural Reform

On the question of structural reform, direct inputs from governments were rather minimal. On the whole, however, they do articulate the need for introducing efficiencies into the economy and improving the running of public administration. Governments also stress the need to make transitions and transformations slowly and carefully in order to maintain balance and minimize social disruption.[66] In planning and implementing structural reform, governments depend heavily on the WBG for advice and technical and financial assistance. However, they would like to see the roles of the IMF and the WBG harmonized in order to avoid overlap and conflicting advice.[67] One key role that the Bank uniquely can provide is to help governments coordinate and integrate their macroeconomic and fiscal policies with their country policies.

Governments would like the Bank to encourage a well-rounded economy, with space for a range of businesses—small, medium, and large.[68] They feel that large-scale and transnational companies should not dominate to the exclusion of other smaller players, and that promotion of the SMEs needs particular support from the WBG. In transition economies, governments would like the Bank to help foster "joint venture" relationships and to provide oversight and financing for the entire life cycle of the enterprise, with particular attention to fostering management skills.[69]

It is widely acknowledged that the WBG can help support public-sector institutional reform by refocusing the state from its role as an economic actor to a facilitator and manager of social and economic development processes. The WBG should help the government define policy and stimulate and catalyze private-sector investment. Investment support for infrastructure development, a precondition for private investment, is seen as an important priority for Bank financing. Overall, the Bank can help create the base conditions for development by supporting countries achieving international standards in fiscal structure and management capacity.[70]

In summary, governments believe that the WBG can be catalytic by bringing in other donors and funders and can support developing the regulatory environment, generating scientific data, developing infrastructure, and fostering SMEs.

Technical Assistance for Capacity Development

As a major recipient of technical assistance from the WBG, governments mainly in developing countries are highly dependent for this support in developing their internal capacity to establish suitable economic and fiscal strategies and policies; set sectoral policy and regulatory frameworks; control, manage, and mitigate the social, environmental, and economic impacts of extractive industries; train and educate the work force required; develop the essential management and supervisory skills; and develop and operate appropriate information and communication management systems.

Ideally, these governments would prefer financial support for capacity development to be provided in the form of grants, as there is no immediate financial return from these investments. They also want to be sure that technical advice and expertise is adapted suitably to the local context, so that it is directly applicable to in-country conditions.

Governments want the WBG to use its convening power to facilitate the development of regional cooperation and networks for exchanging information and experience and for developing shared infrastructure between countries, such as pipelines or power grids. [71]

Recommendations for the WBG

The following recommendations for the WBG have been synthesized from the inputs form governments during the consultation process.

- *Help governments reap maximum economic benefit through macro and fiscal policy advice.*[72] Governments need assistance in integrating micro- and macroeconomic policies and in integrating and coordinating inputs from IMF and WBG.[73] Governments also asked for policy advice on resource development that would encourage economic diversification—for instance, developing a vibrant inputs sector, value-added processing, job creation, and human capital accumulation.[74]

- *Help countries assess whether or not exploiting their resources should be considered the best option among alternatives.*[75] Several governments want WBG assistance in carrying out land use assessments to determine the best use of natural resources, help in conducting geological surveys to attract investment, and assistance in determining the net benefits of any project, taking into account the full costs, including environmental protection and social costs.[76]

- *Help set up national and regional planning processes.*[77] Multisectoral and participatory planning processes are needed to frame the setting for extractive industries development. The WBG could encourage governments to see specific project development as one element in a regional development plan, using the project to develop, for example,

infrastructure that will become part of the foundation for sustainable development in that area.[78] In moving ahead with extractive sector development, governments need advice in order to negotiate the best deals with companies.[79]

- *Use extractive industry interventions to promote countrywide institutional and policy framework reforms* by adopting a systematic approach that is not tied to the concerns of individual projects. Institutional reform should result in the efficient organization of various government agencies, with clearly delineated responsibilities.[80] Policy reform should address the need for clear policies and updated legislation.[81] This assistance should be recognized as a nonproductive investment and ought to be given through grants rather than loans.

- *Focus on building good governance and the capacity of the State.*[82] The WBG should make good governance a conditionality and use it as a pillar on which all its work is based. The WBG should avoid making civil society a form of "parallel government," thereby undermining the authority of the State. Instead, assistance and training must be provided in establishing open channels of dialogue between government and civil society.[83]

- *Provide oversight and financing for the full life-cycle of a project*—in particular, support capacity development for good life-cycle project management and find mechanisms to ensure that government at all levels has adequate financial and human resources to meet demands and needs at the beginning of the project cycle.[84]

- *Provide capacity building for local counterparts to improve project governance.* The WBG should help remove bureaucratic bottlenecks in extractive project implementation by training local government counterparts in WBG procurement guidelines prior to the start of a project and by involving participating agencies at the early stages of project formulation and design.[85] Government capacity in project implementation, monitoring, and enforcement should be reinforced—for example, through technical assistance for environmental impact assessments.[86] Technical assistance should also include good practices for health and safety in large and small-scale mining.[87]

- *Help build community capacity jointly with local stakeholders, working closely with both nongovernmental organizations and businesses.*[88] Communities should be allowed to reap maximum benefit from projects through education and job creation.[89] They should be assisted further in exploring economic alternatives from the outset of a project, with the aim to build sustainable livelihoods, avoiding social conflict and the phenomenon of "ghost towns" after project closure.[90]

- *Help build local institutional capacity for regional development*—building on partnerships with local organizations to develop their social capital and establishing strategic alliances with relevant parties, especially extractive companies.[91]

- *Help undertake pilot projects to address specific issues of concern in the short term*—for example, regional pilot projects to integrate artisanal and small-scale mining into the

formal sector by addressing the policy, legislative, and regulatory requirements as well as exploring practical, community-based needs on the ground.[92]

- *Assist in developing a comprehensive approach to development, management, and regulation of artisanal and small-scale mining.* Assistance must be country-context-specific, people-centered, and integrated within the Country Assistance Strategy and the Poverty Reduction Strategy Paper so it can be an integral part of rural development policies and programs.[93] It should improve social welfare and health conditions and minimize environmental impacts; support the use of technologies that will be affordable and appropriate and that will improve productivity and financial viability; help governments develop appropriate legislation and institutional capacity to regulate the sector; and link micro- and macro-policies.[94] Reclamation of degraded areas must be addressed.[95]

- *Require an environmental impact assessment with full public participation and prior informed consent for all new extractive industries development.*[96]

- *Clean up the legacy of the past.* Governments requested WBG assistance in reclaiming contaminated sites, including ASM sites, to make them productive for agroforestry and other appropriate uses.[97] For future projects, the WBG should promote effective and sustainable land reclamation from the outset and require proper disposal of extractive industry waste (such as mine tailings and drilling "mud").[98]

- *Address global environmental sustainability.* Promote energy efficiency, conduct research in renewable energy, and encourage recycling.[99] Incentives should be provided for companies to comply with environmental and social regulations, such as making public those companies that comply with environmental regulation as well as publishing the cost of such compliance.[100]

- *Help develop standards and guidelines to assure good environmental and social practices.* Government officials should be trained in such standards.[101] The WBG should encourage industry associations to require member companies to comply with standards, achieve certification, and establish good relations with local people.[102]

- *Maintain open lines of communication and establish trust between participating institutions and WBG supervision teams.*[103] In its work, the WBG should appreciate local limitations, as practiced in the IDA Equal Partnership approach. The WBG should ensure that all WBG studies include clear implementation plans for recommendations.[104]

- *Reform WBG incentive mechanisms.* The WBG staff incentive framework should be reformed to encourage staff to consider the relative development impact of extractive industries versus alternate opportunities.

Notes

[1] There are some notable exceptions to this, such as Chile (where the Mining Ministry is considered the most important economic department), Peru, and South Africa.
[2] Natural Resources Canada 2003a, DFID 2003a.
[3] Walde 2003.
[4] Natural Resources Canada 2003a.
[5] Peru Ministry of Energy and Mines official letter to EIR, September 2003; Tuhumwire 2003; Darimani 2003.
[6] Chappuis 2002, Government of Indonesia 2003.
[7] Tuhumwire 2003.
[8] Government of Canada 2003.
[9] It has been suggested that the Bank has a key role to play in assisting developing countries in this area. See DFID 2003a.
[10] Hancock n.d.
[11] Heilbrunn 2002, ECON Centre for Economic Analysis 2002, Auty 1997.
[12] Russian submission to EIR Consultation Workshop in Budapest.
[13] Minister of Energy and Mines, Burundi; Ministry of Mines, Geology and Environment, Republic of Guinea, EIR session at the WMMF in Toronto, March 2002.
[14] CAMMA 2002.
[15] CAMMA 2002, pp. 22-23.
[16] Mines and Geosciences Bureau n.d.
[17] WBG 2003a.
[18] CAMMA 2002.
[19] Sirila 2002, Darimani 2003, Government of Indonesia 2003, CAMMA 2002.
[20] Mines and Geosciences Bureau n.d.
[21] WBG 2003a.
[22] Mines and Geosciences Bureau n.d.
[23] Mines and Geosciences Bureau n.d., CAMMA 2002.
[24] CAMMA 2002.
[25] Bugnosen 2003a.
[26] Neale 2003.
[27] Government of Chile, Chile's fostering of small and medium mining. Private communication, Wanda Hoskin, September 2003.
[28] Neale 2003.
[29] United Nations 2002aa.
[30] ICG 2001.
[31] CAMMA 2002, Ministry of Solid Minerals Development 2002.
[32] DFID 2003a.
[33] Ministry of Solid Minerals Development 2002; Murangari 2003.
[34] CAMMA 2002.
[35] Government of Indonesia 2003.
[36] Chilean Copper Commission and UNEP 2001.
[37] Darimani 2003.
[38] CAMMA 2002.
[39] Darimani 2003.
[40] Cited in Hancock n.d.
[41] Cited in Hancock n.d.
[42] Murangari 2003.
[43] Ministry of Solid Minerals Development 2002, Murangari 2003, Suryantoro 2002, CAMMA 2002.

[44] Suryantoro 2002, CAMMA 2002.
[45] Brewer 2003, Darimani 2003.
[46] CAMMA 2002.
[47] CAMMA 2002.
[48] WBG 2003c.
[49] Darimani 2003.
[50] EIR Bali consultation workshop, April 2003.
[51] Minister of Energy and Mines 2003.
[52] DFID 2003a.
[53] For more information, see http://www.dfid.org.
[54] Mines and Geosciences Bureau n.d.
[55] Himata 2003. .
[56] Tuhumwire 2003, Darimani 2003.
[57] In Indonesia there is a conflict between the Mining Law and Forestry Law regarding open pit mining in so-called *Hutan Lindung*, forest protection areas. Many of these "protected" areas have already been heavily logged, and quite a number of companies were granted rights to explore for and exploit mineral resources using open pit methods prior to promulgation of the new forestry law.
[58] Castro 2002.
[59] WBG 2003a.
[60] Minister of Energy and Mines, Peru, Official letter to EIR, September 2003.
[61] WBG 2003c.
[62] Mines and Geosciences Bureau n.d.
[63] Neale 2003.
[64] WBG 2003c.
[65] DFID 2003a.
[66] WBG 2003c.
[67] Natural Resources Canada 2003a.
[68] Mines and Geosciences Bureau n.d.
[69] WMMF 2002.
[70] WMMF 2002.
[71] CAMMA 2002, Minister of Energy and Mines 2003.
[72] Brewer 2003.
[73] Natural Resources Canada 2003a.
[74] Natural Resources Canada 2003a; Minister of Energy and Mines, Burundi; Ministry of Mines, Geology and Environment, Republic of Guinea, EIR session at the WMMF in Toronto, March 2002; Natural Resources Canada 2003b; Darimani 2003.
[75] Brewer 2003.
[76] Tuhumwire 2003, Darimani 2003, Natural Resources Canada 2003a.
[77] Russian representative – discussion of WBG presentation. Government submission to Budapest workshop.
[78] Natural Resources Canada 2003a.
[79] WBG 2003c.
[80] Tuhumwire 2003, Brewer 2003.
[81] Darimani 2003.
[82] Gweth 2003, Natural Resources Canada 2003a.
[83] Castro 2002.
[84] Minister of Energy and Mines, Burundi; Ministry of Mines, Geology and Environment, Republic of Guinea, EIR session at the WMMF in Toronto, March 2002.
[85] Afenu 2003.

[86] Government of Indonesia 2003.
[87] Afenu 2003.
[88] Castro 2002.
[89] Government of Indonesia 2003.
[90] Afenu 2003.
[91] Castro 2002.
[92] Natural Resources Canada 2003a.
[93] Bugnosen 2003a.
[94] Razafimandimby 2003, Afenu 2003, Bugnosen 2003a, 2003b.
[95] Afenu 2003.
[96] Government of Indonesia 2003.
[97] Government of Indonesia 2003.
[98] Government of Indonesia 2003.
[99] Natural Resources Canada 1995.
[100] Afenu 2003, Government of Indonesia 2003.
[101] Government of Indonesia 2003.
[102] Government of Indonesia 2003.
[103] Afenu 2003.
[104] Afenu 2003.

Annex 6: Views of Academia and International Organizations

Annex 6. Views of Academia and International Organizations

The Extractive Industries Review (EIR) has received and reviewed inputs from academia and international organizations, by way of contributions from representatives invited to regional workshops, written contributions, or topical research studies from specially commissioned researchers and the EIR team.

It is important to set the EIR in the proper context: the World Bank Group (WBG) is only a small player in the extractive industries, and many other international bodies, bilateral donor agencies, U.N. agencies, and intergovernmental task forces are equally involved, trying to find answers to resolve the same problems, often with the participation of the WBG itself. The work of academics contributes to these global efforts.

This Annex attempts to give some insight into this broader arena of ongoing work and important initiatives by international organizations. Furthermore, it attempts to present some of the academic debate and insights into topics discussed in this report from a neutral perspective. It by no means claims to be a comprehensive summary of the manifold views of academia, or of other relevant work being conducted; rather, it hopes to give useful background to support and inform the entire report.

Promoting Pro-poor Development

Academics and institutional actors alike have tried to shed light on the question of why many resource-rich nations have under-performed compared with resource-poor nations.[1] (See Annex Box 6–1.) This phenomenon, known as the "resource curse" or the "paradox of plenty," generally begins with a sudden increase in income for the resource-rich country following the discovery or expanded development of a natural resource or a surge in world prices. Although this sudden wealth can provide a rapid source of foreign exchange, attract foreign capital, provide raw materials for processing, and create a market for manufactured goods, time and again countries have been unable to capitalize on the economic opportunities that open up to them and survive the boom-and-bust cycles of unstable global commodity prices.[2]

Academic enquiry predominantly tackles the nature of the link of resource dependence and growth, often only indirectly alluding to the fate of the poor. Ross, however, discusses the link between developing countries' resource dependence and their weak performance in poverty alleviation and other development indicators.[3] A number of economic, political, and institutional theories have been advanced for why resource-rich countries might suffer from the resource curse, and whether this is related to the natural resources themselves. In general, experts have found that it is not the resource abundance per se that leads to slower growth, but the way in which governments manage and invest their resource wealth. It is only through efficient and foresighted management and use of funds that countries can maintain their economic health when the inevitable bust follows a resource boom.[4]

Annex Box 6–1. Resource Curse Explanations

The most common economic theory used to explain the resource curse is what is known as Dutch Disease—indeed, the two terms are often used interchangeably to describe poor economic growth in resource-rich countries.

Dutch Disease refers to a situation where a sudden surge in income from natural resources drives up a country's real exchange rate, thus reducing the relative prices of goods from other sectors, such as manufacturing, and making them less competitive than the resource sector. As a result, labor and capital are drawn from manufacturing and other nonresource sectors to the resource and the nontradable sectors, such as infrastructure, public works, or defense. At the same time, the government spends windfall profits from the natural resource in the nontradable sectors, does not invest in maintaining manufacturing, agriculture, or other productive industries, and may borrow heavily against its resource wealth.

The lack of investment in manufacturing, agriculture, and other productive sectors means that the country will not have a way to replace its income stream when the resource boom eventually subsides, either because of a drop in world prices or a decline in available reserves. And the tradable goods that they do still produce will be less competitive on the world market because of the high exchange rate.

It has also been suggested that the shift away from manufacturing means a loss of human capital because the manufacturing sector is a key source of technological progress, knowledge, and skills. Another theory is that because natural resources are often produced in enclave developments, are extremely capital-intensive, require a small work force, and often use imported inputs, they do not have the productive linkages to the rest of the economy that a healthy manufacturing sector might have. This is especially true if foreign multinationals dominate the industry and repatriate their profits or if a state company fails to foster those linkages.

Another economic explanation of the resource curse has been termed a "debt overhang." In the 1970s, when commodity prices were high, many resource-rich countries used their resource wealth as collateral to borrow heavily on international markets. When prices fell, they found themselves deeply in debt, leading to severe economic problems.

Economic factors are only part of the explanation for the resource curse, however. Various political behaviors—from shortsighted use of profits to corruption, damaging rent-seeking actions, and adverse effects on institutional quality—contribute to the chain of events that lead to poor development performance in resource-rich countries.

Booms may make it difficult for governments to exercise the necessary political and economic restraint required for prudent economic management. Faced with a sudden surge in revenues from a resource boom, governments often choose to begin making major expenditures on large-scale public works, social services, defense, and other nontradable sectors—spending too much, too fast. Much of this spending is inefficient investment in inappropriate industries or projects that are beyond the capacity of the country to maintain. The surge in wealth from a

necessary economic reforms or to continue inefficient programs of protection or subsidies. When the boom subsides and income drops, it is often difficult or impossible to reverse that spending initiative or make needed economic reforms.

Sources: Sarraf and Jiwanji 2001, pp. 4–7; Ross 1999, pp. 301, 305, 306; *Economist* 1998; Mikeselll 1997, pp. 193–94; Wright 2001, p. 21; Manzano and Rigoban 2001. p. 1; Sala-I-Martin and Subramanian 2003.

The Importance of Governance

In order to help countries avoid the resource curse, international actors and academics advocate a combination of measures aimed to improve the quality of governance through sound revenue management, including higher transparency of revenue flows, improved economic governance to achieve sound macroeconomic management and institutional and policy framework development, forward planning including economic diversification, regional planning, and closure planning, as well as activities pertaining to the strengthening of democratic structures, such as increased public participation and improved access to information by all.

Revenue Management and Distribution

Who controls the revenues and decides how benefits and costs will be borne is often the most critical determinant of whether society as a whole or just a fortunate few benefit from resource extraction. Governments have an important role to play, assuring equitable revenue allocation and using royalties to compensate local communities for the relatively higher cost they bear throughout the life of a project and potentially beyond.

A U.N. Conference on Trade and Development (UNCTAD) workshop on Mineral Wealth, Human Capital, and Sustainable Resource-based Development in March 2001 highlighted the need for "institutional mechanisms that could manage mineral revenue over the long-term and function independently of the political process."[5] Resource funds are an example of resource management of this nature. (See Annex Box 6–2.)

UNCTAD's regional workshop on Growth and Diversification in Mineral Economies in November 2000 acknowledged the importance of the distribution of regulatory authority and of mineral revenues between different levels of government and between regions as an important problem for mineral economies.[6] Conference participants suggested a number of measures aimed at assuring appropriate revenue management and distribution:

- Countries should negotiate with companies the royalties to be paid to local communities as a contribution to their development and mitigation of any damage to their environment.

- Follow the national budget unity principle to assure equitable allocation of resources among regions according to their respective development priorities.

- Try to achieve a balance regarding both spatial revenue distribution among regions and temporal distribution between generations through investment and savings.

- Preserve the important role of national government in ensuring the provision of basic socioeconomic infrastructure, while agreed revenue quotas at different levels of decentralized government should help local communities mitigate negative effects of mining activities on their livelihoods.

Annex Box 6–2. Resource Funds

Nonrenewable resource funds (NRF) can be used to direct resource revenues toward social development and economic stabilization. They can provide additional funding for environmental and social programs and can ensure savings from resource revenues for the time when reserves and resource income eventually run out, helping to avoid the pitfalls of the "resource curse."

There are three main types of resource funds:

- Stabilization or contingency funds use pre-set accumulation and withdrawal rules to regulate the economy and avoid economic shocks.
- Savings funds save revenues so that future generations can reap some benefits when the resource eventually runs out.
- Virtual funds deposit money directly into national accounts to help finance the current state budget.

The three key criteria for successful governance of a resource fund are clear goals for the fund, high levels of transparency, and accountability.

In many cases, a non-renewable resource fund (often called an oil fund or a mining fund) can be the most effective tool for ensuring the fair and effective distribution and use of resource revenues.

Government needs to define clearly the goals that it expects the resource fund to fulfill; its accounts and management decisions need be publicly disclosed and the diversion of funds needs to be prevented through a good reporting system. Rules governing the management of a natural resource fund need to include provisions to improve accountability through appropriate representative bodies and other state agencies that have overlapping lines of supervision. Meritocratic human resource practices are an additional, essential component of good governance of resource funds.

Sources: Stern 2001, Heilbrunn 2002.

Corruption and Government Accountability

Huge profits from a resource boom may provide a serious temptation for corruption, rent-seeking behavior, and patronage among government officials. Resource income provides the ruling elites with the means to remain in power by extending their control through a wide-reaching system of patronage and by oppressing opponents. Furthermore, relatively "light" taxation might lead business partners to turn a blind eye to the absence of government accountability.[7]

Where benefits from resource extraction do not reach beyond the ruling elite's networks of patronage, large parts of the population do not gain from resource development. The wealth that is going to individual businesses or people is not invested in productive sectors or back into the resource sector, so it does not promote sustainable development within the country. The empowered sectors and classes may also favor certain growth-impeding policies—such as import-substituting industrialization at the expense of export promotion—for their own good or that of their supporters.[8]

Transparency in Revenue Flows

Transparency in revenue flows provides a clear step in the direction of assuring that revenues earned from extractive resource development go toward eliminating poverty and promoting sustainable development. At present, corporations do not in general report publicly any payments made to individual countries, although this is done on occasion with the agreement of the governments concerned. For example, with the agreement of the Nigerian Government, the Shell company in Nigeria reported 2000 and 2001 payments to government in its 2002 "People and Environment" report. Even where corporations may wish to do so, they are often bound by confidentiality clauses that require the agreement of all partners (usually including the national oil company) before information can be disclosed. In addition, there is no obligation for governments to disclose payments received from corporations or to make budgetary and fiscal information fully transparent.

Increased transparency over payments and revenues can achieve greater accountability and reduced risk of conflict and political instability through more equitable distribution of resources and a business environment that is conducive to investment.

The Publish What You Pay campaign, a coalition of at least 130 nongovernmental organizations (NGOs) led by Global Witness and the Open Society Institute, advocates transparency in the extractive sectors with the aim of helping citizens hold governments accountable for the management and distribution of resource-related funds. This campaign places the onus on home-country governments (such as the United States and the United Kingdom) to require extraction companies to publish net taxes, fees, royalties, and other payments made so that civil society can more accurately assess the amount of money misappropriated and can lobby for full transparency in local government spending.[9] This would not in itself provide full transparency of the oil revenues flowing to host governments, however, since it ignores the sums derived by national oil companies from selling their equity crude in production sharing or other agreements.

Efforts to increase transparency in the oil, gas, and mining sector gained momentum when U.K. Prime Minister Tony Blair launched the Extractive Industries Transparency Initiative (EITI) at the World Summit on Sustainable Development in September 2002.[10] This initiative has been led by the U.K. Department for International Development (DFID) since then, in consultation with a multistakeholder group involving governments; publicly traded, private, and state-owned extractive companies; international organizations; NGOs; and others.

The EITI initially proposed a range of options for establishing disclosure mechanisms, including unilateral disclosure, the Global Reporting Initiative (modified and strengthened), International Accounting Standards (modified for extractive industries), disclosure rules for securities markets (modified and strengthened), International Monetary Fund (IMF) Article IV, and international financial institutions' donor conditionality. Two stakeholder meetings on this were held in February and June 2003. Resource-rich developing countries have yet to sign on to the EITI. At the June workshop, however, a number of them agreed to continue discussions about adopting the initiative's principles: Azerbaijan, the Democratic Republic of Congo, East Timor, Equatorial Guinea, Ghana, Indonesia, Kazakhstan, Mozambique, Sierra Leone, and Trinidad and Tobago. In addition, the Nigerian Government has committed to proceed with the initiative.

The Group of Eight (G8) issued a declaration at its 2003 summit entitled "Fighting Corruption and Improving Transparency," committing governments to take action against corruption and mismanagement of public resources and to support more transparency.[11] With specific reference to the oil, gas and mining sectors, the G8 governments "agreed to pilot on a voluntary basis an intensified approach to transparency: [encouraging] governments and companies, both private and state-owned, to disclose to the IMF or another agreed independent third party such as the World Bank or Multilateral Development Banks, in a consistent fashion and common format, revenue flows and payments from the extractive sectors. This information should be published at an aggregated level, in accessible and understandable ways, while protecting proprietary information and maintaining contract sanctity."

G8 governments will "work with participating governments to develop and implement agreed action plans for establishing high standards of transparency with respect to all budget flows (revenues and expenditures), and with respect to the awarding of government contracts and concessions, . . . assist those governments that wish to implement this initiative with capacity-building assistance; [and] encourage the IMF and the World Bank to give technical support to governments participating in the initiative and to develop linkages with other elements of this Action Plan."

Planning for Sustainability

Extractive industries can have huge impacts on their surroundings: on communities that live near project sites, on the economic landscape in which they operate, and on the environment. Coping with these impacts, as well as preparing for life after the finite life span of extractive industry projects, requires forward planning by authorities at all levels.

Economic Diversification

Academics argue that resource-abundant countries tend to rely longer on their natural resources and can delay diversification into manufacturing and the development of competitive industrialization. These countries often develop factional or predatory states that transfer wealth from the resource sector into a huge nontradable sector and an overextended state bureaucracy, with few incentives for efficient investment. The countries then become trapped in dependency on the resource wealth, which will one day run out.[12]

At the level of macroeconomic planning, sustainability requires assuring that the economy does not grow overly dependent on a finite resource that, through altered price and exchange rate structures, may further impede competing and alternative industries. Resource dependence makes countries more vulnerable to price shocks and governments more dependent on small but powerful interest groups. They become more independent of the citizen body and ultimately unsustainable.

The UNCTAD workshop on Growth and Diversification in Mineral Economies made several recommendations for resource-rich countries that are trying to exploit their resources in a sustainable way.[13] Participants recommended measures to enhance sound macroeconomic and revenue management, good governance and participation, and diversification and value-added processing:

- Countries should achieve good macroeconomic conditions and management through negotiating with the donor community the conversion of debt into an Economic Diversification Fund, investing mineral revenues in international financial markets during boom periods to generate income for use in bust periods and allocating capital efficiently through the market to the projects showing the highest expected return. Good management can be enhanced by establishing a dialogue between government, legislatures, and civil society on the management and investment of revenues and by establishing legal and institutional mechanisms to prevent corruption.

- Countries should maximize benefits from these industries by using a portion of mineral revenues to develop the private sector through a credit scheme to small- and medium-sized industries, using the World Trade Organization forum to negotiate effective policing of anti-dumping measures that industrial countries tend to use to discourage imports of value-added products and to deter the use of non-tariff measures, encouraging labor-intensive mining activities.

Another international body working to assist diversification in transition countries in Eastern Europe is the United Nations Economic Commission for Europe (UNECE), through its activities in Industrial Restructuring, Energy, and Enterprise Development. (See Annex Box 6–3.)

Annex Box 6–3. Industrial Restructuring, Energy, and Enterprise Development Division of the U.N. Economic Commission for Europe

The UNECE objectives in the area of industrial restructuring and enterprise development include assisting governments in establishing an enabling environment for new private enterprises and entrepreneurial activities and establishing partnership and involving civil society in new ways to tackle the negative effects of restructuring.

Many countries in the region urgently need to restructure and to diversify their economies for sustained economic growth. While opening up their economies to international trade, they are still exporting primary products and raw materials. They need to diversify and improve the composition of their exports. They can do this by creating modern facilities to manufacture their raw materials locally instead of reimporting them.

Within the ECE, the Industrial Restructuring and Enterprise Development subprogram is implemented through the exchange of experiences gained by industrial market economies and economies in transition and through meetings of expert groups, resulting in the development of policy recommendations in different areas.

The Working Party on International Legal and Commercial Practice promotes reform and capacity building on the legal, institutional, and regulatory frameworks in the transition economies. It helps countries enforce guidelines on best legal and commercial practices and carries out technical assistance programs and training courses in countries at their request.

The Working Party on Industry and Enterprise Development promotes entrepreneurship, industrial restructuring and a sustainable business environment in the region. It organizes the exchange of relevant information and experience; helps to promote best practice in innovation and the application of new electronic technologies; collects, processes, and disseminates statistical and other information related to enterprise development and industrial restructuring; studies the relevant economic, technical, and regulatory issues; and makes recommendations for government action.

Methods include:

- Creation of a network of government officials responsible for enterprise restructuring and development within the Ministries of Economy, Trade, Industry, and Finance.
- Expert groups and advisory bodies assisting governments in dealing with key challenges.
- Training and education of policymakers in implementing business development strategies and in creating modern institutions for promoting entrepreneurship, using research studies, guides, and analytical reports.
- Implementation of standards through establishing international benchmarks for transition economies in such areas as infrastructure financing mechanisms, property rights valuation and enforcement, quality management systems, and Internet-based entrepreneurship.

Source: UNECE Web site, at http://www.unece.org/ie/ir/intro.html.

Regional Planning

Dependence on extractive industries can be much higher at the regional than the national level, highlighting the need for regional forward planning. Local and regional authorities need to plan ahead to mitigate negative social and environmental impacts at the project level, such as in-migration and the resulting stress on local infrastructure, as well as ensure that local economic benefit is maximized.

UNCTAD is promoting sound regional planning as part of the overall governance of resource-rich countries, at this point through training activities for macroeconomic policy management in mineral economies, establishing pilot demonstration planning models in selected regions, and training local authorities.[14] UNCTAD proposes a framework for regional planning that entails a simulation model of regional dynamics, a geographical information system, an institutional mechanism for decisionmaking among stakeholders, and joint monitoring of implementation and impacts.

Closure Planning

The question of whether an extractive industry project can promote poverty alleviation and sustainable development depends crucially on how development of the resource benefits society beyond the life of a project, which generally covers 10–30+ years. Societies and local communities often leave traditional livelihoods behind in search for opportunities at the project and then lose access to those economic activities at closure. Unmitigated environmental footprints may render traditional livelihoods impossible, as these depend on healthy local ecosystems. Societies are also left to deal with loss of community services, long-term environmental risks, and unresolved grievances as a legacy of extractive industry projects at closure.

A particular problem and challenge for closure planning is to secure sufficient funds for implementing the plan. Mine closure, for example, can happen rapidly and early in the life of a mine, when changes in commodity price can make the mine unprofitable.

Business Partners for Development (BPD) suggests that multistakeholder partnerships have a role to play in closure planning: investment should be aligned with regional public policy for economic development from the outset, for instance, through convening a multistakeholder, regional-level forum at the time of project planning (involving government, other businesses, and civil society groups) and continuing the dialogue at intervals throughout the project's life.[15] The strategic objective of such a forum is to integrate the project with sustainable economic regional development while concurrently building local capacity to maintain the project's infrastructure legacy in the longer term.

Such a forum has at least two functions: to align the direct employment, supply-chain, and distribution opportunities presented by the investment with other economic opportunities and markets in the wider region and with public sector programs for enterprise development and vocational training and to facilitate the development of local partnerships between the operating company, district-level government agencies, and community groups in order to

align parts of the operational infrastructure and fixed assets of the business with the strategic infrastructure needs of the region.

In cases where closure plans have not been prepared from the outset of the project, partnerships can assist in retrofitting measures to manage the transition. BPD suggests that a regional- or district-level partnership forum dedicated specifically to closure issues, can be convened as a way to rapidly agree on a closure plan. The components of such a forum include a steering committee, consisting of the company, government officials (from provincial and national levels), and legitimate community leaders, and theme-based Working Groups covering such topics as site use and asset transfer, environmental risk management and rehabilitation, local business development, and regional sustainable development.

BPD also promotes the establishment of grievance mechanisms. The onset of project closure often triggers the emergence of past grievances among the local population, which in part can be managed through partnerships. BPD suggests first implementing a dedicated and mutually agreed process of grievance resolution, with the aim to generate sufficient trust for the disputing parties to be willing to work together and with others to develop a closure plan.

Capacity Building

Sound governance of resource development requires government capacity at the national, regional, and local level. Furthermore, the extent to which local communities benefit from such development depends crucially on local capacity to engage in economic activities directly or indirectly related to such projects. Civil society groups require capacity building in order to fulfill their role of protecting the weakest in society.

Many international organizations and bilateral donor agencies work on strengthening the capacity of actors involved in and affected by extractive industries. At UNCTAD's March 2001 workshop on Mineral Wealth, Human Capital, and Sustainable Resource-based Development, participants proposed capacity building projects including creating a network open to all interested parties for the exchange of information, experiences, and opinions; establishing information centers that can provide local people with access to information, communication, and Internet facilities; training for local authorities; and regional planning frameworks.

The U.N. Environment Programme and UNCTAD have set up a Capacity Building Task Force on Trade, Environment and Development (CBTF) to strengthen the capacities of countries, particularly developing countries and economies in transition, to address trade-environment-development issues effectively. The CBTF approaches capacity building through partnerships. Its activities include thematic research, country projects, training, policy dialogue, and networking and information exchange.

One example of the thematic research is "The Utilization of Economic Instruments to Encourage the Sustainable Use of Natural Resources and to Internalize Environmental Impacts Resulting from Globalization Processes" in Indonesia.[16] Through this, the government seeks to manage its natural and environmental resources more effectively using

economic instruments while enhancing its competitiveness in international markets through an improved environmental image. The project will involve cooperation between the Ministry of Environment, other government institutions, universities, NGOs, and major stakeholder groups in the private sector. A country case study will be published that outlines the opportunities, benefits, challenges, and costs of wider use of economic instruments at the national level and discusses the implications for Indonesia's international trade relations. This report will become a resource tool for the CBTF to support country projects and policy dialogue activities, and it will be disseminated as a reference source through the CBTF networking and information exchange mechanisms.

DFID and Capacity Building

In September 2001, DFID published a strategy paper entitled "Making Government Work for Poor People: Building State Capacity" that analyzed the measures needed by the international community and DFID to help developing countries improve governance in order to achieve the 2015 target of halving poverty. Examples of current activities fall into six key categories:

- *Political Institutions:* In Cambodia, DFID is contributing to a multidonor program to help build the capacity of local government and improve its accountability to support local democratic structures. DFID's work in Tanzania has focused on helping the government implement its poverty alleviation strategy through a long-term commitment to budget support, supplemented by technical assistance to strengthen capacity for economic management and delivery of public services, support private sector development and pro-poor growth, and strengthen the demand for government accountability from civil society.

- *Financial Management:* In Ghana, a project to review large government tenders in order to improve efficiency has helped the government to identify more than $6 million in direct savings, repaying the cost of the project many times over.

- *Fiscal Reform:* In 2001, Value Added Tax was introduced in Rwanda with help from DFID. During its first year of operation, the collection target was exceeded. This has helped the government achieve its overall revenue target agreed with the International Monetary Fund after several years of disappointing revenue performance.

- *Personal Security and Justice:* In 2001/02, implementation of a £35 million sector-wide initiative to improve safety, security, and access to justice was initiated in Malawi. In the Balkans, DFID is working with other government departments to implement a conflict prevention strategy that includes community safety and dispute resolution elements. In Nigeria, a £30m program will support reforms in the justice sector. Countries where consultations on new initiatives are under way include Ghana, South Africa, Lesotho, and India. In Jamaica, DFID is supporting government efforts to develop national social policy and strengthening government capacity to have impact on issues relating to crime and poverty.

- *Corruption:* In January 2002, DFID established a resource center with Germany, Norway, and the Netherlands to advise on anti-corruption issues. The Anti-corruption commission in Sierra Leone, established with DFID support, has investigated almost 200 cases. DFID was also a major partner with the Organisation for Economic Co-operation and Development and the Asian Development Bank in the November 2001 launch of an anti-corruption initiative in the Asia region, initially involving 17 countries.

- *Post-conflict Capacity Building:* DFID is providing capacity building support in connection with development partners to East Timor, Afghanistan, and Iraq.

United Nations Capital Development Fund

The United Nations Capital Development Fund (UNCDF) provides grants and technical assistance with the aim of supporting the democratization of development planning and financing. UNCDF's Local Development Programmes (LDPs) provide funds to newly elected officials to govern and invest locally in projects characterized by open local planning processes involving ordinary people in the decisions that affect their lives. UNCDF also works with NGOs and civil society to develop the checks and balances needed to keep local governments accountable. In doing this, UNCDF tries to create a climate of engagement and dialogue among technical authorities, local government, and the people they serve.

Projects all have a focus on directly achieving poverty alleviation, focusing on local public and community investments in social and economic infrastructure and services and on improved natural resource management. Projects aim at promoting more participatory approaches, using seed capital to develop capacities of local government and community institutions, and so on—not just through training, but through more effective planning and management systems and procedures and through greater awareness and communication.

Projects aim to engage national government partners and other donors in dialogue with a view to promoting reform and development of the national policy and institutional framework for decentralization and good local governance. Beyond their local impact, many of these LDPs have already had upstream impact on national policy and on statutory and regulatory frameworks for decentralization, and in many cases LDPs have been cofunded or replicated by other larger donors.

Participation in Decisionmaking

A crucial ingredient in sustainable resource development appears to be the participation of society in decisionmaking, especially people living near a project site. (Some commentators claim, however, that resource wealth—notably oil—may hinder the development of democratic government; see Annex Box 6–4.)[17] For participation to be meaningful, people need access to adequate information, and participation needs to be representative of society or a community at large. Various agencies work on building participatory processes.

Annex Box 6–4. Resources and Authoritarian Government

Three possible reasons have been set forth for the link between oil exports and authoritarian rule: under the rentier effect, governments with a lot of oil revenues use them to invest in social programs and benefits, such as lowering taxes and providing social services, thus avoiding any pressure or demands for greater accountability from the people. These governments may also use the revenues to increase patronage payments or to block the formation of independent groups who might demand change. The repression effect results when oil wealth allows governments to spend more on internal security, so the people cannot demand change or democracy even if they want to. Finally, under the modernization effect, resource wealth does not necessarily lead to higher education levels and increasing occupational specialization, which are said to be necessary for democracy to evolve. Michael Ross finds that in general these effects hold true for oil-rich nations, particularly poor states and not just in the Middle East. In addition, he also finds that the rentier effect and some aspects of the modernization effect hold true for non-fuel mineral wealth.

Source: Ross 2001, pp. 332–36, 356.

The U.N. Department of Economic and Social Affairs (UNDESA) pursues activities with the goal of promoting an integrated, cross-sectoral and broadly participatory approach to sustainable development, and its implementation at the local, national, regional and global levels, placing emphasis on the importance of active and continuous dialogue with governments, civil society and other international organizations aimed at building partnership to solve key issues and problems related to sustainable development.

UNDESA's Division for Social Policy and Development provides substantive support to governments in developing policy measures and initiatives to promote inclusive "societies for all," where each individual has rights and responsibilities regardless of economic or social status, age group, disability, or cultural or religious affiliation. The aim is to ensure that individuals and communities are enabled to participate in society and contribute to national development while enjoying basic human rights and fundamental freedoms.

The Division provides advisory services and undertakes capacity building for member states, upon their request, to translate social development policy resolutions into strategies and programs to attain the commitments made at the Copenhagen World Summit for Social Development in 1995. It also provides support in the area of social assessment, promoting training and research in participatory methodologies designed to enhance development planning and evaluation and to build capacity to implement and monitor socially sensitive policies.

Access to Information

Any meaningful participation in decisionmaking, as well as public accountability, requires timely access to relevant information. Recently, reporting on an organization's economic, environmental, and social performance in relation to its operations products and services has

been pursued by a number of international actors, including the Global Reporting Initiative (GRI).[18] Reporting standards are voluntary at this point in time.

The GRI is a new independent international institution with the mission to develop, promote, and disseminate globally applicable Sustainability Reporting Guidelines. Performance indicators are both quantitative and qualitative and include economic indicators showing an organization's impact on the economic resources of its stakeholders and on economic systems at the local, national, and global level; environmental indicators show an organization's impacts on living and non-living natural systems, impacts on biodiversity, waste generation, and use of hazardous materials; and social indicators, which include labor practices, human rights, and broader social issues affecting communities, consumers, and other stakeholders.

AccountAbility has developed a means of evaluating the credibility of published reports, the AA1000, which is designed to complement the GRI and other standards, as well as company-specific approaches to reporting and disclosure.[19] The institute also produces the AA1000 series, which provides guidance to organizations wishing to establish systematic accountability processes that involve stakeholders in the generation of strategies, policies, and programs.

Social Accountability International's SA 8000 is a standard that covers all core International Labour Organization (ILO) conventions, the International Declaration of Human Rights, and the UN Convention on the Rights of the Child. The organization's Corporate Involvement Program helps retailers, companies, suppliers, and others ensure that goods are made under just and decent working conditions by seeking SA 8000 certification of production facilities.[20]

Access to information, public participation in decisionmaking, and access to justice in environmental matters are the subject of UNECE's Aarhus Convention, which links environmental rights and human rights and acknowledges an obligation to future generations. (See Annex Box 6–5.)

Annex Box 6–5. The Aarhus Convention

The Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters was adopted at UNECE's Fourth Ministerial Conference, "Environment for Europe," in Aarhus, Denmark, on 25 June 1998, and came into force on 30 October 2001. It has been signed by 40 countries and the European Union, and ratified by 25 countries.

The Aarhus Convention is a new kind of environmental agreement. It links environmental rights and human rights. It acknowledges an obligation to future generations. It establishes that sustainable development can be achieved only through the involvement of all stakeholders. It links government accountability and environmental protection. It focuses on interactions between the public and public authorities in a democratic context, and it is forging a new process for public participation in the negotiation and implementation of

obligations owed by Parties to one another, the Aarhus Convention focuses on the obligations owed by Parties to the public.

The preamble to the convention emphasizes two main concepts: environmental rights as human rights and the importance of access to information, public participation, and access to justice to sustainable and environmentally sound development. Article 1 requires Parties to guarantee the rights of access to information, public participation in decisionmaking, and access to justice in environmental matters in order to contribute to the protection of the right of every person of "present and future generations" to live in an environment adequate to his or her health and well-being.

The Aarhus Convention stands on three "pillars" that depend on each other for full implementation of the Convention's objectives:

Pillar I—Access to information: This has two components. The "passive" part concerns the right of the public to seek information from public authorities and the obligation of public authorities to provide information in response to a request. The "active" part concerns the right of the public to receive information and the obligation of authorities to collect and disseminate information of public interest, without the need for a specific request.

Pillar II—Public participation in decisionmaking: This has three parts. The first part concerns participation by the public who may be affected by or are otherwise interested in decisionmaking on a specific activity. The second part concerns the participation of the public in the development of plans, programs, and policies relating to the environment. The third part covers participation of the public in the preparation of laws, rules, and legally binding norms.

Pillar III—Access to justice: This enforces both the information and the participation pillars in domestic legal systems and strengthens enforcement of domestic environmental law. The justice pillar also provides a mechanism for the public to enforce environmental law directly.

Source: UN/ECE (2000). *The Aarhus Convention: An Implementation Guide.* New York and Geneva: United Nations.

Sustainable Human Lives

Human Security

The understanding of human well-being has evolved to embrace many different aspects. Securing basic human well-being goes beyond conventional requirements of security and the absence of conflict. The Commission on Human Security, established following the 2000 U.N. Millennium Summit, defined human security as "protecting the vital core of all human lives in ways that enhance human freedoms and human fulfilment." Human security, thus described, provides a link between conceptions of security, development, and human rights. (See Annex Box 6–6.)

Annex Box 6–6. Human Security

Human security is concerned with reducing and—when possible—removing the insecurities that plague human lives. By contrast, traditional conceptions of security have focused on external threats and the protection of the State—its territory, people, and institutions—from external attacks. Human security complements state security in four respects:

- Its concern is the individual and the community rather than the state.
- Menaces to people's security include threats and conditions that have not always been classified as threats to state security, such as environmental pollution and infectious diseases.
- The range of actors is expanded beyond the state alone to include, for example, NGOs and international organizations.
- Achieving human security includes not just protecting people but also empowering people to fend for themselves.

Human development is concerned with removing the various hindrances that restrain and restrict human lives and prevent their full realization. The idea of human development has a powerfully buoyant quality, since it is concerned with progress and augmentation. Development literature has tended to concentrate on "growth with equity." Human security complements the optimism of the human development perspective by focusing on "downside risks"—the insecurity of exposure to risks that imperil human life and dignity, such as pestilence, conflict, environmental degradation, or economic downturns.

There is a similar link between human rights and human security. Respecting human rights is at the core of protecting human security. Human rights typically involve a demand that certain basic freedoms of human beings be respected, aided, and enhanced. This normative approach leaves open the question of which freedoms are crucial enough to count as human rights that society should acknowledge, safeguard, and promote. A focus on human security can make a significant contribution by identifying the importance of freedom from basic insecurities.

Source: Commission on Human Security. 2003. *Human Security Now*. New York

Security in the Conventional Sense: Armed Conflict

Control over resources and discontent with the distribution of rent can also be the cause of conflict and the outbreak of war. Separatist conflicts were often caused by grievances over distribution of resource wealth.[21] Auty points out that even benevolent governments may have to trade off sound long-term policy choices in favor of mitigation of social tensions that may arise from resource competition.[22] Ross also finds that social, economic, and environmental upsets related to resource extraction such as land expropriation, environmental damage, in-migration of labor, and distributional inequalities can contribute to conflict and civil war.[23]

Armed conflict has historically often been related to natural resources: conflict arises over resources themselves, but resources also perform the role of financier of both governments and rebels in armed conflict.[24] More recently, the end of the cold war led to a sharp decrease in foreign assistance and financing available for many governments and rebel groups, forcing

these to mobilize new sources of private financing, including revenues from trading of minerals.

Several recent studies have discussed the correlation between conflict and resource dependence.[25] The causes of this significant correlation are complex, however, and the direction of the relationship is not immediately clear: it may, for instance, be the presence of conflict that renders a country more resource-dependent, as the manufacturing sector leaves the conflict area and leaves the country with the naturally immobile natural resource. Studies also show that primary commodity exporting countries are empirically at a higher risk of armed conflict.[26] Historical examples of resource-abundant countries that realized their potential in peaceful ways do exist, however, such as Norway and Botswana.[27]

Collier and Hoeffler find that conflict may be more strongly related to economic gain, or funding options for rebel groups, than to grievances such as ethnic and religious divisions.[28] According to this "looting mechanism," rebel groups that can extract funds through selling resources, or extorting money from those who do, are more likely to start conflict.

Private armies, militia, and warlords may grow by using resource rents extracted from companies operating in remote areas with weak state control. These predator groups may then in turn stir civil unrest or cause civil war. Once conflict breaks out, resources play a number of roles. The duration of conflict can be determined by which side controls resources. Situations in which the weaker party has access to resource wealth may lead to prolonged conflict; access to resource wealth by the stronger side may allow the weaker side to be crushed more quickly and thus shorten the conflict.[29]

Perceptions of resource wealth in wartime versus peacetime may influence the likelihood and stability of a peace settlement. Resource rent availability (as opposed to financing from abroad that may easily be controlled by the leading ranks) may also interfere with lines of command and lead to earlier breakdown of a party's fighting capacity and thus an earlier peace settlement. Warlords' power is determined by a war economy and its ability to produce revenues, which in turn often includes its integration into international commercial networks.[30] Where a market for post-combat resource rights exists, this may prolong a conflict by giving combatant groups access to financing.[31]

Intensity of combat may be influenced by resource presence through fighting over resources, the possibility of pre-emptive repression, or, conversely, early settlement of conflict in light of possible cooperation and rent seeking possibilities. Ross finds that the presence of unlootable resources such as oil, natural gas, and deep-shaft minerals leads to shorter non-separatist conflicts, though it may cause separatist conflicts.[32]

The problem of diamonds providing resources to fund and fuel conflict has been addressed by the Kimberley process, which aims to break the link between legitimate trade in diamonds and conflict diamonds—rough diamonds used by rebel movements or their allies to finance conflict aimed at undermining legitimate governments. The trade in conflict diamonds has resulted in gross human rights violations in the affected areas. The Kimberley Process was launched in May 2000 in the city of Kimberley, South Africa. The Kimberley process started

out as a consultative process, but later became a negotiating process that culminated in the adoption of the Kimberley Process Certification Scheme at a Ministerial Meeting in Interlaken, Switzerland, in November 2002. This system sets an international benchmark for national certification schemes to be implemented by each participant country through national legislation, which will pave the way for systematic monitoring of adherence to the scheme by all participants.

Human Rights and Development

Academics and international institutions, along with civil society, are increasingly developing the theory of a rights-based approach to development. In this approach, which has been led by the writings of Nobel-laureate Amartya Sen, human development is seen as the means of expanding peoples' choices by enlarging their capabilities and functions, giving them the freedom to live as they wish.[33] Human rights, as an expression of peoples' capabilities, cannot be excluded from development theory; rather, they are integral to the process. Rebutting claims to subjugate civil and political rights to the "goal of development," Sen writes: "Political rights . . . are not only pivotal in inducing social responses to economic needs, they are also central to the conceptualization of economic needs themselves."[34] The new approach shifts the discourse of development by transforming objectives and goals into rights and entitlements.

Kofi Annan articulated this change in approach in his 1998 Annual Report: "The rights-based approach to development describes situations not simply in terms of human needs, or of developmental requirements, but in terms of society's obligation to respond to the inalienable rights of individuals. It empowers people to demand justice as a right, not as charity, and gives communities a moral basis from which to claim international assistance where needed."[35]

Certain countries, such as the United Kingdom and Sweden, have also expressed a commitment to a rights-based approach to development.

In May 2002, President Wolfensohn requested WBG staff to draft a Human Rights Strategy. While positioning itself as a champion of economic and social rights, the Bank has tried to avoid issues relating to civil and political rights. Article IV/10 of the Articles of Association of the International Bank for Reconstruction and Development (IBRD) prohibits it from interfering in the political affairs of borrowing countries: "The Bank and its officers shall not interfere in the political affairs of any member; nor shall they be influenced in their decisions by the political character of the member or members concerned. Only economic considerations shall be relevant to their decisions, and these considerations shall be weighed impartially."

Over the years, Bank staff have interpreted this narrowly as a prohibition on considering political and civil rights issues in borrowing countries as a criteria for making loans.[36] Accordingly, the Bank has drawn criticism for making loans to authoritarian and dictatorial regimes like Mobutu's Zaire.

Many academics have attacked the Bank's position on human rights as an abdication of responsibility. The Bank's rationale behind making loans to dictatorial regimes—that the populace would suffer more without them—was singled out for particular criticism.[37] Instead, it was argued that the Bank could use human rights conditionalities to encourage good behavior, in the same way that the HIPC initiative rewards sound governance.

Several authors highlighted the absence of any reference to human rights abuses in the Project Appraisal Document for the Chad/Cameroon Pipeline Project, which instead praises Chad for establishing "democratic political institutions." Following the project approval, President Derby of Chad arrested all six opposition candidates for the May 2001 elections. One of them, Ngarledjy Yorongar, who was badly tortured, was released only after Bank President Wolfensohn was alerted by an NGO and personally intervened. This is cited as an example of how the Bank has the power to raise standards if it gets involved.[38]

A number of academics have highlighted the inconsistency in the Bank's attitudes toward human rights. Brodnig argues that the Bank has oscillated between hiding behind its charter, expansion into new human rights territory, and de facto adoption of certain human rights conditionalities into its operations.[39] As late as 1990, for example, a proposal to work on an anti-corruption code of conduct was rejected as a political affair, outside the Bank's mandate. Today, however, good governance is seen as one of the major platforms for development. Where many scholars see human rights and development as indivisible, the Bank is criticized for being out of step with current thinking.[40]

Another example of inconsistency is the Bank's stance on the adoption of the ILO's Core Labour Standards. While the International Finance Corporation and the Multilateral Investment Guarantee Agency have adopted the standards on child labor and forced labor, IBRD and the International Development Association have not yet formally adopted any standards. The Bank document "Core Labor Standards and the World Bank" highlights the work done by the Bank to promote these standards, while restating that the Bank is forbidden from interfering in the political affairs of borrowing countries.[41]

Many academics who attack the Bank's distinction between civil and political rights on the one hand and economic, social, and cultural rights on the other hand have presented three basic arguments for the incorporation of all human rights issues into operational policies:

- *Human rights have become part of the Bank's mandate.* Academics making this argument claim that world circumstances today are radically different from those imagined by the creators of the Bretton Woods institutions. Many of the issues associated with development, such as environmental and social issues, were not apparent when the Bank was established, while human rights have become far more important to the international community in the past few decades. A growing body of thought links human rights inextricably with sustainable development. Accordingly, Article IV/10 should be interpreted very narrowly, to allow human rights, including civil and political rights, to be taken into consideration by the bank.[42]

- *Human rights are an economic consideration.* The Bank's former Chief Consul, Ibrahim Shihata, has written that where human rights have a direct economic impact, they fall within the Bank's mandate. Shihata argues, however, that this impact must be clear and unequivocal.[43] Other academics argue that while the link between human rights and development is less explicit, it does exist.[44] There is evidence, for example, of a positive correlation between civil liberties and economic growth.[45] Alternatively, there are studies that link the adoption of the ILO Core Labour Standards to economic growth.[46] Many academics accordingly argue against a narrow interpretation of economic considerations, thus permitting the Bank to take civil and political rights into account.

- *Human rights are international concerns, not political affairs.* This argument starts from the premise that Article IV/10 is similar in intent to Article 2(7) of the UN Charter, drafted during the same era, which states: "Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter." Both articles were designed to prevent outside interference in areas that were seen as within the domestic affairs of states. The scope of Article 2(7) has been limited, however, by subsequent developments within international law. The Permanent Court of International Justice had already stated in an advisory opinion that "the question whether a certain matter is or is not solely within the jurisdiction of a State is an essentially relative question; it depends upon the development of international relations."[47]

  Subsequent to the establishment of the UN, the International Court of Justice (ICJ) asserted in the Barcelona Traction case that a state has certain obligations, including the protection of "the basic rights of the human person," in which "all States can be held to have a legal interest" and that some of these obligations have a universal or quasi-universal aspect.[48] In the Namibia case, the ICJ held that a violation of "fundamental human rights," as detailed in the Universal Declaration of Human Rights, constitutes a breach of a state's obligations vis-à-vis the international community.[49] These decisions, as well as the development of customary international law regarding human rights, have led many scholars to conclude that human rights issues are not within the domestic jurisdiction of states; therefore, the Bank cannot hide behind Article IV/10 as an excuse for ignoring human rights.[50]

Human Rights Violations at the Project Level

Wherever vast amounts of resource revenue exist, wrangling over control of the resources can lead to egregious violations of human rights. Company relationships with private or state security forces can lead to human rights abuses, and control of resources are possible violations of land rights or the resettlement of indigenous peoples. It is argued that in the case of severe human rights violations, such as torture or murder, businesses have a positive obligation to prevent such abuses from occurring.[51]

In this context, the Voluntary Principles on Security and Human Rights drafted by the U.S. State Department and U.K. Foreign and Commonwealth Office, in conjunction with a number of multinationals and NGOs, are seen as a positive step. (See Annex Box 6–7.) In addition, the case of *Doe v. Unocal* set a precedent for businesses associated with human rights violations: a Californian Court of Appeals held that a business could be liable for human rights committed by another party (in this case, the Burmese military) even where the business was not directly controlling the abuse, provided that the business was knowingly complicit in the violation. The case also marks the first instance in which a U.S. company was brought to trial for alleged violations outside the United States.

Annex Box 6–7. Voluntary Principles on Security and Human Rights

The Voluntary Principles provide guidance to companies in the areas of risk assessment and interaction with public and private security forces.

Risk Assessment

Companies should identify security risks resulting from political, economic, civil, or social factors in order to be able to take measures to minimize risk and assess whether company actions heighten risk. Potential for violence should be assessed using multiple sources, including government and civil society. Risks assessments should consider the human rights record of security forces as well as their capacity to react to security threats in a lawful manner. Further, the local authority's capacity to enforcement human rights should be assessed. Root causes of local conflict and adherence to human rights standards by local actors should be assessed and used to develop strategies for managing relations between involved actors. Where equipment is provided, public or private security forces should consider fully and mitigate the potential risk of such transfers, such as misappropriation or diversion of equipment, which may lead to human rights abuses.

Interactions Between Companies and Public Security

Principles that should govern a company's relationship with public security forces touch upon their security arrangements, deployment and conduct of forces, consultation and advice, and response to abuses.

Security Arrangements: Such arrangements should be subject to ongoing consultation with local communities and authorities; companies should communicate their policies regarding ethical conduct and human rights to such forces and encourage host governments to permit making such arrangements transparent and accessible to the public.

Deployment and Conduct: Public security forces should maintain the rule of law and be competent and appropriate and proportionate to the threat. Companies should use their influence to promote the following principles with public security: individuals credibly implicated in human rights abuses should not provide security services for companies; force should be used only when strictly necessary and to an extent proportional to the threat; the rights of individuals should not be violated while exercising the right to exercise freedom of

rights of company employees as recognized by the Universal Declaration of Human Rights and the ILO Declaration on Fundamental Principles and Rights at Work. In cases where physical force is used by public security, such incidents should be reported to the appropriate authorities and to the company. Where force is used, medical aid should be provided to injured persons, including offenders.

Consultation and Advice: Companies should hold structured meetings with public security on a regular basis to discuss security, human rights, and related workplace safety issues. Companies should also consult regularly with other companies, host and home governments, and civil society to discuss security and human rights. Where companies operating in the same region have common concerns, they should consider collectively raising those concerns with the host and home governments. Companies should support efforts by governments, civil society, and multilateral institutions to provide human rights training and education for public security, as well as their efforts to strengthen state institutions to ensure accountability and respect for human rights.

Responses to Human Rights Abuses: Companies should record and report any credible allegations of human rights abuses by public security in their areas of operation to appropriate host-government authorities. Where appropriate, companies should urge investigation and that action be taken to prevent any recurrence. Every effort should be made to ensure that information used as the basis for allegations of human rights abuses is credible and based on reliable evidence. The security and safety of sources should be protected. Additional or more accurate information that may alter previous allegations should be made available as appropriate to concerned parties.

Interactions Between Companies and Private Security

Private security should observe the policies of the contracting company regarding ethical conduct and human rights; the law and professional standards of the country in which they operate; and emerging best practices developed by industry, civil society, and governments. They should promote the observance of international humanitarian law.

Conduct: Private security should act in a lawful manner. Private security should have policies regarding appropriate conduct and the local use of force (e.g., rules of engagement), which should be monitored by companies or independent third parties. All allegations of human rights abuses by private security should be recorded. Credible allegations should be properly investigated. Consistent with their function, private security should provide only preventative and defensive services and should not engage in activities exclusively the responsibility of state military or law enforcement authorities.

Private security should not employ individuals credibly implicated in human rights abuses to provide security services, should use force only when strictly necessary and to an extent proportional to the threat, and should not violate the rights of individuals exercising their right to freedom of association and peaceful assembly, collective bargaining, or other related rights of employees as recognized by the Universal Declaration of Human Rights and the ILO Declaration on Fundamental Principles and Rights at Work.

the incident to the company. Private security should refer the matter to local authorities or take disciplinary action where appropriate. Where force is used, medical aid should be provided to injured persons, including offenders.

Limitations on Private Security Providers: Private security should maintain the confidentiality of information obtained as a result of its position as security provider. Where possible, companies should include the principles outlined above as contractual provisions in agreements with private security providers and require investigation of unlawful or abusive behavior and appropriate disciplinary action. Agreements should also permit termination of the relationship by companies where there is credible evidence of unlawful or abusive behavior by private security personnel.

Monitoring: Companies should consult and monitor private security providers to ensure they fulfill their obligation to provide security in a manner consistent with the principles outlined above. Companies should review the background of private security they intend to employ, and, where appropriate, exchange information about unlawful activity and abuses committed by private security providers with other companies.

Source: http://www.state.gov/g/drl/rls/2931.htm

Another important human rights concern at the project level is forced resettlement. International law grants the rights of self-determination to all peoples, giving them the right to "freely determine their political status and freely pursue their economic, social and cultural development."[52] The position of minority groups is disputed by academics. On the one side, it is argued that "people" is context-dependent, and minority groups could have a right to self-determination.[53] The alternative view is that self-determination is exercised at the level of the state, and minorities have no separate rights except in the case of indigenous peoples or where gross, systematic human rights violations occur.[54] It is acknowledged that resettlement is often targeted at minority groups for political purposes.

The Special Rapporteur of the U.N. Commission of Human Rights has stated that for population transfers to violate international law, a number of conditions must be met: they are collective in nature, affecting a group of persons; they are carried out by force or threat of force; they are involuntary, without the full informed consent of the affected population; they are deliberate on the part of the party carrying out the transfer; they are systematic, forming a pattern of policy or practice; they are discriminatory, affecting a distinct population or distinct populations; and they take place without due process.[55]

Moreover, there may be other human rights violations associated with involuntary resettlement, including murder, torture, or cruel and inhuman treatment. WBG policy on involuntary resettlement is governed by OP 4.12, which replaced OP 4.30 in 2002. The policy revision has been criticized as lowering standards for the WBG to follow, for example by reducing the status of those without formal legal title to lands they inhabit.[56]

Community Development

Beyond doing no harm, the key to assuring that extractive industries alleviate poverty and are sustainable is to maximize local benefits and create sustainable livelihoods.

Academics point out that projects can offer the opportunity to create social capital and benefit host communities through improved infrastructure. For example, any infrastructure development related to the project, such as electricity generation, water supply, or sanitation, can be coordinated with community needs.[57] Community development programs should be designed, implemented, and managed with the goal of long-term sustainability. To avoid the phenomenon of "ghost towns" after a project has ended, development has to be coupled with a long-term development strategy.[58]

It is important that such community development plans are designed in close consultation and participation of the communities themselves. Participation is a key process for building trust and managing expectations. The company should involve affected parties, in cooperation with the government, throughout all stages of the project. Relevant stakeholders include not just those who are affected, but also those who have a strong interest in the project or have the capacity and power to affect a project positively or negatively. Communities should be provided with unbiased, clearly understandable information about the project, the industry, the potential impacts, and their rights under national or international laws.

The process, goals, and timeline of a consultation process or social development program should be developed cooperatively by the company together with the community, government officials, and other relevant stakeholders. Formal, two-way channels of communication for addressing concerns and resolving conflicts should be established to enable dialogue to continue even when formal consultation events are not occurring.[59]

Moreover, throughout the project and well after it ends, community development programs should be monitored and evaluated against pre-set goals to measure results and effectiveness.[60]

Academics are making the business case for community development. Earning a "social license to operate" will allow a company to enjoy a better working environment, avoid conflict, foresee and prevent potential problems, forge local partnerships, and improve its global business reputation. Good performance in one location may also mean greater access to other opportunities elsewhere or an increased likelihood of approval for any proposed expansions or changes to a project.[61]

Indigenous Peoples and the World Bank

Many academics argue that the special status and rights of indigenous peoples form an emerging norm of international customary law.[62] (See Annex Box 6–8 for definitions of indigenous peoples.) This argument is based on a body of statement and practice that includes:

- *International Instruments referring directly or indirectly to indigenous peoples:* ILO Convention Number 169 concerning Indigenous and Tribal Peoples in Independent Countries (1989); Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities (1992); Convention on Biological Diversity (1992); Vienna Declaration and Program of Action (1993); Report of the International Conference on Population and Development (1994); Durban Declaration and Program of Action (2001).

- *Draft International Instruments:* UN Draft Declaration on the Rights of Indigenous Peoples (1994); Proposed American Declaration on the Rights of Indigenous Peoples (1997).

- *State Practice:* A number of states have recognized the special status of indigenous peoples within their borders, including Australia, Bolivia, Brazil, Canada, Chile, Colombia, Ecuador, Finland, Japan, Malaysia, Mexico, New Zealand, Nicaragua, Norway, Philippines, Sweden, and the United States.

- *Decisions of International Courts and Tribunals:* The Inter-American Court on Human Rights in the *Mayagna (Sumo) Indigenous Community of Awas Tingni v. the Republic of Nicaragua* Case; *Mary and Carrie Dann* case; the ICCPR Human Rights Committee in *Lovelace v. Canada.*

- *Jurisprudence of International Institutions*: Reports and Proceedings within International Institutions, including the U.N. Human Rights Committee; U.N. Sub-Commission on the Promotion and Protection of Human Rights; Inter-American Commission on Human Rights (IAHCR).

Annex Box 6–8. Indigenous Peoples – Identification

There have been a number of different attempts to define 'indigenous' peoples in international law. Article 1 of ILO 169 uses several definitions, including self-identification:

1. This Convention applies to:
   (a) Tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations;
   (b) Peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present State boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.
2. Self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply.

The Working Group of the UN Draft Declaration consciously decided to forego any attempt at a definition.[63] Self-identification is provided for in Article 8: "Indigenous Peoples have the collective and individual right to maintain and develop their distinct identities and characteristics, including the right to identify themselves as indigenous and to be recognized as such."

In the *Mary and Carrie Dann* case, the IAHCR stated that "general international legal principles applicable in the context of indigenous human rights" include: the right of indigenous peoples to legal recognition of their varied and specific forms and modalities of their control, ownership, use, and enjoyment of territories and property; the recognition of their property and ownership rights with respect to lands, territories, and resources they have historically occupied; and where property and user rights of indigenous peoples arise from rights existing prior to the creation of a state, recognition by that state of the permanent and inalienable title of indigenous peoples relative thereto, and to have such title changed only by mutual consent between the state and respective indigenous peoples, when they have full knowledge and appreciation of the nature or attributes of such property.[64] This also implies the right to fair compensation in the event that such property and user rights are irrevocably lost.

These arguments are supported by a number of scholars.[65] It has also been argued that much of ILO 169 represents customary international law.[66]

Prior Informed Consent

The position of prior informed consent regarding extractive industry activity on indigenous peoples' land is ambiguous; the initial standard required consultation before any changes to the use of indigenous lands took place, but it is argued that an emerging norm of international law requires prior informed consent.

Article 15(2) of ILO 169 states that: "governments shall establish or maintain procedures through which they shall consult these peoples . . . before undertaking or permitting any programs for the exploration or exploitation of such resources pertaining to their lands." This should be read in conjunction with Article 6, which requires consultation with indigenous peoples, and Article 7, which requires participation of indigenous peoples in any development activity that affects them directly.

The IAHCR has stated that "general international legal principles applicable in the context of indigenous human rights" include the right to "recognition by that state of the permanent and inalienable title of Indigenous Peoples relative thereto and to have such title changed only by mutual consent between the state and respective Indigenous Peoples when they have full knowledge and appreciation of the nature or attributes of such property."[67]

Academics also point to the requirement of prior informed consent in Article 30 of the U.N. Draft Declaration, which states: "Indigenous Peoples have the right to determine and develop priorities and strategies for the development or use of their lands, territories and other resources, including the right to require that states obtain their free and informed consent prior to the approval of any project affecting their lands, territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources."[68]

Involuntary Resettlement

A number of strong arguments are made against involuntary resettlement of indigenous peoples. The extremely strong link between indigenous peoples and their land is stressed time and again by commentators. Thus the U.N. Sub-Commission observed that "where population transfer is the primary cause for an Indigenous Peoples' land loss, it constitutes a principal factor in the process of ethnocide" and "for Indigenous Peoples, the loss of ancestral land is tantamount to the loss of cultural life, with all its implications."[69] The IAHCR has observed that forcible relocation amounts to a violation of human rights "essential to the life of peoples."[70]

Given this close link between indigenous peoples and their native lands, international law prohibits involuntary resettlement without prior informed consent.[71] Thus, Article 16(2) of ILO Convention 169 states that: "Where the relocation of these peoples is considered necessary as an exceptional measure, such relocation shall take place only with their free and informed consent". Article 10 of the U.N. Draft Declaration on the Rights of Indigenous Peoples states that "Indigenous Peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free and informed consent of the Indigenous Peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return."

The World Bank and Indigenous Peoples' Rights

The current World Bank policy regarding indigenous peoples is contained in OD 4.20. The broad objective of the policy is to "ensure that the development process fosters full respect for their dignity, human rights and cultural uniqueness."[72] The policy includes provisions to secure the legal recognition of indigenous peoples' land tenure and resource rights, and the requirement to undertake detailed baseline studies to determine indigenous peoples' priorities and concerns. The policy has been criticized for failing to meet international standards on indigenous peoples' rights, for example the right of self-identification, the right to free and prior informed consent, and the prohibition on forced relocation. Complaints, however, have been focused more on the lack of effective implementation and a system of redress.[73]

The Bank is currently in the process of drafting a revised policy on indigenous peoples: OD 4.10. This revision has been criticized by academics, as well as by NGOs and indigenous groups, as weakening the current policy and falling further behind international standards on indigenous peoples' rights.[74] Criticisms include the loss of provisions to secure the legal recognition of indigenous peoples' land tenure and resource rights, the requirement that

borrowers only "give particular attention" to these issues, the loss of the requirement to undertake detailed baseline studies, the failure to incorporate self-identification as a definition of indigenous peoples, the failure to incorporate rights to prior informed consent, and the failure to prohibit forced relocation.

Environmental Sustainability

Extractive industries can have profound environmental impacts near a mine site, but also at the regional and global level. A project's environmental sustainability at the local level depends on whether its impacts remain within the carrying capacity of the surrounding ecosystem. Impacts at the local and regional level include pollution, waste and toxic substance management, and acid rock drainage.

Environmental impacts are best avoided; where this is impossible they need to be mitigated throughout the project cycle: in environmental impact assessments, reporting and accountability mechanisms, and emergency planning in a project's emergency response capacity. The World Bank Group has a direct impact on the environmental practices of the projects it is involved in, but it also affects industries at the national level, through its advisory work for governments and structural adjustment lending.

The impact of environmental quality on the poor is very direct: they are often the most hurt where exploitation of resources results in a degraded environment and destroys traditional livelihoods dependent on functioning ecosystems, such as fishing and farming. Poverty from environmental degradation is further exacerbated when extractive projects do not result in sustainable local economic activities, offering no alternatives for lost livelihoods. Adequate protection of ecosystems is thus a pro-poor policy.

Protected Areas and "No-Go" Zones

Some ecosystems are so valuable and fragile that they require special protection, such as through the establishment of protected areas or "no-go" zones. There are about 44,000 protected areas globally (see Annex Box 6–9), covering 10 percent of the land's surface (and 1 percent of the marine environment).[75] Most protected areas are established under national legislation, with varying degrees of prohibition regarding mining in those areas. The effectiveness of protection varies from area to area in practice; in many cases, resources for enforcement are inadequate. In addition, many governments have allowed EI companies to operate in protected areas despite the existence of legislation forbidding such activities.[76]

Extractive industries can have a number of direct and indirect consequences for protected areas, including environmental pollution from EI operations; impacts due to open access via roads, railways, and pipelines, which permit illegal hunting and habitat invasion; secondary effects of human immigration in response to real or perceived economic opportunities associated with EI operations; and impacts on indigenous populations, which may alter the pattern of sustainable development within the areas.

According to the World Conservation Union–IUCN, conflict over EI activity and protected areas is becoming more common due to the increasing numbers of protected areas and technological advances that allow profitable EI activity in previously inhospitable locations. The expected expansion of protected areas in the developing world may be increasingly challenged by economic interests, including mining, which would see opportunities for expansion constrained.

IUCN reports that in recent years there have been a string of controversial cases involving mining operations affecting a number of the World Heritage Sites. If even these sites—among the most highly prized of the world's protected areas—are subject to pressures from mining, it can be assumed that problems of mining affecting protected areas occur regularly.[77] In addition, a number of studies have highlighted the frequent incursions of oil and gas operations into protected areas.[78]

Annex Box 6–9. IUCN Categories of Protected Areas

The IUCN has classified protected areas into six different categories according to their main management objectives. Its position regarding mining operations is based on the different classifications.

Category I	*Strict Nature Reserve/Wilderness Area*: protected area managed mainly for science or wilderness protection.
Category II	*National Park*: protected area managed mainly for ecosystem protection and recreation.
Category III	*Natural Monument*: protected area managed mainly for conservation of specific natural features.
Category IV	*Habitat/Species Management Area*: protected area managed mainly for conservation through management intervention.
Category V	*Protected Landscape/Seascape*: protected area managed mainly for landscape/seascape conservation and recreation.
Category VI	*Managed Resource Protected Area*: protected area managed mainly for the sustainable use of natural ecosystems.

IUCN wants mining companies to commit to not conducting any mining activities in zones classified within Categories I–IV. The IUCN World Congress adopted a resolution to that effect in Amman, Jordan, in 2000. The resolution also called for state governments to adopt legislation to prohibit mining in such protected areas. The same resolution calls for tight controls over any mining activities in Categories V and VI. The WBG could participate in this process by adopting the same standards for any mining operations in which it participates.

At the same time, IUCN and other organizations acknowledge that more needs to be done through international or market-based mechanisms to make biodiversity and protected areas pay—for example, through debt-for-nature swaps. The WBG, particularly through its participation in the Global Environment Facility, could have a role to play in helping establish such mechanisms.

In addition, potential conflict between protected areas and indigenous peoples' rights has been highlighted. Legislation creating national parks may prohibit indigenous peoples from hunting in areas they have traditionally claimed as their territory.[79] IUCN states that to resolve any conflict of interest, the rights of indigenous peoples to pursue traditional activities within protected areas should be preserved when these areas are established.[80] The World Bank could act to ensure protection of indigenous peoples' rights in connection with any role it has in the establishment of protected areas.

Mining and Biodiversity

IUCN and the International Council on Mining & Metals are engaged in a dialogue on Mining and Biodiversity that was launched at the World Summit on Sustainable Development in August 2002. The work program of this dialogue was focused on preparations for the fifth IUCN World Parks Congress in September 2003.

In the longer term, cooperation is intended to develop greater understanding of potential biodiversity risks and impacts of exploration and mining activities; to create an inventory of issues and positions as the basis of a joint policy statement on mining and biodiversity; and to identify and assess case studies with the aim of developing a basis for developing best practice guidelines. Furthermore, the Mining and Biodiversity dialogue will compile and analyze the experience of existing decisionmaking processes, in order to develop integrated and transparent approaches to land use planning, biodiversity conservation, and mining, including no-go areas.

Energy and Biodiversity Initiative

The Energy and Biodiversity Initiative (EBI) was convened in 2001 by The Center for Environmental Leadership in Business at Conservation International to develop tools and guidelines for integrating biodiversity conservation into oil and gas development, with the participation of energy companies and conservation organizations. Stakeholders from industry, academia, and the environmental community have been consulted.

Four working groups have addressed the business case for biodiversity conservation, biodiversity conservation practices, metrics (developing performance indicators), and site selection. The EBI has completed its work and a report was published in 2003.

Climate Change

The Third Assessment Report of the Intergovernmental Panel on Climate Change (IPCC), in 2001, states that increased concentrations of greenhouse gases (GHG) in the atmosphere since the Industrial Revolution, primarily from the burning of fossil fuels, agriculture, and changes in land use, have led to increasing global temperatures. Atmospheric concentrations of GHG are predicted to rise over the course of the twenty-first century, leading to further increases in temperature. The impact of global warming is uncertain but is likely to fall most heavily on developing countries and the poor in industrial countries.

Impacts are expected to include risks to human health—through increased incidence of disease, heat waves, storms, and flooding and through reduced yields from agriculture—concentrated in tropical and subtropical areas, as yields in colder climates are predicted to increase; damage to human environments from flooding, rising sea levels, desertification and water shortages; damage to natural habitats through rising sea levels, flooding, desertification, and alterations in natural conditions caused by temperature and precipitation changes; and potential catastrophic and irreversible changes, such as major melting of ice sheets or changes in ocean currents. The latter are reported as unlikely to occur during the twenty-first century, based on current projections.

Industrial countries currently account for the dominant share of energy consumption and GHG emissions, but the share of developing countries is projected to increase over the next decades. The International Energy Agency predicts that overall energy-related carbon dioxide emissions will be 70 percent higher in 2030 than in 2000, while emissions from developing countries will have overtaken those from industrial ones.[81] Renewable energy sources play a small role in current energy generation, and the share of renewable sources is not expected to increase significantly in the next few decades.

Emissions Reduction versus Adaptation

Academic opinion is divided over the cost of climate change and the relative costs and benefits of emissions reduction versus adaptation. The debate ranges from arguments in favor of immediate substantial emissions cuts, based on the precautionary principle, to arguments for limited cuts in the short and medium term, on the grounds that the costs of adaptation are less than the costs of emissions reduction.[82] The Second Assessment Report of the IPCC estimated the costs of a doubling of GHG concentrations in the atmosphere to be in the range of 1-1.5 percent of gross domestic product (GDP) for industrial countries and 2–9 percent of GDP for developing countries. Subsequent academic studies have estimated the costs to be lower.[83] On the other hand, several studies have estimated that only limited GHG controls should be imposed over the next 20–30 years, as the costs of emissions reduction outweigh the benefits, given current technology.[84] There is a consensus, however, that sooner or later emissions will have to be cut in order to stabilize atmospheric GHG concentrations.

Burden Sharing

Under the terms of the Kyoto Protocol of December 1997, industrial countries agreed to binding commitments to reduce their collective GHG emissions by an average of 5 percent from 1990 levels by 2008–12. In Annex II of the Protocol, however, developing countries did not commit to any emissions reduction targets. The negotiations for the Protocol were contentious, with industrial countries arguing that other countries would account for an increasing share of emissions in future years and should have to assume a share of the burden, while developing countries responding that industrial nations are primarily responsible for current GHG emissions and it is unfair for countries that have already industrialized to target countries that are still developing.

The Kyoto Protocol contains mechanisms to share the burden of emissions reductions, including emissions trading and the Clean Development Mechanism (CDM), in which industrial countries may invest in projects in developing countries, contributing funds and technology in exchange for emissions reduction credits. Academics have suggested a number of ways to share the burden of emission reductions in future agreements. These include using per capita emissions or carbon intensity of GDP as a baseline for reduction, adopting a framework based around a number of indicators (population, historic emissions, wealth, energy efficiency), or adopting an approach based on commitment to use clean technology (in power projects, for instance) upon reaching a certain per capita income (in purchasing power parity).[85]

Strategies for Developing Countries

There is a consensus among academics that developing countries need to increase their overall energy use as part of their economic development, and it is accepted that this will lead to an increase in GHG emissions.[86] The debate is more concerned with the degree to which developing countries need to follow the same path used by industrial nations, or whether they can adopt a strategy for development that encompasses a lower level of GHG intensity.

Academic participants at the EIR workshops stressed that renewable energy should play an important role in economic development.[87] Renewable sources of energy have a large potential, particularly in many areas of the developing world that are blessed with abundant resources for solar, wind, and hydropower. At the present time, however, investment costs for renewable energy are higher than for fossil fuel sources. Generation costs for renewable energy are also higher, primarily due to subsidies for traditional power generation in many developing countries. Traditionally, developing countries and the institutions that lend to them have favored large power projects rather than small renewable sources of power.

Use of renewable energy sources can be encouraged in developing countries through regulatory measures, for example by reducing the distortions caused by subsidies to fossil fuel generation. In addition, industrial countries can help by sharing advanced technology. The CDM established by the Kyoto Protocol is one method highlighted to facilitate this process. This mechanism, as well as providing for investment in renewable technology, can also be used to encourage the use of low-emissions technology in fossil fuel generation and for energy efficiency projects.

Many policy analysts also argue for the gradual adoption of a global market for GHG emissions trading.[88] This is provided for in Kyoto, but it will not be implemented until the Protocol comes into effect. Developing countries should be encouraged to take advantage of the opportunity to participate in GHG emissions trading systems.

Role of the World Bank

The WBG could enhance its role in removing barriers to implementing climate change policies, including capacity building, regulatory reform, and technology transfer. The WBG could increase the share of lending devoted to small-scale renewable projects and energy

efficiency, and away from large fossil fuel projects. The WBG could encourage the development of market-based mechanisms for sharing the burden of emissions reduction, for example through the use of emissions permits.

Submarine Tailings Disposal

The issue of submarine tailings disposal (STD) was discussed at the EIR workshop in Bali.[89] STD refers to the placement of mine tailings deep in the sea and can involve more than 100,000 tons a day.[90] Academics point out advantages and disadvantages of this option for disposing of mine tailings, which they expect to be used in numerous Asia and Pacific mines over the coming decade. They recommend that the WBG require site-specific risk assessments and comprehensive environmental assessment, and they note that more research is needed to fully understand all risks associated with STD.

The advantages of this waste disposal option are that mine sediments sink rapidly to great depths, where they deposit on the ocean floor in areas of relatively low biological activity; that STD eliminates many of the risks associated with alternatives (using confinement structures that need to be perpetually maintained and can be subject to natural disasters such as floods and earthquakes, as well as engineering error and vandalism); and that the characteristics of deep-sea water (alkaline, low temperature, low oxygen concentrations) can help maintain the chemical stability of tailings perpetually.[91]

The dangers and disadvantages of STD include the contamination of marine resources (real and perceived) hurting the local fishing industry; increased human health risk through direct and indirect exposure to mining wastes; reduced marine tourism potential; degradation of habitat affecting large and often endangered marine life, including whales, dolphins, and turtles; and operational risks, including the potential for pipe leaks and breakages. Further controversial areas are plume shearing, thermoclines, and up-welling.[92]

Academics point out the need for further research to fill the knowledge gaps about STD, as well as the need to develop "improved . . . evaluation and monitoring techniques to assess and demonstrate conclusively where and when this form of tailings placement is environmentally safe, where it is the preferred and lowest risk option, and where and when it is not acceptable." A multistakeholder process that is underway will identify knowledge gaps, conduct independent research, and provide all stakeholders with scientific answers to assess the value of STD.[93]

In the meantime, academics stress that STD should be considered as a last option rather than a default technology. The decision of how to dispose of mine tailings should be taken with consideration of the specific characteristics of each mine site. A site-specific assessment should appraise the balance of risk of the various tailings disposal options and should be carried out by all stakeholders involved, including the mining company, the permitting agency, the funding agencies, and resource users locally, regionally, and nationally.[94]

Notes

[1] Sachs and Warner 1995.
[2] Mikesell 1997, p. 192.
[3] Ross 2001.
[4] Sarraf and Jiwanji 2001, p. 1; Mikesell 1997, p. 191; Wright 2001, p. 3; Ross 1999, p. 307.
[5] UNCTAD 2001.
[6] UNCTAD 2000.
[7] Le Billon 2001.
[8] Ross 1999, p. 312; Auty 1997, p. 651.
[9] http://www.publishwhatyoupay.org.
[10] http://www.dfid.gov.uk.
[11] http://www.g8.fr/evian/english/navigation/2003_g8_summit/summit_documents/fighting_corruption_and_improving_transparency_-_a_g8_declaration.html.
[12] Auty 1997.
[13] UNCTAD 2000.
[14] Chambers 2000.
[15] http://www.bpdweb.org and http://www.bpd-naturalresources.org.
[16] http://www.unep-unctad.org/cbtf.
[17] Ross 2001a.
[18] Global Reporting Initiative 2002.
[19] *AccountAbility Assurance Standard AA1000, AA1000 Overview Framework 1999, AA1000 Overview*, available at http://www.globalreporting.org/about/iniaa1000.asp.
[20] http://www.cepaa.org and http://www.globalreporting.org.
[21] Ross 2002, p. 33.
[22] Auty as quoted in Le Billon 2001.
[23] Ross 2001c, p. 9.
[24] Le Billon 2001, p. 562.
[25] Ross 2001c, Collier and Hoeffler 2002b.
[26] Collier 2000.
[27] Le Billon 2001.
[28] Collier and Hoeffler 2002b.
[29] Ross 2001c.
[30] Le Billon 2001.
[31] Le Billon 2001, Ross 2001c.
[32] Ross 2002.
[33] Sen 1998.
[34] Sachs and Warner 1995.
[35] Annan 1998, Ch. 5, Section 174.
[36] Brodnig 2002.
[37] Clark 2002, Horta 2002, Uriz 2001.
[38] Horta 2002, Uriz 2001, UNCTAD 2001.
[39] Brodnig 2002.
[40] Ibid, note 4.
[41] http://wbln0018.worldbank.org/HDNet/HDdocs.nsf/0/65510796ed04ac1685256961004c6e7c?OpenDocument
[42] Brodnig 2002; Sarraf and Jiwanji 2001, p. 1; Mikesell 1997, p. 191; Wright 2001, p. 3; Ross 1999, p. 307; Uriz 2001; UNCTAD 2001; Sen 1998; Sachs and Warner 1995.
[43] Shihata 1991.

[44] Brodnig 2002; Sarraf and Jiwanji 2001, p. 1; Mikesell 1997, p. 191; Wright 2001, p. 3; Ross 1999; p. 307; Mackay 2002.
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[56] Downing 2002.
[57] Nigam 1999.
[58] Ali and Behrendt 2001.
[59] Nigam 1999, Whiteman and Mamen 2001.
[60] Whiteman and Mamen 2001.
[61] Nigam 1999.
[62] Much of the information in this section has been taken from Forest Peoples Programme and the Tebtebba Foundation 2003. On the special status and rights of indigenous peoples, see Anaya and Williams 2001, Wiessner 1999, Torres 1991.
[63] Wiessner 1999.
[64] Inter-American Commission on Human Rights 2002.
[65] Wiessner 1999, Torres 1991, Anaya and Williams 2001, Mikesell 1997.
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[83] Tol et al. 2001.
[84] Shogren and Toman 2000.
[85] Cazorla and Toman 2000.

[86] Toman, Jemelkova, and Darmstadter 2002.
[87] Murdiyarso 2003, Mallon 2003.
[88] Toman, Jemelkova, and Darmstadter 2002.
[89] In the absence of an accepted definition of STD, the Australian Centre for Mining Environmental Research uses the definition of "the placement of tailings discharged below the euphotic zone (zone where there is less than 1% of the light at surface), below the upper mixed layer or upwelling zone, and where the bulk of the tailings deposits at a depth that will represent a low risk to the productivity of any utilised resource (generally considered as a deposition at greater than 400 m depth)" (ACMER 2002).
[90] Ellis 2002.
[91] ACMER 2002.
[92] Kahn 2003, Shearman 2003.
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