

Volume I: The World Bank and Extractive Industries



STRIKING A BETTER BALANCE

VOLUME I THE WORLD BANK GROUP AND EXTRACTIVE INDUSTRIES

THE FINAL REPORT OF THE EXTRACTIVE INDUSTRIES REVIEW

December 2003

Contents

Acknowledgements	ii
Preface	iv
Executive Summary	vii
1. A Framework for Understanding	1
Can Extractive Industries Be Compatible with the World Bank Group’s Goals of Poverty Alleviation and Sustainable Development?	2
What Are the Challenges in Translating Natural Resource Wealth into Poverty Alleviation Through Sustainable Development?.....	5
What is the Role of the World Bank Group in the Extractive Industry Sector?.....	7
Can the World Bank Group Strike a Better Balance in Its Effort to Alleviate Poverty Through the Development of Extractive Industries?.....	11
2. Findings and Conclusions	12
The Importance of Pro-poor Public and Corporate Governance in Extractive Industries	12
Environmental and Social Components in Development of Extractive Industries	25
Human Rights Considerations	38
Conclusions: The Need for a Better Balance.....	42
3. Recommendations	45
Promote Pro-poor Public and Corporate Governance in the Oil, Gas, and Mining Sectors	45
Strengthen Environmental and Social Components of World Bank Group Interventions in Extractive Industries.....	54
Respect Human Rights	59
Rebalance Institutional Priorities	61
Follow-up.....	66
Acronym List	67
Reference List.....	68
Notes	74

Acknowledgements

I could never have met the challenge of implementing the EIR process and finalizing the EIR report without the unwavering support of my exceptional staff. For this, I sincerely thank Bernard Salome, my head of secretariat until early 2003; Roberta Lovatelli, who made the EIR Multi-Stakeholder Consultation Workshops happen, kept our Washington, D.C., office alive, and coordinated work with Jakarta continuously; Julia Grützner, who coordinated EIR research, played an important role in the EIR report writing process, and accompanied me to visit the Chad-Cameroon Project; Rini Sulaiman, who accompanied me to visit projects in Papua New Guinea and produced our trip report, continued to manage our Web site, and helped to organize translations; Roslita Arsyad, who has been invaluable in managing the day-to-day running of the Jakarta office while doing research for the report; Yanuar Indarto, who coped with all our computer and Internet woes; and especially Chandra Kirana, who as my executive assistant ensured the smooth running of EIR operations while taking over Bernard Salome's work as Head of Secretariat, becoming fully engaged in writing the report, ensuring the finalization of the Final Report, and closing the operations of the EIR.

Furthermore, the EIR Secretariat was helped by numerous people over short periods throughout the process. Although short term, these people contributed significantly to the quality and smooth running of our operations. Therefore I would like to thank Maiko Church, Amy Corley, Corina Cotenescu, David Cumming, Luke Danielson, Jacquelyn Dille, Peter Ellwood, Emily Horgan, Erlina Jeniwati, Mardi Minangsari, Bardolf Paul, Didier Rancher, Mohamad Reza, Ina-Marlene Ruthenberg, Amy Sweeting, Myrna Yuanita, and Ioana Zamfir.

Special thanks go to all the outstanding individuals on my Advisory Board: Herman Daly, Gino Govender, Petr Hlobil, Wanda Hoskin, Veronica Huilipan, Mamadou Lamine Loum, Fergus MacKay, Mark Moody-Stewart, Robert Moran, Petter Nore, and Michael Ross.

I am indebted especially to Aidan Davy, Robert Goodland, Ismid Hadad, Rachel Kyte, and Meg Taylor for all their valuable advice throughout the whole EIR process.

Sincere acknowledgement goes to Clive Armstrong, James Bond, Rashad Kaldany, and numerous WBG staff who gave me their time and views, for their openness and active participation in the EIR process. Also to Bintari Cahyasri, Puti Jintan, Firie Manaf, Budi Matondang, Sisca Pontoh, Fransisca Silalahi, Andrew Steer, Bhakti Sudaryono, and Henny Winardi for all the support provided freely to the EIR Jakarta Office.

An important element of the EIR has been the research activity, for which many thanks go to Edmund Bugnosen (Bugnosen Minerals Engineering); Emily Caruso, Marcus Colchester, Fergus MacKay, Nick Hildyard, and Geoff Nettleton (Tebtebba Foundation, Forest Peoples Programme, and the Philippines Indigenous Peoples Links); Richard Everett and Andrew

Gilboy (Associates for Global Change); Ginger Gibson (CoDevelopment Canada); Heike Mainhardt-Gibbs (WWF); and Marta Miranda, Philip Burris, Phil Shearman, Jose Oliver Briones, Antonio La Vina, Stephen Menard, and Jessie Froy Bingcang (World Resources Institute). Project visits provided the process with special insights from the field, for which many thanks go to PNG Project Visit: Lihir Gold Mine, Kutubu Petroleum Development Project, Misima Gold Mine; Chad Cameroon Oil Pipeline Project Visit: ExxonMobil, Petronas of Malaysia and ChevronTexaco and Mozal Aluminium Smelter Project in Beluluane Industrial Park, Mozambique.

I am forever grateful to my editor Linda Starke, who rescued the whole writing process of our final report with her efficient professionalism.

Finally, the most important contributors to the EIR are all the community representatives who gave testimonials and all the participants from governments, extractive industry companies, NGOs, indigenous peoples, academia, and other areas who contributed to the EIR Planning Workshop, the Multi-Stakeholder Consultation Workshops, and the Final EIR workshop, as well as those who were unable to attend the workshops but took the time to contribute in writing—there are too many to name, but they have my warmest thanks. For the smooth facilitation of these workshops I thank Dirk Jung and Sybil Dümchen (denkmodel), Matt Minahan (Matt Minahan & Associates), and their excellent teams.

And last but not least, I could never have finished this challenge without the love and support provided to me by my wife, Roosminnie, and my whole family.

May God Bless Us All.

Emil Salim
Jakarta
January 12, 2004

Preface

In June 2001, I got a phone call from James Bond, the former Director of Mining of the World Bank, asking me to undertake a project called the Extractive Industries Review. When I explained that I am not an expert on the mining industry, his response was quick that what was needed was experience and knowledge in environment and sustainable development rather than in mining. I have done my best to bring that experience and knowledge to this important task.

In addition, a 10-person Advisory Group was appointed to the Review in 2003 (see Annex 1 for a list of these individuals). I benefited greatly from the Advisors, and I thank them for their input, but the final responsibility for the content and the recommendations is mine.

Since the 1980s, the World Bank Group (WBG) has actively promoted private-sector development in extractive industries in developing countries by reforming mining codes, privatizing state-owned enterprises, and improving market prices by removing subsidies for extractive resources. Attracted by these incentives, foreign private oil, gas, and mining investment poured into developing countries in significant amounts.

In these cases, the WBG deals predominantly with governments and foreign private companies. Extractive resource allocation and exploitation, its location, and its revenue distribution and spending have been mainly the concern of the WBG, governments, and foreign private companies.

Although governments are consulted directly and continuously by the WBG through its Board of Executive Directors, and companies are clients of the WBG in terms of financing and risk insurance, civil society is left out and has no direct official links with the institution. But it is civil society—local communities, indigenous people, women, and the poor—who suffer the negative impacts of extractive industrial development, such as pollution, environmental degradation, resettlement, and social dislocation.

It is hence not surprising to find out that civil society is very critical of the World Bank Group. People want to be heard by the WBG, to be consulted and recognized as equal partners in development, especially in extractive industries that deplete nonrenewable extractive resources and have negative impacts on affected communities and resettled indigenous people. That is why civil society pressed WBG James Wolfensohn for a review of the institution's involvement in this sector, a review they wanted to be actively involved in.

This outburst of demand was clearly visible in five regional consultation workshops held as part of the Extractive Industries Review. Civil society joined in with loud voices and strong

criticisms. Some of them even felt it was necessary to walk out of a workshop, saying that this whole review is just a disguised WBG public relations stunt.

I have in this report duly recorded and reflected civil society's criticisms and aspirations. The WBG needs to know that genuine development requires partnership not only with governments and companies, but with civil society as well. If and when we seriously aim at poverty alleviation through sustainable development, it is necessary to engage in a triangle of equal partnership between governments, business, and civil society as counterparts of the WBG.

I accepted this task with full confidence that the WBG is genuinely willing to move away from a conventional "business as usual" approach into sustainable development, which was the focus of the World Summit on Sustainable Development in 2002. This means mainstreaming economic, social, and environmental considerations into sustainable development—with the alleviation of poverty as the economic goal, the enhancement of human rights as the social goal, and the conservation of the ecological life-support system as the environmental goal.

This requires intragenerational sustainability, which strives for equity among those alive today, as well as intergenerational sustainability, which struggles for equity between current and future generations. In this changing time frame, what remains constant is "the struggle for equity." This can only be achieved in a society where the playing field is equal for everyone. While this cannot be reached in a short period of time, it must serve as the direction that we strive toward in our development.

The cost structure for business will necessarily change, because external costs that were carried by the society must now shift to the company. Cost is borne more equally among the participants of development. There is now not only an "economic license" but also a "social license" to operate.

This change in orientation of development requires a changing course in the WBG. In a speech in Dubai, President Wolfensohn complained that in the world today "too few control too much, and too many have too little to hope for." Therefore there is an urgent need to restore the balance of our world.

This report makes four major recommendations on how to restore that balance in the WBG—promote pro-poor public and corporate governance in the extractive industries, strengthen environmental and social components of WBG interventions in these industries, respect human rights, and rebalance WBG institutional priorities. These four recommendations have as the ultimate goal:

- to lift up civil society so it is balanced in the triangle of partnership between governments, business, and civil society;
- to raise social and environmental considerations so they are balanced with economic considerations in efforts at poverty alleviation through sustainable development; and
- to strive for a human-rights-based development that balances the material and the spiritual goals of life.

In essence, all these recommendations are aimed at the need to strike a better balance of life and development in this world—with less poverty and with a more equitable and humane standard of sustainable livelihood for all humankind.

Emil Salim
Jakarta
November 24, 2003

Executive Summary

In November 2003, the Board of the International Finance Corporation (IFC) approved a loan of up to \$125 million for the Baku-Tbilisi-Ceyhan pipeline, which will bring oil from landlocked Azerbaijan to the Mediterranean coast of Turkey—one of the longest pipelines of its kind in the world. . . . In China, the World Bank Group (WBG) is involved in developing and restructuring the gas sector in Sichuan province. . . . In Chad, one of the world's poorest countries, a WBG-supported project will develop oil fields in the south and build a 1,070-kilometer pipeline to offshore oil-loading facilities on Cameroon's coast.

Are these projects and others in oil, gas, and mining consistent with the World Bank Group's overall objective of achieving poverty alleviation through sustainable development? That is the issue at the heart of the debate about WBG involvement in extractive industries.

In June 2000, at the annual meeting in Prague, WBG President James Wolfensohn responded to criticism from the nongovernmental community about WBG involvement in extractive industries with a promise to review the Bank's role in this sector. In July 2001, the Extractive Industries Review (EIR) was initiated with the appointment of Dr. Emil Salim, former Minister of the Environment for Indonesia, as Eminent Person to the review.

The EIR was designed to engage all stakeholders—governments, nongovernmental organizations (NGOs), indigenous peoples' organizations, affected communities and community-based organizations, labor unions, industry, academia, international organizations, and the WBG itself—in a dialogue. Regional workshops were held in Brazil, Hungary, Mozambique, Indonesia, and Morocco—each preceded by an open forum of testimonies by civil society. The EIR secretariat commissioned six research projects, visited four project sites, attended relevant international conferences, and held informal consultations with stakeholders worldwide.

The basic question addressed throughout this process was, Can extractive industries projects be compatible with the WBG's goals of sustainable development and poverty reduction? Based on more than two years of consultations and research, the answer is yes, *the Extractive Industries Review believes that there is still a role for the World Bank Group in the oil, gas, and mining sectors—but only if its interventions allow extractive industries to contribute to poverty alleviation through sustainable development. And that can only happen when the right conditions are in place.* The three main enabling conditions are:

- pro-poor public and corporate governance, including proactive planning and management to maximize poverty alleviation through sustainable development;
- much more effective social and environmental policies; and
- respect for human rights.

In order for the WBG to be able to promote these conditions, the institution itself needs to implement a number of serious reforms, including improvements and reinforced implementation of its Safeguard Policies and changes in WBG staff incentives.

Pro-poor Governance

The first consideration if the WBG is to help countries reduce poverty while seeking to develop extractive industries is that programs should be tailored to the specific requirements and needs of the country and to the existing adequacy of governance—taking into account the nature of the resources the area is endowed with, the relative importance of current and expected resource revenues in the government’s budget, and the anticipated social and environmental impacts.

The criteria of governance adequacy should be developed transparently and with the involvement of all stakeholders. It should include minimum core and sectoral governance criteria, such as the quality of the rule of law; the absence of armed conflict or of a high risk of such conflict; respect for labor standards and human rights; recognition of and willingness to protect the rights of indigenous peoples; and government capacity to promote sustainable development through economic diversification.

The more specific building blocks of governance required for extractive industries include the following:

- promote transparency in revenue flows,
- promote disclosure of project documents,
- develop the capacity to manage fluctuating revenues,
- develop the capacity to manage revenues responsibly,
- help governments develop modern policy and regulatory frameworks, and
- integrate the public in decisionmaking processes at local and national levels.

Governance should be strengthened until it is able to withstand the risks of developing major extractions. Once that has happened, the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA) can add support for the promotion of a well-governed extractive sector. Similarly, when the International Finance Corporation and the Multilateral Investment Guarantee Agency (MIGA) consider investing in an oil, gas, or mining project, they need to specifically assess the governance adequacy of the country as well as the anticipated impacts of the project and then only support projects when a country’s government is prepared and able to withstand the inherent social, environmental, and governance challenges.

It is important for the WBG to promote partnerships to develop incentives for and advance the international application of best practice, such as through corporate responsibility, reputation risk, and the adoption of international norms and codes of conduct, as well as the creation of financial instruments such as performance bonds, mandatory insurance, and fines.

IFC and MIGA should only support projects that benefit all affected local groups, including vulnerable ethnic minorities, women, and the poorest members of the community. They

should decline to finance projects where this is not the case or should redesign them to guarantee that the standards of living for local groups clearly improve.

To help ensure that local communities receive benefits from extractive industry projects, the WBG should:

- require companies to engage in consent processes with communities and groups directly affected by projects in order to obtain their free prior and informed consent,
- require revenue sharing with local communities,
- mandate the use of poverty indicators that are monitored systematically,
- encourage the incorporation of public health components in all extractive industry projects,
- urge NGOs to build the capacities of affected communities, and
- help set up independent grievance mechanisms.

At the country level, in light of the potential of artisanal and small-scale mining (ASM) to lessen the burden of poverty, IBRD and IDA should help governments develop policies that recognize this as a distinct sector and that distinguish between community-based and itinerant miners, giving communities clear priority over mining rights. WBG activities related to ASM should always recognize indigenous peoples' rights. To address these issues, the WBG needs to build up the required internal capacity and should form a special ASM unit that is adequately funded to meet these challenges.

National ASM policies should also address the integration of the sector in the national economy, giving artisanal and small-scale miners access to markets. Social and environmental regulations should go hand in hand with the legalization of the sector, addressing such issues as gender imbalances, child labor, and environmental management.

Solutions to the problems associated with ASM could be more effectively addressed through rural development. Government capacity to deal with this sector could be improved through exchange programs, with officials visiting countries where a legalized ASM sector has clearly contributed to poverty alleviation. The WBG should try a micro-lending approach to ASM in cooperation with other aid agencies and donors; pilot projects could be developed in partnership with, for example, CASM—the Communities and Small-Scale Mining initiative—or CAMMA, the Mines Ministers of the Americas.

Environmental and Social Components of WBG Interventions

The second enabling condition that will allow extractive industries to contribute to poverty alleviation through sustainable development involves a strengthening of the environmental and social components of WBG interventions in this sector. In some cases, this will entail revisions in current WBG policies; in other cases, new requirements or guidelines are called for.

- Require Integrated Environmental and Social Impact Assessments. The WBG should take a holistic, multidimensional approach to assessments, identifying cumulative impacts of projects and socioeconomic linkages to environmental issues. Social impacts should be fully identified, including health impacts and projects' effects on vulnerable groups. And a

strategy for impact prevention, minimization, and mitigation is needed. Extractive industry projects should be classified as Category A projects—likely to have significant adverse environmental impacts—unless there are compelling reasons to the contrary.

- Update and Fully Implement the Natural Habitat Policy. The WBG should not finance any oil, gas, or mining projects or activities that might affect current official protected areas or critical natural habitat or areas that officials plan to designate in the future as protected. Any extractive industry projects financed within a known “biological hot spot” must undergo additional alternative development studies. Clear “no-go” zones for oil, gas, and mining projects should be adopted on the basis of this policy.
- Update and Fully Implement the Resettlement Policy. IFC and MIGA should engage in consent processes leading to free prior and informed consent before resettlement takes place. This means projects would only result in voluntary resettlements, not forced ones. Compensation and project-derived benefits should lead to genuine improvement, assessed by independent reputable third parties, when traditional subsistence patterns are being rapidly transformed by development.
- Revise the Disclosure Policy. The WBG Disclosure Policy should be broadened to include a series of documents currently protected by confidentiality agreements between IFC, MIGA, and companies. Protection of the proponent’s technical processes should be guaranteed, but this needs to be achieved with less confidentiality. There should be an independent and impartial Information Ombudsman to monitor disclosure policy implementation and to ensure that people have the right to appeal when they feel they have been wrongly denied information.
- Develop Sector-specific Guidance for Tailings Disposal, Waste Management, and the Use of Toxic Substances. The WBG should develop a list of criteria for tailings placement for all mining projects. All disposal options should be rigorously evaluated, with an emphasis on the need for ongoing monitoring of waste and tailings dumps, but no WBG-supported mining project should use riverine tailings disposal. Submarine tailings disposal (STD) should not be used until balanced and unbiased research, accountable to balanced stakeholder management, demonstrates its safety. Whatever the outcome of the research, STD and riverine tailings disposal should not be used in areas such as coral reefs that have important ecological functions or cultural significance or in coastal waters used for subsistence purposes. WBG support for mines using toxic materials such as cyanide and mercury should be minimized; where possible, safer substitutes should be used. The WBG needs to revise its cyanide effluent guidelines to be consistent with the most advanced guidelines in Canada, the United States, and the European Union or to be adequate to prevent environmental degradation.
- Develop Guidelines for Integrated Closure Planning. IBRD and IDA should develop clear guidelines and require provision for sufficient funds to be built up in the balance sheet for closure from the start of any new development. IFC and MIGA policies should specify the outlines of the integrated closure planning process to be conducted at projects; the type of analysis of acid drainage potential that is acceptable and how this information will be

shared with those potentially affected; and the creation of a fund or guarantee mechanism that will ensure resources are available to pay end-of-life social and environmental costs identified during planning.

- Develop Guidelines on Emergency Prevention and Response. WBG emergency response plan guidelines should involve ways to establish good lines of communication for warning local communities, sufficient recognition of potential impacts, and adequate monitoring and maintenance. Such practice should be required in IFC and MIGA projects and encouraged in reforms of national legislation and regulation.
- Address the Legacy of the Past. IBRD and IDA should make a strong commitment to helping governments tackle the legacy of extractive industry projects. Compensation funds should be established for people affected by past developments. In cooperation with other funding agencies and in partnership with all the stakeholders, the WBG should establish a targeted program aimed at restoring degraded lands, improving the life of the poor who are affected by previous project closures, and generating employment and skills training.

Human Rights

The third key EIR recommendation regarding WBG involvement in extractive industries is to respect human rights. The WBG and its clients have obligations under international law to promote, respect, and protect all human rights. A system-wide policy needs to integrate and mainstream human rights into all areas of WBG policy and practice. The WBG should ensure that it does not undermine the ability of its member countries to faithfully fulfill their international obligations and does not facilitate or assist violation of those obligations. It should systematically incorporate experienced, independent, and reputable third parties to verify the status of human rights in all relevant projects. A central Human Rights Unit is essential, with regional counterparts, together with a clear policy and a mandate for monitoring, verification, and transparent annual audits.

IFC and MIGA should assess the human rights records of companies they work with and ensure that WBG-funded projects are designed and implemented in a manner consistent with applicable international human rights standards. Adoption of and demonstrated compliance with human rights principles should be a prerequisite for companies seeking WBG support for extractive industries.

Given WBG endorsement of the Core Labour Standards (CLS) of the International Labour Organization (ILO) as being consistent with and supportive of the institution's poverty alleviation mandate, IBRD and IDA should adopt the CLS as contractual requirements for project financing by including them as mandatory elements of the WBG's Standard Bidding Document. And IFC and MIGA should adopt all four, not just two, of the Core Labour Standards as part of their Safeguard Policies. The WBG should work with governments, trade unions, industry groups, and other organizations, as well as the ILO, to promote the implementation and enforcement of the standards.

IBRD and IDA should also work with governments to clarify and strengthen, where necessary, the legal basis for resource and tenure rights. Indigenous peoples and many other communities have felt the negative impacts of extractive industry developments. Their resettlement should only be allowed if the community has given free prior and informed consent, as a result of a consent process, to a proposed project and its expected benefits for them. Indeed, the WBG should not support extractive industry projects that affect indigenous peoples without prior recognition of and effective guarantees for their rights to own, control, and manage their lands, territories, and resources.

The WBG's Safeguard Policies should become an explicit tool for ensuring that the WBG respects human rights. IBRD/IDA Safeguard Policies and other operational approaches should clearly recognize the rights of women through a commitment to nondiscrimination—a basic tenet of human rights—but also through ensuring that social management, community development, and consultation plans and exercises reach out to women and protect them from gender-based human rights violations, such as forced prostitution and rape. The current draft Safeguard Policy on indigenous peoples (Operational Policy (OP) 4.10) should be reviewed and there should be high-level discussions with indigenous peoples on its revision, including a legal roundtable on making the policy consistent with internationally guaranteed human rights.

Institutional Priorities

At the moment, the WBG is not set up to effectively facilitate and promote poverty alleviation through sustainable development in extractive industries in the countries it assists. So if it is to make any progress on the key elements of its involvement in extractive industries—pro-poor governance, more effective social and environmental policies, and respect for human rights—it must take certain steps to rebalance its institutional priorities.

In terms of staff and budget allocation, the WBG does not appear to be as committed to the social and environmental aspects of sustainable development as it is to the economic aspects of development. Success indicators for career development need to be improved: instead of putting an emphasis on quantitative lending targets, staff should be rewarded for contributions to ensuring compliance with Safeguard Policies and maximizing poverty alleviation impacts. The WBG should also adjust the skill mix of its staff, including the staff of consulting firms, to increase the ratio of people with knowledge of social, environmental, and human rights aspects of development.

The activities of IBRD/IDA, the IFC, and MIGA need to be much better coordinated. IFC and MIGA extractive industry projects can have significant impacts on a country and on regions as a whole, which should be planned for at the national and regional level in order to ensure maximum benefits. Coordination might best be provided through the Country Assistance Strategy (CAS) process.

Given the large potential positive and negative impacts of extractive industries, the CASs of countries with significant or planned extractive industries need to address the challenges posed by these sectors regardless of whether the WBG is involved directly in them in a given country. The CAS should outline clearly what governments need to do to assure that the

conditions are in place for extractive industries to contribute to poverty alleviation and sustainable development.

The structural framework within which the oil, gas, and mining sectors exists is of fundamental importance to achieving pro-poor development outcomes that are sustainable. Poverty and the environment should be accorded strategic importance in designing and implementing structural reform programs that involve extractive industries.

Serious efforts should be made within the WBG to review, improve, and update the Safeguard Policies relevant to the extractive industries within the framework of poverty alleviation through sustainable development. This effort should include the active involvement of relevant stakeholders, as noted earlier in particular with regard to the policy on indigenous peoples.

In addition to these institutional changes, WBG priorities within the energy sector need to be rebalanced. IBRD and IDA should position themselves to help governments adopt sustainable energy strategies that address the energy needs of the poor and that minimize climate change, which will disproportionately affect the poor. Countries should be helped to remove subsidies from carbon-based fuels. And WBG lending should concentrate on promoting the transition to renewable energy and endorsing natural gas as a bridging fuel—building new pipelines and renovating leaking ones.

On this basis, the WBG should phase out investments in oil production by 2008 and devote its scarce resources to investments in renewable energy resource development, emissions-reducing projects, clean energy technology, energy efficiency and conservation, and other efforts that delink energy use from greenhouse gas emissions. During this phasing out period, WBG investments in oil should be exceptional, limited only to poor countries with few alternatives. And the WBG has for the last few years not invested in new coal mining development. This should continue.

The WBG should aggressively increase investments in renewable energies by about 20 percent annually, thereby moving toward a better balance between support for fossil fuel projects, currently 94 percent of the energy portfolio, and support for renewables projects, currently just 6 percent. The promotion of renewable energy that is needed in poverty alleviation efforts and in response to climate change should be done by setting up a specialized WBG unit or team for renewables and energy conservation. The WBG should take the initiative to coordinate research globally on sustainable energy development.

Conclusion and Follow-up

In essence, all the recommendations in the Extractive Industries Review are aimed at the need to strike a better balance of life and development in this world. Their ultimate goal is:

- to lift up civil society so it is balanced in the triangle of partnership between governments, business, and civil society;
- to raise social and environmental considerations so they are balanced with economic considerations in efforts at poverty alleviation through sustainable development; and

- to strive for a human-rights-based development that balances the material and the spiritual goals of life.

To follow up on the recommendations in this report, a global consultation workshop should be held in 2005 to assess the extent to which the World Bank Group has succeeded in moving the extractive industry sector on to a sustainable development path that contributes to poverty alleviation worldwide.

Chapter 1. A Framework for Understanding

It is difficult to imagine life today without minerals—at home, at work, in schools, on the roads, in all our buildings. For centuries societies have engaged in mineral extraction. Often entire communities depend on mining and energy enterprises for their livelihood. Social and cultural traditions have evolved and are rooted in a rich history of solidarity in such communities.

Societies and economies depend heavily on the extractive industries in the stages of exploration, extraction, refining, recycling, transportation, and use of minerals. These companies provide direct and indirect employment, economic development, and a means of meeting basic needs. Governments often receive a good deal of income in the form of taxes and royalties, yet they are under increasing scrutiny over how they allocate revenues earned from such companies.

Today, however, the oil, gas, and mining sectors face serious criticism about the social and environmental impacts of their industries. Companies must deal with several difficult challenges to meet expectations of economic development, the creation of quality jobs, respect for human rights, and high returns for investors. Public perceptions of the extractive industries as a whole are rather negative, and enterprises are vulnerable to local and international pressure. Maintaining a “social license” to operate requires companies to make major investments in social and environmental performance. Although steps have certainly been taken to improve performance, extractive industries must accept that they will be judged by the actions of the poorest performers.

The involvement of the World Bank Group (WBG) in extractive industries is the subject of intense debate among critics of this sector as well as its supporters. The issue at the heart of the debate is whether WBG involvement in these industries is consistent with its objective of achieving poverty alleviation through sustainable development. The Extractive Industries Review (EIR) was established in July 2001 to consider these issues. It was a practical exercise designed to achieve concrete solutions that will help the World Bank Group continue to make progress in alleviating poverty on a sustainable path. (See Box I–1 for a description of the EIR Process.)

Box I–1. The Process of the Extractive Industries Review

At the Prague World Bank–International Monetary Fund (IMF) Annual Meetings in June 2000, WBG President James Wolfensohn responded to criticism from the nongovernmental community about WBG involvement in extractive industries with a promise to review the Bank’s role in oil, gas, and mining. Approximately a year later, the Extractive Industries Review 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. The EIR secretariat was based in Jakarta and supported by an office in Washington, D.C.

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

The EIR convened five Regional Workshops—in Brazil, Hungary, Mozambique, Indonesia, and Morocco—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.

Based on a planning workshop in October 2001, a conceptual framework was created that outlined the main questions to be addressed in the process, particularly in the regional workshops:

- Can extractive industries projects be compatible with the WBG's 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 the extractive industry sector to improve the accountability of all parties?

The EIR 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.

- **Can extractive industries be compatible with the World Bank Group's goals of poverty alleviation through sustainable development?**

The Importance of Economic Growth for Long-term Poverty Alleviation

It is generally acknowledged by economists that economic growth is a prerequisite in order for long-term income-poverty alleviation to occur in a country. If extractive industries are a source of economic growth, then they should at least have the potential to contribute to poverty alleviation.

The historical record of extractive industries in contributing to economic growth has been mixed, however. While some resource-rich countries have outstanding records of growth and poverty alleviation, others have shown little economic growth or have even experienced negative growth. Most academic studies of what is known as the resource curse suggest that between 1970 and 2000, the number of states with disappointing outcomes was larger than the number with successful outcomes.¹

The resource curse, also known as the paradox of plenty, begins with a sudden increase in income for a resource-rich country following development of a natural resource or a surge in world prices; although this 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 economic opportunities and survive the boom-and-bust cycles of unstable global commodity prices. Yet scholars agree that there is nothing inevitable about the resource curse: while having a large extractive sector poses special challenges for a country, if these are handled well, the extractive sector can become a powerful engine for poverty alleviation.

Poverty Alleviation and Sustainable Development

The U.N. Conference on Environment and Development in 1992, followed by the World Summit on Sustainable Development in 2002, strongly promoted the need for a sustainable development model to replace the conventional economic development model that still prevails. Since 1992, the WBG has contributed significantly to the global discussion and movement toward a sustainable development model in which poverty alleviation is a central focus.

Before discussing poverty alleviation, it is necessary to define what is meant by poverty. In the developmental sense, this term has evolved over time from a narrow focus on income to encompass broader issues. In particular, poverty has been associated with a lack of capabilities. A World Bank report from 2001 illustrates this evolution: “Poverty is a multidimensional phenomenon, encompassing inability to satisfy basic needs, lack of control over resources, lack of education and skills, poor health, malnutrition, lack of shelter, poor access to water and sanitation, vulnerability to shocks, violence and crime, lack of political freedom and voice.”²

The U.N. Committee on Economic, Social and Cultural Rights has defined poverty as “a human condition characterized by sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights.”³ Accordingly, “poverty alleviation” involves more than simply increasing peoples’ incomes: it involves improving peoples’ capabilities, rights, and security.

The concept of sustainable development also needs an explanation. In 1987, the World Commission on Environment and Development defined it as “development that meets the needs of the present without compromising the ability of future generations to meet their own needs.”⁴ This definition covers both intragenerational sustainability, which strives for equity among those alive today, and intergenerational sustainability, which struggles for equity between current and future generations. There is a connection between extractive resources and sustainability that is affected by equity as well as by intergenerational issues.

On one level, extractive industries can be considered unsustainable insofar as they involve consumption of a nonrenewable resource. On another level, however, consumption of finite resources could be considered sustainable if it improves the welfare of future generations by,

for example, raising other forms of capital, such as human capital (if revenues are used, say, for education) or social capital. In terms of extractive industries, the point is not “sustainable mining” or a “sustainable oil industry”: the objective is sustainable development of human societies, communities, and environments. No well or mine will continue to produce indefinitely. But societies and ecosystems can prevail for long periods of time and can continue to improve over time. From the perspective of this review, extractive industries are important only in the extent to which they contribute to or detract from this objective.

Finally, different people have different understandings of poverty, poverty alleviation, and sustainable development. This is especially the case for indigenous peoples, for whom secure, effective, and collective rights to lands, territories, and resources traditionally owned or otherwise occupied and used are fundamental to their economic and social development, to their physical and cultural integrity, to their livelihoods and sustenance, and to their understandings of poverty and poverty alleviation. Sustainability concerns their ability to accumulate, maintain, enhance, and transfer their wealth to future generations. Monetary wealth, however, is but a small part of this wealth, which includes indigenous institutions and laws; environmental knowledge; resources, lands, and territory imbued with cultural meaning; ancestral attachments and spiritual relationships; access to and ownership of common resources; social support; language; and identity. Sustainable development and sustainability are therefore fundamentally related to ensuring indigenous peoples’ ability to maintain, perpetuate, and further develop their cultural integrity, including their various relationships with the human, spiritual, and natural worlds—all of which are inseparably intertwined.

Implications for Extractive Industries

If the WBG is to have a role in the extractive industries, it must be one of contributing to the objective of poverty alleviation through sustainable development. Accordingly, WBG operations in the extractive industry sector should meet strict criteria to ensure that they contribute to equitable and sustainable development, promote sustainable livelihoods, and alleviate poverty. No country has achieved substantial poverty alleviation without sustained economic development; yet such development alone is no guarantee that poverty will be alleviated. Extractive industry projects considered for World Bank Group support should be evaluated to ensure that their expected benefits—especially for the poor—are sufficiently higher than their estimated costs, including environmental and social costs. Further, local communities bearing the costs should clearly benefit from such development. The outcome will often depend on helping countries to create the policy and institutional frameworks needed for extractive industries to contribute to sustainable development.

- **What are the challenges in translating natural resource wealth into poverty alleviation through sustainable development?**

The record of economic growth and poverty alleviation in countries with substantial natural resources has been mixed, as noted earlier. Some countries have achieved notable successes; others have experienced dismal failures. The challenge for development institutions is to understand why some countries do well and others do poorly.

Extractive industries provide economic rents and can generate large revenues for governments. They may constitute the largest sector of a country's economy. And in some cases extractive industries may be the only major resource readily available to poor countries and vulnerable communities to lift them out of poverty. Benefits to society are enhanced if extractive industry projects contribute to the development of much-needed infrastructure and help communities through employment and the provision of health care and education, all the while safeguarding the environment. Transforming natural resource wealth into poverty alleviation presents a number of challenges for the WBG and development partners, however.

Project-Level Challenges

Extractive industries can cause environmental degradation. Exploration and development of extractive industries can lead to land clearing and habitat loss. Construction of access roads can open up virgin territory for exploitation. Disposal of mine wastes can contaminate the area around a site. Waste pits can overflow or leach into groundwater. Mine tailings can be disposed of in surface waterways, contaminating the surrounding water and soil. Even where tailings are stored responsibly, tailings dams can burst. Acid rock drainage from mining can also contaminate soil and water, as can mercury or cyanide spills. Oil spills during transportation can pollute land and coastlines. Gas flaring can cause air pollution and generate greenhouse gases. Resource extraction, particularly mining, requires large amounts of water, which can threaten local water supplies or lower the water table. And environmental degradation can in turn destroy livelihoods dependent on local resources.

These industries can also lead to social disruption and cause conflict among communities. Existing communities may be displaced to make way for new industry activity. Even when that does not happen, new activity often brings a large influx of people to a region, disrupting the local community. Communities may see an increase in such social problems as alcoholism, gambling, prostitution, and violence against women. People's health can suffer as due to the influx of new people or pollution from the site. The existence of new "winners" and "losers" from a project may cause rifts in communities. Women are often particularly at risk from the social disruption caused by new projects. Communities may become dependent on the benefits from an extractive industries project, and they can turn into "ghost towns" if they have no alternative source of income when a project closes.

There is a risk that benefits and costs arising from extractive industries are shared unevenly. Although local communities bear the negative social and environmental impacts of extractive industry activities, they may not receive much of the revenues. And they may not be given the opportunity to participate in discussions on proposed projects. Indigenous peoples and local

communities may depend on their environment for subsistence, through agriculture or fishing, and therefore be particularly vulnerable to environmental damage. Again, women often bear the brunt of the burden, for instance through having to walk further to get clean water. The poor, lacking the necessary skills and education, often fail to benefit from jobs created in the extractive industries; in many cases, employees are brought in from outside of the area. Often these negative impacts from a project occur before it even starts to generate revenues.

In a number of countries, extractive industries have been linked to human rights abuses and civil conflict. Such abuses have been documented, for example, in cases where the army has been called in to guard extractive industries projects. Indigenous peoples and local communities may be forced off their lands to make way for projects, and those protesting the development may be locked up or physically harmed. The large economic rents generated by extractive industries may help provoke or prolong civil conflict. Indigenous peoples are particularly vulnerable. They have a strong connection to their land, and their unique way of life can be destroyed if they are displaced by a project. While indigenous peoples' rights are recognized in international law, they are often in a weak position in negotiations with governments and industry over proposed extractive industries projects—assuming they even get the chance to participate in negotiations at all.

Country-Level Challenges

Unlike other sectors, where benefits are dispersed throughout society in a “bottom-up” approach, benefits from extractive industries often take the form of revenues channeled through central governments, and they may account for the largest portion of government income. The challenge is to ensure the sound use of revenues for poverty alleviation. Governance in developing countries is often weak, characterized by a lack of transparency and higher levels of corruption than in industrial countries. The rule of law may not be well established; legislation may be unclear and inconsistently implemented. Distribution of revenues may reflect domestic politics. Corporate governance is also an issue: company payments to governments may not be transparent, and companies in developing countries may operate according to lower standards than they would apply in operations elsewhere.

Countries need to decide on the best way to exploit their natural resources. Governments may or may not have integrated extractive industries into their national development plans. They need to think about how to capture the most value from these industries: whether to use local companies for development, for example, or to grant licenses to foreign companies. If the latter are used, there is a risk that project inputs, including labor, will be brought into the country and that profits will be repatriated to shareholders, who often live elsewhere. On the other hand, foreign companies often have access to better technologies and are accountable on international markets.

The question is how to maximize the value-added within a country from the development of its resources. There is also a risk that a country becomes overly dependent on extractive industries, leaving it vulnerable to macroeconomic shocks, such as fluctuating commodity prices. Extractive industries exploit finite resources: countries need to make sure that they are on a path to sustainable development once the resources run out.

Countries also need to deal with legal issues relating to extractive industries. The principle of eminent domain, under which governments have the right to dispose of mineral resources, may clash with the land rights of indigenous peoples. There may also be a large and unregulated artisanal and small-scale mining (ASM) sector. Governments need to decide how to treat these individuals and small firms, which can cause major environmental and social problems but which also have the potential to lift people out of poverty.

Global Challenges

The world is getting hotter as rising atmospheric levels of carbon dioxide and other greenhouse gases are leading to climate change. Fossil fuels are large contributors to greenhouse gas emissions. As more countries develop, and as demand for energy increases, the situation will only get worse. At the same time, the major impacts of climate change are expected to fall on developing countries, which are the least equipped to deal with them. The challenge is to move to a more sustainable path of development.

Another important issue for many people in the developing world is the perceived “unequal playing field.” Enormous gaps exist between industrial and developing countries in terms of income levels, assets, education and skill levels, welfare systems, and technology. This is particularly important for the extractive industry sector—an increasingly high-tech, capital-intensive sector requiring skilled and educated labor. Developing countries also point to perceived unfair trade practices by other nations, with low tariffs for extractive industry raw materials and high tariffs for refined products acting as a disincentive for developing countries to engage in more value-added activities. Governments feel at a disadvantage when negotiating with big extractive companies, which have better access to and understanding of the information underlying discussions over production-sharing agreements. Civil society organizations draw attention to the inequalities in the playing field within countries as well, in which most of the people affected by the costs associated with extractive industries have no voice to negotiate benefits from such projects.

• What is the role of the World Bank Group in the extractive industry sector?

In recent years, a large part of the strategy through which the WBG has attempted to achieve poverty alleviation through sustainable development has entailed creating conditions that encourage increased flows of private investment capital to the developing world. This approach has been possible due to political and economic changes that have rendered large parts of the world more attractive to private capital, encouraged and facilitated by WBG policies and those of other international institutions.

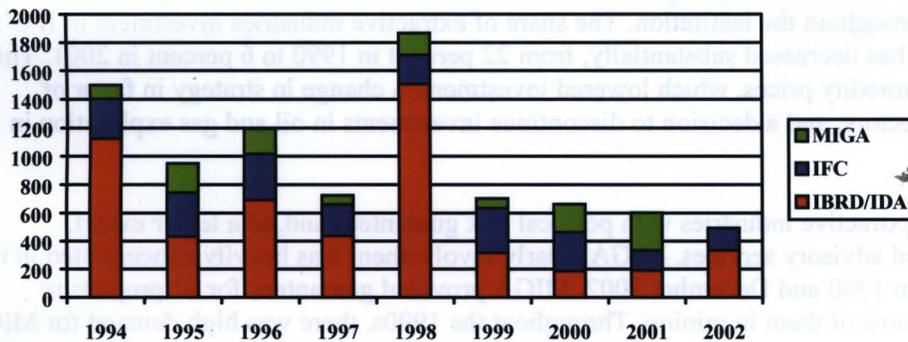
WBG support for the extractive industries has formed a part of this overall strategy. (See Box I–2 for a brief description of that support.) Some developing countries have valuable endowments of minerals or of oil and gas that are very attractive to investors. In some of these countries and regions there are precious few other opportunities for attracting investment. Such resources may not have been developed previously because of concerns about political risks, instability, or governing regimes considered unfavorable by investors. The WBG has

encouraged broader opportunities for development of these mineral endowments by promoting structural reform programs for the reorientation of governing regimes, improved title registries, and broader guarantees for investors, as well as by providing direct support for individual projects.

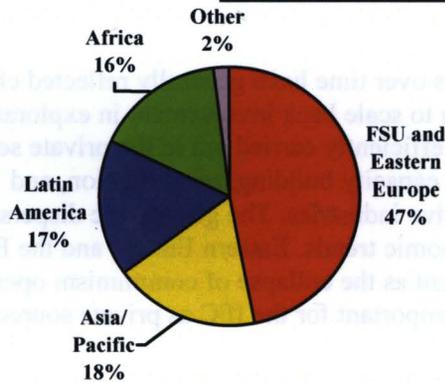
Box I-2. The Evolution of the WBG's Role in Extractive Industries

WBG lending in extractive industries has been volatile during the last decade, with an overall decline in recent years. This reflects in part changing WBG priorities and industry trends. The International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA) have increasingly withdrawn from direct lending 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 mitigating the impacts of the closure of uneconomic mines. More and more investment in extractive industries is taking place in the private sector. Accordingly, the overall share of IFC and Multilateral Investment Guarantee Agency (MIGA) involvement in the sector has increased.

WBG Involvement in Extractive Industries, FY 1994-2002 (\$m)



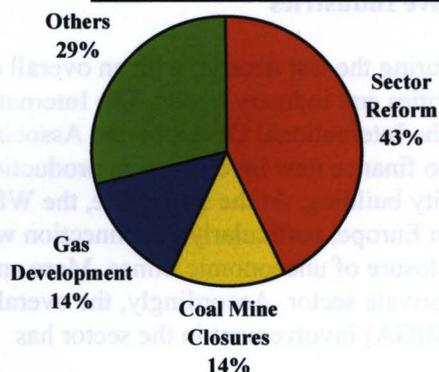
WBG Involvement by Region 1994-2001 (% share)



The role of the World Bank (IBRD/IDA) has evolved from mainly supporting exploration and production activities in the 1960s to the early 1980s, to sector policy reform and commercialization of

state-owned enterprises in the 1980s, and then to a greater emphasis on capacity building and private-sector development in the 1990s. From 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 some gas development projects and a few large “sector rehabilitation projects” whose objectives included a combination of reform measures and steps to increase production or productivity.

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



The IFC has focused on countries where it felt its value added—as a catalytic agent and third party between governments and private investors—was greatest. During 1980–92, IFC approvals in extractive industries increased dramatically, from \$80 million to \$400 million. This was broadly in line with overall growth throughout the institution. The share of extractive industries investment in IFC’s total lending portfolio has decreased substantially, from 22 percent in 1990 to 6 percent in 2001. This was due to falling commodity prices, which lowered investment; a change in strategy in favor of investments in other sectors; and a decision to discontinue investments in oil and gas exploration in 1992.

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. Due to the low volume of new guarantees in extractive industry projects since 2001, and to the 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.

The changes in WBG involvement in extractive industries over time have 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 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 involvement as the collapse of communism opened up these areas to the WBG. Latin America has become less important for the IFC as private sources of funding became 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 as well as human development.

In these terms, the World Bank Group's efforts in the extractive industries have had some significant success. Many countries—by some accounts over 100—have “reformed” their mining codes and in many cases their broader investment regimes as well. Private oil, gas, and mining investments are demonstrably flowing to countries and regions that would not have been remotely attractive to foreign capital even a few years ago. WBG efforts have not been the whole story, but they have been an important part of it.

The WBG has come under attack from a number of critics, however, who argue that its activities in the extractive industry sector have not led to poverty alleviation. Recently an independent evaluation by the WBG's internal evaluation groups reported on the various benefits of WBG involvement in extractive industries, including private-sector development, improved production levels, institutional capacity building and policy reform, rehabilitation or closure of uneconomic mines, environmental cleanup, and integration of ASM into the formal sector. Yet the evaluators noted that the WBG's own documentation and reporting on economic benefits have been limited in terms of the contribution to poverty alleviation.

The WBG itself argues that it has a comparative advantage for influencing the sector through its capacity to catalyze private investment in countries that investors perceive as high risk, its ability to help promote best practices nationally and globally, and its convening power to help stakeholders work together on a level playing field. It works with both governments and the private sector, and increasingly with civil society.

The WBG's leverage is also limited by a number of factors, however—some real, but some also self-imposed, arbitrary, and self-serving. It mainly works through other actors in the sector, such as governments and the private sector, by providing loans. With a few exceptions, therefore, it is limited to projects that will generate enough money to repay the loan. The WBG does not itself manage the projects that it supports, and it can only influence project management through loan conditionalities. Furthermore, the WBG does not have much influence over large member countries such as China and India. This also puts constraints on WBG influence once a loan has been repaid. A further barrier is the WBG's lack of influence over donor countries. This is important to consider when global problems are discussed, such as climate change or trade policies. The WBG can help developing countries do their part in fighting climate change, but it has limited impact on industrial nations. One way to overcome this may be to conduct research on the impacts on developing countries of industrial countries' actions and to make such information available to the public—in other words, to “name and shame” irresponsible actors outside its sphere of influence.

A final consideration regarding the WBG's role in the extractive industry sector is the influence of the institution's internal setup on its capacity to contribute to poverty alleviation through sustainable development. What incentives and scoring grades of staff involved in the extractive industries link their efforts with poverty alleviation through sustainable development? Are different departments effectively coordinating their work? How can the internal setup be improved and better coordinated?

- **Can the World Bank Group strike a better balance in its efforts to alleviate poverty through the development of extractive industries?**

The international community's recent focus on poverty alleviation involves the four main pillars of sustainable development: improved social conditions, environmental protection, economic progress, and good governance. This requires a broader framework of development that has many elements. Among them are the rule of law, respect for and protection of human rights, free access to information about government and business activities, a grievance mechanism, social and environmental considerations in policymaking and project implementation, and provision for the vulnerable of the world—the poorest among us, women, children, and indigenous peoples.

The market fails to capture these elements, and therefore development models cannot rely solely on its workings. Market intervention, incentives, penalties, training, education, capacity building, and moral persuasion are all possible mechanisms to correct for market failures. These need to be put into place by each country.

But countries do not act in a vacuum. In the global context, industrial and developing countries do not operate on a par; at the same time, some groups within countries are much stronger than others. On this unequal playing field, a concerted effort is needed to strengthen the elements of sustainable development that market mechanisms fail to promote. New partnerships are needed between industrial and developing countries and between governments, companies, and civil society. A farsighted World Bank Group can play a key role in building consensus and fostering such partnerships—a World Bank Group that seeks to strike a better balance between the strong and the weak in its efforts to alleviate poverty through the development of extractive industries.

Chapter 2. Findings and Conclusions

The Extractive Industries Review sought to answer a fundamental question: Can extractive industries be a vehicle for poverty alleviation through sustainable development and, if so, is there a role for the World Bank Group to play to achieve this aim? This chapter presents the main findings from the extensive two-year EIR consultation process. These are based on input received from all the different stakeholder groups through the EIR consultation workshops; on project visits; on submissions and other relevant materials received mainly from industry and civil society, including research reports and company reports; on EIR-sponsored research; and on two internal WBG evaluations of the institution's experience with extractive industries.

The Importance of Pro-poor Public and Corporate Governance in Extractive Industries

Extractive industries can yield benefits for countries through tax revenues, foreign exchange earnings, debt payments, production sharing and rents, the provision of jobs and infrastructure, and company social programs. And, indeed, some resource-rich countries have managed to achieve remarkable poverty alleviation outcomes and sustained economic growth through prudent management and allocation of revenues.

Others, however, have not been as successful. Data on real per capita gross domestic product (GDP) reveal that developing countries with few natural resources grew two to three times faster than resource-rich countries over the period 1960–2000.⁵ Of 45 countries that did not manage to sustain economic growth during this time, all but six were heavily dependent on extractive industries, and a majority of them also experienced violent conflict and civil strife in the 1990s.⁶

The Operations Evaluation Department (OED) found that during 1990–99 there was a negative relationship between extractive industry dependence and economic growth for all WBG borrower countries.⁷ In relation to the Millennium Development Goals endorsed by the international community in September 2000, countries that depend on extractive industries for exports are likely to achieve only reduced child malnutrition; the other goals—most notably increasing access to clean water and reducing child mortality, maternal mortality, and HIV/AIDS—are less likely to be achieved.⁸

Globally, oil, gas, and mining are important for the economies of over 50 developing countries. Yet up to 1.5 billion people in these countries are estimated to live on less than \$2 per day. Twelve of the most mineral-dependent nations and six of the world's most oil-dependent states are classified as Highly Indebted Poor Countries, with some of the worst rankings on the Human Development Index prepared by the U.N. Development Programme. The *Human Development Report 2002* shows the highest levels of mismanagement and failed development in many of these countries, as indicated by the discrepancy between a country's

place in the Human Development Index and its GDP ranking. Many of these same countries also show a high level of misappropriation and diversion of resource revenues.⁹

The key difference between resource-rich states that do well and those that do poorly is the quality of government institutions and government policies.¹⁰ When governments are not corrupt, act decisively to prevent currency overvaluation, enact countercyclical policies, manage windfall revenues properly, and promote the needs of the poor, the revenues from the development of oil, gas, and mineral resources can contribute to poverty alleviation.

Has the WBG Focused on Pro-Poor Public Governance in Helping Governments Develop Their Extractive Industries?

There was a strong consensus from all stakeholder groups about the need for increased transparency of payments and revenues as a means to achieve better poverty alleviation outcomes in the extractive industries sector. Civil society, academia, and many governments and companies are united in calling for requirements for extractives companies to “publish what they pay” and for governments to “publish what they receive.”

It is hoped that a legal mechanism, rather than a voluntary effort, would prevent nontransparent or corrupt government officials from obtaining confidentiality agreements, which prevent companies disclosing any revenue payments to them. In the case of oil revenues, however, full transparency would not be achieved by this route, since the significant revenues earned by national oil companies would not be disclosed.

The EIR supports calls on the WBG to endorse and cooperate with civil society initiatives like the “Publish What You Pay” campaign of the Publish What You Pay Coalition and the U.K. Government’s Extractive Industries Transparency Initiative and its implementation. IFC and MIGA should only support investments where net benefits can be secured, counting all externalities, and where revenues are used transparently for sustainable development.

In order for IBRD/IDA activities in a given country to contribute to sustainable development, there must also be supportive economic structures, policies, and institutions. In many developing countries, such elements are lacking.

The World Bank Group is actively involved in reform programs that are aimed at improving the economic policies and institutions that are directly or indirectly associated with extractive industries in many countries.¹¹ Under the guidance of the IBRD/IDA, 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 oil, gas, and mining enterprises. Oil, gas, and mining legislation in more than 70 countries has been strengthened over the last 20 years to ensure protection of capital and to promote investment, in line with WBG advice.¹²

As a result of these measures, many developing countries experienced an investment boom in their mining, oil, and gas sectors. Exploration investment in Africa, 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 has more than doubled between 1990 and 1997.¹³

Many critics suggest that this development of extractive industries often moved forward prior to addressing important governance and market failures that were harmful to the poor, the environment, and the economy. Furthermore, although these policy reforms had significant impacts on the people and the environment of these countries, reforms were not carried out in a transparent way and did not involve the public.¹⁴

EIR-supported research on Peru, Tanzania, and Indonesia found that under structural reform programs, new extractive industry investments were initiated; the environmental and poverty alleviation outcomes were not as positive, however.¹⁵

- Revenue often not transferred to affected communities. In Peru and Indonesia, laws were created to ensure that EI revenue would be returned to local communities or the government. Due to the design of the laws and the lack of transparency, however, little revenue actually reached the communities.¹⁶ In Tanzania, no such revenue-sharing laws or mechanisms were created. From 1991 to 2000, the poverty reduction that took place in Peru (which was only short-term) occurred in Lima and urban Sierra, not in the rural highlands and the Amazon where the mining and hydrocarbon developments are concentrated.¹⁷ A study by the Government of Tanzania indicates that the significant growth in the mining sector has had little impact on employment and incomes of the poor.¹⁸
- Increased social antagonism and conflict. In the study countries, there was significant social unrest associated with extractive industry investment activities initiated under the structural reform programs. Furthermore, social unrest, in part related to structural reform programs, has had direct negative impacts on the investment climate in all three countries. For example, in Indonesia foreign companies have frozen or abandoned mining investments worth \$2 billion since 1998, stating that disruptive activism at mine sites and a weak policy framework caused them to withdraw.¹⁹
- Exacerbated macroeconomic imbalances. In some cases, structural reform processes have exacerbated macroeconomic imbalances and increased vulnerabilities. Case study examples include increased vulnerability to external shocks associated with significant reliance on EI and fluctuating international EI commodity prices; decreased tax revenues; increased economic dependency on primary commodities (that is, manufacturing of value-added goods decreased); significant negative pressure on balance of payments from increased energy imports, largely to support the expanding mining sector; and domestic private-sector development stifled by significant concentration of foreign-controlled EI assets.

In some cases, IBRD/IDA structural reform programs corrected important market, policy, and institutional failures, such as state monopolies and political interference in price-setting. In all of the study countries significant failures persisted, however. Even worse, new problems were created. Significant extractive industry expansion occurred prior to addressing several

important failures that are harmful to the poor, the environment, and the economy. Often the accelerated selling off of key state-owned mineral and hydrocarbon assets, mostly to foreign investors, resulted in contracts that locked in weak environmental and social standards for 10 years or more and created powerful vested interests that may make it difficult in the future to implement overdue social and environmental reforms.²⁰

Privatizing State-owned Companies

Testimony from labor and community representatives from Eastern Europe revealed that in the drive to privatize and liberalize the EI sector, many WBG mine closure projects in the coal sector were underfunded, at the expense of social and other concerns. In one case, a government established a single company to monopolize mine closure programs. Projects were not always suitably categorized in accordance with their real impacts. Furthermore, inappropriate models for restructuring had been used, with too little time between the pilot and follow-up stages. This resulted in situations where communities were poorer than before. In some cases labor's views were ignored, creating distrust and fear of job losses, unemployment, and further poverty. The lack of transparency and involvement of all stakeholders in the process of privatization contributed to socially unacceptable close-down strategies of unprofitable state-owned companies. Often privatization and liberalization of the extractive industries sector took place before an effective legal and regulatory framework was in place.

In the internal study of WBG experience in extractive industries, the evaluators note that *“the Bank’s efforts at commercialization, privatization, and improving the climate for private investment yielded largely positive returns in terms of increased investments and exports and reduced burden on state budgets. . . . The positive results were associated with strong government commitment, the prior establishment of an appropriate legal and regulatory framework, and flexibility on the part of the Bank. However, even where earnest efforts were made, volatile commodity prices and macroeconomic crises adversely affected some of the outcomes.”*²¹ The WBG’s documentation and reporting on the economic benefits of the projects, however, such as economic analyses after the fact and other quantitative indicators, have been limited.

Since the positive returns in that evaluation were measured in terms of increased investments and exports and reduced burden on state budgets, it is difficult to conclude that the mine closures and the privatization of mines had positive poverty alleviation impacts. The EIR concurs that for privatization to succeed, it is imperative to have an established and effective legal and regulatory framework in place. However, it is also imperative for privatization to be carried out in a transparent way, with meaningful public participation.

WBG Collaboration with the International Monetary Fund in Structural Reform

In the EIR case study countries—Peru, Tanzania, and Indonesia—IBRD/IDA collaboration with IMF operations took place mostly at the lead economist level. There was very little, if any, interaction between Fund staff and WBG sectoral, poverty, or environmental specialists.²²

IMF collaboration is very important to the outcomes of IBRD/IDA structural reform programs on several fronts. First, IMF operations have significant implications for WBG-supported

development objectives. Second, as a prerequisite for WBG structural adjustment lending, a country typically must have an IMF program in place. In one of the case studies, socially and environmentally based IBRD/IDA loans were cancelled due to a lack of progress on IMF structural benchmarks. Third, even though the IMF has no environmental and few social requirements for lending, WBG operations staff have repeatedly stated that the WBG has no responsibility for assessing the environmental or social impacts of IMF policy prescriptions, even though, according to the framework for their collaboration, the WBG is the lead agency responsible for environmental policy areas.

In general, IMF objectives and program-specific targets tend to place less importance on institutional reforms. To begin with, the IMF's objective for structural adjustment is for short-term macroeconomic stabilization. Thus IMF program conditionalities are often based on aggregate economic indicators or specific targets regarding the number of privatizations and commercial legislative measures. It is extremely rare for an IMF program to consider, much less require, the soundness of social or environmental policy and institutional frameworks.

In the case studies, the IMF's approach to the extractive sectors was mainly one that promoted aggressive privatization of significant mining and hydrocarbon assets for short-term financing of the deficit. This did nothing to ensure the creation of competition, efficiency gains, development of a domestic private sector, or environmentally and socially sound development strategies for the extractive sectors.

Governments' Desire for More-Balanced Development

Governments are concerned about how to foster industrial development that is balanced between large transnational companies and smaller domestic businesses, as well as about balancing national, regional, and local development. One of the complaints governments direct toward the WBG is that the policy reforms it promotes often are not concerned about this kind of "balanced" development in all sectors of the economy.²³ They would like to retain as much wealth as possible and to generate more employment from value-added and semi-finished extractives products, and they seek WBG support to foster relevant research and development.²⁴ However, this area has not received much support from the WBG.

The WBG has not devoted enough attention to the developmental needs of poorly performing, resource-abundant countries, many of which experienced negative growth during the 1990s.²⁵ To address this gap, the WBG needs to formulate and implement integrated strategies at the sector and country levels for transforming resource endowments into sustainable development. These strategies should start with the presumption that successful extractive industries projects—whether financed by the WBG or not—should not only provide adequate returns to investors but also provide revenues to governments, mitigate negative environmental and social effects, and benefit local communities. The strategies will also need to address governance squarely and help to ensure that extractive industry revenues are effectively used to support development priorities. They will require, in addition, much better cooperation across the WBG and with other stakeholders.²⁶

Has the WBG Promoted Pro-Poor Public and Corporate Governance at the Local Level?

The WBG currently does not consider “direct” or “local and regional” poverty alleviation goals as mandatory for the extractive industries projects it finances. Regarding the extent to which IFC and MIGA have dealt with the broader issues influencing the sustainability of extractive projects, the Compliance Advisor Ombudsman (CAO) concluded that the “economic and governance aspects scored lowest of the three sustainability dimensions that were examined.”²⁷ The “economic and governance dimension” includes issues of revenue management, corruption, political stability, and linkages to local and wider economic development. All these issues are most relevant in achieving sustainability and poverty goals. Until now, these “sustainability dimensions” are not considered mandatory criteria by IFC and MIGA.

The lack of poverty alleviation benefits at the local level was a repeated theme throughout the entire EIR process. (See Box I-3.) Testimonies reported increased poverty due to various problems related to extractive industries—ranging from polluted rivers to loss of access to grazing grounds, loss of access to forests, increase in the price of basic needs, increase in sickness, and increase in other social problems.

Box I-3. Lack of Monitoring on Poverty Alleviation

Data gaps are enormous in reporting, hampering transparency of WBG information. There is an absence of publicly available empirical data on the impacts and benefits of the IFC and MIGA investments and guarantees. Furthermore, data are collected at the time of environmental or social impact assessments but rarely tracked over time. Virtually no gender analysis is publicly available about employment or impacts of projects on women and children. When schools and medical clinics are reported, use of them (versus use of other informal medical systems) is not tracked. More-extensive data are needed for adequate poverty assessments, such as access to potable water, access to services and infrastructure, education levels of women and children, women’s income, and other quality-of-life measures. In the absence of reliable data, it is impossible to conclude that poverty reduction is achieved through investments and guarantees in the extractive industries.

Data are gathered almost unilaterally by companies and validated through project visits. There is very little participatory evaluation or monitoring of IFC or MIGA projects, with a notable exception of the newly formed committees overseeing the Chad-Cameroon pipeline. Poverty reduction measures are therefore not likely to be defined locally and rarely validated by third parties.

Lack of transparency and consistency in reportage leads to inconclusive data. While the WBG consistently concludes that poverty reduction is a key outcome of the extractive industries, EIR-funded research could not validate sufficient data to come to this conclusion.

Source: Gibson 2003.

At the project or local level, the picture of poverty alleviation is mixed. Resource extraction can create poverty directly by damaging the environment on which subsistence economies depend and by creating new social and economic problems. Indigenous peoples and local communities alike assert that their sociocultural integrity and well-being are time and again undercut by extractive projects.²⁸ On the other hand, projects can create job opportunities for

local people, encourage local businesses, and provide vital infrastructure for remote communities that do influence development positively, such as roads and education and health care facilities.²⁹

A multiproject analysis and case studies on community perspectives of IFC and MIGA investments and guarantees commissioned by EIR indicated that project funding in the extractive industries has not had poverty reduction as its main goal or outcome.³⁰ And qualitative investigation reveals that the poorest do not benefit from extractive industries. Qualitative research indicates that investments that do make contributions to poverty alleviation and capacity building through infrastructure (such as electrification of a region or potable water systems) do not benefit the poorest because tariffs are out of reach or distribution systems are not egalitarian.³¹

One of the central questions throughout the EIR process was how to ensure that local communities do not become victims of extractive industries and can participate actively in experiencing the benefits. Representatives of local communities clearly conveyed to the EIR that they needed recognition in the form of consultation processes to obtain their consent to a project, timely and meaningful information to base their decisions on, fair benefit sharing, and trusted grievance mechanisms that could resolve disagreements in a fair and just manner.

The Need for Processes to Obtain Prior Informed Consent

Many grievances from communities and especially from indigenous peoples living near extractive industries projects relate to their claims that their rights to participate in, influence, and share control over development initiatives, decisions, and resources are ignored. EIR findings suggest that when this happens, often the result is ongoing conflict that is detrimental to all stakeholder interests.

Current World Bank policy does not require that projects involve communities in terms of influencing or sharing control over development initiatives, decisions, and resources.³² MIGA and IFC also have no explicit commitment to ongoing consultation after a project has been approved.³³ Furthermore, an evaluation by the Operations Evaluation Unit found that one of the weakest areas of safeguards consistency for the projects reviewed was public consultation and disclosure of environmental and social impacts.

In many developing countries, rural farmers, forest dwellers, and indigenous peoples do not hold nationally recognized legal title to the lands they have lived on from generation to generation. In this situation, when a company is granted the legal right by a government to exploit resources in certain territories, locals and indigenous peoples may be evicted from their traditional lands or lose access to land that may hold cultural and survival significance to them. When this happens without talking to and receiving the consent of those who live there, it can result in a breakdown of communities and cultural norms, as well as cutting people off from their sources of livelihood.

EIR received numerous reports on this issue, including situations where:

- communities no longer had access to traditional forests to gather products they previously had depended on for cash income and consumption;

- traditional small-scale miners were displaced, most often without the provision of alternative income or compensation;
- sacred sites and burial grounds were desecrated by extractive companies, and community elders complained about a growing disregard of traditional norms and values;
- well-functioning communities broke 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
- there was often the increased risk of corruption by local officials dealing with land issues and an increase in organized crime against landowners who received compensation.

Observing that indigenous peoples have and continue to suffer from discrimination, and “in particular that they have lost their land and resources to colonists, commercial companies and State enterprises,” the Committee on the Elimination of Racial Discrimination called upon states-parties to the Convention of the same name to “ensure that members of indigenous peoples have equal rights in respect of effective participation in public life, and that no decisions directly relating to their rights and interests are taken without their informed consent.”³⁴ The Committee later recognized indigenous peoples’ right to “effective participation . . . in decisions affecting their land rights, as required under article 5(c) of the Convention and General Recommendation XXIII of the Committee, which stresses the importance of ensuring the ‘informed consent’ of indigenous peoples.”³⁵

Article 15(2) of International Labour Organization (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(2)’s general requirement that consultation be undertaken “in good faith . . . in a form appropriate to the circumstances, with the objective of achieving agreement or consent,” and Article 7(1), which recognizes that “the people concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control . . . over their own economic, social and cultural development.”

The Inter-American Commission on Human Rights 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.”³⁶

Finally, in 2003 the UN Permanent Forum on Indigenous Issues called on the WBG “to address issues currently outstanding, including . . . recognition of the right of free, prior informed consent of indigenous peoples regarding development projects that affect them.”³⁷

Some governments embrace the issue of free prior and informed consent (FPIC). Others are more hesitant to make such a commitment.

Many 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 and the International Association of Oil & Gas Producers have noted the importance of community participation: “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.”³⁸

Although it is time-consuming, involving local communities on an equal basis in the extractive industry sector at the national as well as at the local level can result in positive outcomes for all stakeholders concerned, as well positive outcomes for the environment. (See Box I-4 for one example of this.)

Box I-4. 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. This sector contributes some \$36 billion to the nation’s 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 to port volume and 60 percent to rail freight revenues.

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 WMI Accord includes 16 principles, 70 goals, and a commitment to follow-up actions. The principles and goals became the first step toward revitalizing mining in Canada—it involved changes to restore the industry’s ability to attract investment for exploration and development and at the same time ensure that the goals of Aboriginal peoples, the environmental community, labor, and governments would be met.

The Aboriginal peoples have their own perspective on 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

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 have 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."

The trust and the partnerships that began with WMI have contributed to, among other things, the Minerals and Metals Policy for Canada, the new species-at-risk legislation, the national biodiversity forum, and efforts to address the issue of abandoned and orphaned mines.

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

The EIR concludes that indigenous peoples and other affected parties do have the right to participate in decisionmaking and to give their free prior and informed consent throughout each phase of a project cycle. This consent should be seen as the principal determinant of whether there is a "social license to operate" and hence is a major tool for deciding whether to support an operation. However, the EIR also acknowledges that there are real issues that need to be worked out to make FPIC a clearer and more effective tool. These should be worked out in cooperation with bodies that have expertise in indigenous peoples' issues, such as the U.N. Permanent Forum on Indigenous Issues, which has established a working group on the topic.

The Need for Access to Meaningful and Timely Information

To participate meaningfully in decisionmaking, timely access to relevant information is necessary. In many cases, local communities and indigenous peoples in developing countries with WBG-supported projects do not have the capacity or the institutions to negotiate in an international context. Efforts from governments, extractive industry companies, and the WBG to bridge this gap varied. They sometimes only received serious attention after a problem, such as a mercury spill or a cyanide spill in a gold mine, had occurred.

Consultations between extractive industry companies and local communities encounter various problems that hinder people's participation. Examples found by the EIR include:

- 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 certain people or groups are invited, or the meetings are organized at an inconvenient time or location.

- The process of consultation is often not adequately monitored by WBG staff.
- Women are often not included in the consultation process, even where the local community follows a matrilineal tradition.

Often communities do not know that the WBG is involved in a project. Community members interviewed by EIR-supported researchers in Bolivia and Turkey were unaware of the investor in IFC-related projects.³⁹ This has important implications. And even though the IFC has grievance mechanisms available, people are unlikely to know about them. They also do not know about any of the Safeguard Policies, community engagement strategies, or environmental management recommendations that are now part of IFC policies for corporations with investment. But communities without accidents or grievances seem to have little information available to them. This suggests a reactive information strategy on the part of both the company and the WBG.

In the EIR-supported research on both Bolivia and Turkey, a key problem was the lack of access to information. Community members in Bolivia had little access to information about the mine, although some data on reclamation and environment have been disseminated. People have three key information needs: current and possible future impacts on the environment, amount of taxation and royalties paid to the state, and details of the support given to the municipal authorities by the mine. In the absence of information, they have inflated visions of how much money has gone to the state and how much gold has been extracted and processed. Without past transparency on finances and taxation, community members distrust the company and the government.

The WBG, together with other key stakeholders, will need to improve the transparency of information relating to the projects it is involved in, especially at the local level, to encourage trust and participation in the whole project cycle of an EI project. This could potentially have very positive outcomes, especially for poverty alleviation. And it would also help companies secure a legitimate social license to continue operating.

Community Development and Benefit Sharing

Communities living close to extractive industry projects should benefit from these projects. Community development is a viable way to deliver these benefits.

There are many “best practice” examples where companies are working to involve local communities for more balanced development. Some companies are proactively trying to be a catalyst for community-driven development by establishing multistakeholder forums and foundations as platforms for discussing issues and planning community development, funded, for example, by a trust fund. Some projects actively seek to promote consultation, empowerment, participation, partnership, sustainability, transparency, and respect for human rights as basic values. And they conduct annual participatory planning activities with directly affected villages to enable communities to drive their own development, assisted by project resources and partnerships with other stakeholders.⁴⁰

Governments at the local level face a number of challenges in managing economic factors related to extractive industry projects. 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. Very often the fiscal mechanisms are not in place to allow this to happen, nor is there the capacity at local level to attempt social and economic development.⁴¹ Faced with such challenges, the Government of the Philippines, for example, fostered a multistakeholder approach in which national government, local government units, the mining contractor, and civil society organizations work together to address the many issues that arise in developing a mining project. A revenue-sharing mechanism has been put in place that 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 impacts and that involve the public throughout the project life cycle.⁴² This illustrates the importance of involving national and local governments. Mechanisms have to reflect national priorities as well as balancing the interests of all sectors of society.

Community development needs to be institutionalized in the plans of governments and communicated clearly to corporations investing in extractive industries, and it needs to be carefully planned with a range of stakeholders, including the government, grassroots communities, and corporations.⁴³ Furthermore, there is a need to develop community-driven poverty assessments and evaluations of projects, with sequencing of data collection over time. Since poverty reduction is a key goal, communities closest to extractive projects need to become involved in participatory assessments of projects.⁴⁴

The Need for Access to Trusted Grievance Mechanisms for Local Communities

In countries with weak legal frameworks that experienced a rapid expansion of the extractive industry sector, social antagonism and conflict could also increase. Communities, NGOs, indigenous peoples, and local government officials all acknowledge the need for trusted and effective grievance mechanisms.

Lacking such mechanisms, many 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 throughout the world. The Oxfam Community Aid Abroad Mining Ombudsman, an NGO that provides an accessible mechanism worldwide to communities with grievances against or facing conflicts with Australia-based mining companies, found that the grievances of indigenous peoples and local communities affected by mining activities often come from direct denials of their basic human rights—especially their rights to free prior and informed consent, self-determination, and land and livelihoods. These grievances have proved to be largely similar across the industry and throughout the lifecycle of exploration and mining projects.⁴⁵

Many EI companies suggest that the WBG needs to transfer the conflict resolution capacity of the CAO to local institutions and people. This would empower local actors to build trust and confidence in each other’s objectives. Many industry representatives see the value of having

grievance mechanisms to ensure that there are no unresolved conflicts or human rights abuses. A pragmatic and short-term approach to provide access to grievance mechanisms for communities could be the Business Partners for Development (BPD) model (described later in this chapter).

The U.N. Economic Commission for Europe's Aarhus Convention principles could provide a long-term model for addressing community access to grievance mechanisms.⁴⁶ (See Box I-5.) The treaty is relevant here because it is an intergovernmental environmental agreement that links environmental rights and human rights, acknowledges an obligation to future generations, and establishes that sustainable development can be achieved only through the involvement of all stakeholders. This is done by linking government accountability and environmental protection, focusing on interactions between the public and public authorities in a democratic context, and forging a new process for public participation in the negotiation and implementation of international agreements.

Box I-5. The Aarhus Convention, U.N. Economic Commission for Europe

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: UNECE 1998.

The Need to Integrate Small-scale and Artisanal Mining into the Formal Sector

Global employment in mining in 2003 stood at about 10–11 million, more than half of whom worked in coal mines. But even more than that—an estimated 11–13 million people—are engaged in artisanal and small-scale mining around the world.⁴⁷ Yet WBG support for major mining companies versus small-scale mining initiatives is seriously imbalanced. For the period of 1990–2002, the IFC provided \$1.2 billion to multinational mining corporations, an average of \$100.8 million a year. Although it is much more difficult to pin down a number for WBG support of small-scale mining initiatives, in 2002 it appears the figure was \$610,100.

Concerns about the damaging environmental and social impacts of uncontrolled artisanal and small-scale mining, especially from itinerant miners, are valid. Yet a regulated ASM sector can play an important developmental role through boosting employment, supporting communities, and alleviating poverty. Negative social, environmental, and health impacts associated with ASM can be mitigated through effective education campaigns, such as on HIV awareness, and through access to clean technologies and skills.

In Papua New Guinea (PNG), for example, small-scale gold mining is legally recognized by the state and all alluvial gold is reserved for citizens.⁴⁸ Small-scale mining is well regulated as a consequence of the country's mining history, the development of its mining law, and a very strong tradition of customary ownership rights to land.⁴⁹ Mining regulations are enforced by Mining Warden and Mines Inspectors. Courts and police are also often used to ensure enforcement. This has helped ASM contribute to poverty alleviation.⁵⁰ With good regulations in place, mine closures can also be planned in a more sustainable way. At the BULOLO mine, for instance, a well-planned closure led to a small-scale mining company developing a sustainable plantation timber project using infrastructure established by the mining operations. This plantation is still financially viable today, 35 years after the mine closed, and is sustaining a local community, many of whom are descendants of the former mine workers.

Being legally recognized by the state also means small-scale mining in PNG can be supported by international aid agencies and industry through education and training and through microfinance programs from AusAid, the World Bank Group, the Japanese Social Development Bank, the Asian Development Bank, and Sysmin (the European Union). These programs have increased awareness in overall environment and safety issues and led to a steady increase in annual production.

The WBG was one of the sponsors of the Communities and Small-Scale Mining (CASM) initiative launched in March 2001. CASM aims to improve the economic, social, and environmental performance of 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 on the sector. It also aims to match potential projects with sources of funding. Several WBG projects have had ASM issues as significant components; project involvement included improving the legal framework and formalizing ASM activities, increasing tax revenues, building government capacity to deal with the ASM sector, improving production and efficiency, and improving environmental awareness and management.

Environmental and Social Components in Development of Extractive Industries

Are Environmental Costs Being Internalized Adequately?

Extractive industry activities can have profound environmental impacts near a project site as well as 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. At the global level, a major concern regarding extractive industries in general is their contribution to climate change.

Marginal gains in environmental mitigation linked to WBG assistance have been unable to offset the overall increase in environmental degradation associated with the significant expansion in exploration and production in the EI sector. Recent World Bank Group reviews assert that government environmental management remains weak. For example, in Tanzania the environmental impact assessments, which are driven mainly by WBG requirements, are no more than guidelines, with no legal requirements to mitigate identified impacts.⁵¹

The issues related to the internalization of environmental costs of extractive industries that surfaced throughout the EIR process included accident prevention in the oil and mining industries, biodiversity protection, waste management, and project closure. Also of concern was the “legacy of the past”—the result of the EI sector’s failure to internalize environmental costs in earlier projects.

Accident Prevention and Emergency Response in the Mining Industry

The World Bank Group’s mandate includes ensuring that economic development contributes to poverty alleviation and sustainable development that protects the environment. In this context, the WBG needs to coordinate closely with international bodies working on accident prevention in the EI sector.

The EIR learned about a number of accidents in WBG projects in extractive industries, in which communities and NGOs felt that companies were not entirely forthcoming about impacts, the extent of the accident, or the nature of emergency plans in case of accidents. These kinds of accidents can have serious impacts on the environment and the life of communities; they can also be of high cost for companies, both financially as well as for their reputation.

In May 1998, for example, a delivery truck to the Kumtor gold mine financed and insured by IFC and MIGA accidentally released up to two tons of sodium cyanide into the Barskoon river in Kyrgyzstan.⁵² There was a delay of five hours in notifying downstream villages, and the emergency response was poor. Testimonies highlighted social, environmental, and governance problems arising from the spill, revealing insufficient emergency response plans, lack of access to information, reports of intimidation when people were critical of the situation, and health as well as economic problems.

In 2000, a truck spilled 300 pounds of mercury close to the IFC-financed Yanacocha mine in Peru. Between 200 and 300 people were subsequently hospitalized for contamination from mercury poisoning. In this case, local people were not aware of what to do in such an emergency in order to avoid health problems. In fact, the Spill Prevention, Control and Response Plan of the company contained no specific mention of mercury. Nor did it include any analysis or discussion of chlorine gas as a hazardous material (125 metric tons are used there a year for water treatment during the rainy season).⁵³

Some 150 mining environmental accidents occurred between 1983 and 2002. Of these, 15 involved cyanide—7 were tailing dams failures, 4 involved pipe failures, and 4 involved truck

accidents.⁵⁴ 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 the U.N. Environment Programme (UNEP), with multistakeholder input, developed a code for the manufacture, transport, and use of cyanide in the production of gold—the International Cyanide Management Code. This voluntary program 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 and to see if their requirements for meeting the code can be certified.⁵⁵ While the EIR welcomes these kinds of initiative, it cannot endorse them because of concern that the code's acceptable concentration of cyanide might still be toxic to a great many aquatic organisms in the environment.

Another multistakeholder initiative initiated by UNEP in this field is Awareness and Preparedness for Emergencies at a Local Level (APELL) for Mining. 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. 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.

Despite all these efforts, poor environmental performance is not limited to past operations. According to a study by the International Commission on Large Dams, about two mine structure accidents have occurred per year in the last six years.⁵⁶

Accident Prevention in the Oil Industry

The majority of oil consumed is transported either by pipeline or by tanker. Oil spills are massively polluting, reducing fisheries and tourism and harming bird life. Most spills occur from pipelines and fixed location facilities, and these are usually classified as small spills (less than 7 metric tons), but tankers cause the largest volume spills.⁵⁷

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 of the International Maritime Organization, UNEP, and the oil shipping industry. In 2000, for example, 99.9992 percent of oil transported worldwide by sea was delivered safely.⁵⁸ Nevertheless, according to the International Tanker Owners Pollution Federation, which since 1974 has maintained a database of oil spills from tankers, combined carriers, and barges, there were 18 spills of less than 700 metric tons during 2000, 16 in 2001, and 12 in 2002, and there were 3 spills in each of those years of more than 700 metric tons.

In its 1978 Protocol, the International Convention for the Prevention of Pollution from Ships (the MARPOL Convention) mandated the phaseout of single-hulled tankers by 2025. After the 1989 *Exxon Valdez* spill (11 million gallons of crude oil), the United States unilaterally accelerated single-hulled graduated phaseout to 2015 for tankers using U.S. waters.⁵⁹ U.S.

regulations enacted under the Oil Pollution Act of 1990 require that tankers operating in U.S. waters must have double hulls.

In November 2002, the *Prestige* sank off Galicia, Spain's richest fishery grounds, carrying 77,000 metric tons of heavy fuel oil (HFO). After it finally sank at the end of the following March, the European Union passed new measures on maritime safety, including a ban on transporting HFO in single-hulled ships and their complete phaseout between 2005 and 2010, depending on the kind of the vessel. The single-hulled *Prestige* was a "flag of convenience" ship. Such vessels often avoid international regulations and they contravene the Convention on the Law of the Sea, which states that there must be a genuine link between the flagging state and the vessel.

At the EIR workshop in Budapest, civil society raised the issue of contamination due to oil spills in the Komi republic. This was one of the world's largest oil spills, which occurred due to a leak from the Usink regional pipeline when the temporary dams and dikes constructed to contain the oil failed. The spill trapped 100,000 metric tons of oil in bogs and creek beds and drenched 69 hectares of tundra with oil, threatening the health and livelihood of the people and the salmon-rich waters of the Kovla, Usa, and Pechora river basins.⁶⁰ The WBG approved a \$99-million loan to help Komineft, the regional oil company that controlled the pipeline, and the Russian Federation clean up the spill and to prevent other spills in the future. In October 1995, the World Bank in a joint press conference with Komineft and AES/Hartec (the international oil spill cleanup contractor) declared the cleanup a success. Greenpeace visited the site in 1999 and 2000, however, and claimed that there had been more oil spills since 1994 and that the contamination problems in the area were severe. Greenpeace offered to carry out a joint visit to Komi with the WBG but was turned down. It was suggested that the WBG should bring in independent experts to monitor the impacts of any "clean-up" projects.

The Baku-Supsa pipeline is another focus of concern. WBG representatives at the Budapest workshop acknowledged that "best available technology" had not been requested for this pipeline. When the IFC developed guidelines on mining and offshore oil and gas development in 1995, the underlying premise was not to require best available control technology. Workshop participants suggested that the WBG become a standard-setter now by implementing the best available technology in its guidelines, which the revision of the 1998 Pollution Prevention Abatement Handbook provides an opportunity to do. For the Early Oil project in the Caspian, although the WBG did not require the best available technology, it did tell operators to identify toxicity levels for discharges into the sea, to ensure they were at acceptable levels. Monitoring reports, according to the WBG, confirmed that the ecological impact from those discharges was not significant. The lack of independent monitoring on these findings was an issue for civil society, however.

Workshop participants in Budapest were also concerned about the lack of emergency response plans, at both the company and the national level, to deal with possible oil spills in the Caspian Sea from projects jointly funded by the WBG and the European Bank for Reconstruction and Development. It had been clear that for the Early Oil Project an oil spill response plan was required that did not rely on the government but was tailored to the project itself and had the capacity to deal with two or three oil spills. Workshop participants, however, especially those from civil society, maintained that it was important for governments to have national response

plans for oil spills, stating that national oil spill response plans were not being developed fast enough. Since the Budapest consultation, the five littoral States in the Caspian region have developed and finalized an Emergency Protocol (to the Framework Convention) and a regional contingency plan. The recent signing of the Framework Convention in early November 2003 by the five states is a positive step forward for the region.

The WBG needs to focus more on improving the safety in the transportation of oil by ensuring the best available technology to prevent accidents and by promoting assistance to governments to enable effective emergency response abilities when accidents do happen.

Biodiversity Protection

In 2000, IUCN–The World Conservation Union called on governments to prohibit mining, oil, and gas development in IUCN I–IV protected areas (see Box I–6) and recommended that any extractive activity in categories V and VI take place only if it is compatible with the objectives for which the protected area was established.⁶¹ Not all governments have explicitly prohibited mining in IUCN I–IV protected areas, but some have, including the Philippines.⁶² In Indonesia, the Department of Forestry had a similar law, prohibiting open pit mining in protected areas, but this was contested by a new mining law that subsequently won, making it possible for EI companies to operate in protected areas. In this case, allowing mining in protected forests was a measure encouraged by the WBG.⁶³

Box I–6. 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	<u>Strict Nature Reserve/Wilderness Area</u> : protected area managed mainly for science or wilderness protection.
Category II	<u>National Park</u> : protected area managed mainly for ecosystem protection and recreation.
Category III	<u>Natural Monument</u> : protected area managed mainly for conservation of specific natural features.
Category IV	<u>Habitat/Species Management Area</u> : protected area managed mainly for conservation through management intervention.
Category V	<u>Protected Landscape/Seascape</u> : protected area managed mainly for landscape/seascape conservation and recreation.
Category VI	<u>Managed Resource Protected Area</u> : protected area managed mainly for the sustainable use of natural ecosystems.

Similarly, in Ecuador a Technical Assistance Loan was used to fund the PRODEMINCA mining project to gather mineral geological information from 3.6 million hectares of western Ecuador, one of the world's 25 biological "hot spots." The survey also took mineral samples from seven officially protected areas, including the Cotacachi-Cayapas Ecological Reserve, arguably one of the world's most biologically diverse protected areas. Samples were also taken

from many private legal protected forest reserves, including the 6,000-hectare Los Cedros Reserve. The samples were analyzed for valuable mineral resources, including platinum, gold, silver, and copper. The project created thematic maps showing areas of mineral extraction potential, thus putting pressure on the nation's system of protected areas.⁶⁴

EIR-financed research on the environmental and poverty alleviation impacts of WBG-supported structural and sectoral reform in the extractive industries sector found that in Peru, 112 of 143 new hydrocarbon exploratory wells are in the Amazon. Many EI concessions overlap indigenous and biodiversity-rich protected areas, including protected areas supported by WBG project funding.

If the WBG is endorsing EI activities in protected areas, this could be counterproductive to the organization's commitment to sustainable development. Furthermore, a recent CAO report reviewing how IFC and MIGA have been dealing with sustainability issues in extractive industries found that where valuable habitat is sometimes affected by projects, there is not always adequate provision for mitigation measures. It further concluded that "where impacts on rare, protected, threatened, or endangered species were identified, there was a tendency to accept these impacts as inevitable, rather than develop proactive mitigation measures. Neither the Natural Habitats nor Environmental Assessment policies provided clear guidance on how to approach ecological impact and mitigation."⁶⁵ Combined with the tendency to endorse EI activities in protected areas, this current WBG approach could have serious impacts on biodiversity.

Several initiatives have developed decisionmaking tools about areas for EI operations to avoid in order to protect biodiversity. (See Box I-7.)

Box I-7. Developing Criteria for "No-Go" Zones

"No-Go" Zones in the Extractive Industry Sector: A World Wildlife Fund discussion paper released in 2002 identified criteria and indicators for designating "no-go" areas for mining. The paper proposed a decision tree consisting of three filters: protection status, potential threats to biodiversity, and potential threats to human communities. Conservation International recently released a similar "site selection" decision-tree framework for the oil and gas industry, which considers biodiversity impacts only.

Identifying "High Conservation Value Forests": Principle 9 of the Forest Stewardship Council's Principles and Criteria of Forest Stewardship introduced the concept of "high conservation value forests." These do not necessarily constitute "no-go" areas; however, Principle 9 stipulates that any industrial use of these forests must maintain or enhance their conservation values. Efforts are under way to define specific criteria to identify such forests.

Source: Miranda et al. 2003.

Waste Management

Many of the environmental problems associated with mining stem from the management of waste.⁶⁶

- Sediments from waste dumps and tailings may be disposed of or erode into waterways, harming fish and other aquatic wildlife.
- Acid drainage occurs when sulfide-bearing rock reacts with air and water, producing acidic waters containing dissolved metals that may drain as runoff into water bodies, killing aquatic flora and fauna. This is arguably the most severe environmental impact associated with mining because once it occurs, costly and perpetual water treatment is often the only solution.
- Tailings often contain heavy metals as well as reagents used in processing, such as cyanide. Poor tailings management may result in the release of metal-laden waste into the environment. In addition, heavy metals may be leached as a result of acid drainage.

Tailing dam accidents can also pose an acute threat to the environment and human health. For example, the Baia Mare spill on the river Tisza in central Eastern Europe in early 2000 was caused by a tailings dam rupture and released 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 river.⁶⁷ A review by UNEP and the Mineral Resources Forum suggests that the accident was due to deficiencies in the design of the system, especially in fail-safe features in case of unusual operating conditions; to deficiencies in operation of the plant relating to precautions against overflows and spills and in terms of emergency response to plans; and to weak and inappropriate permitting of the facility, along with inadequate monitoring and inspection.⁶⁸

Riverine tailing disposal is considered by some companies to be a practice of the past that is no longer acceptable. Scientific evidence clearly demonstrates that this method of waste disposal causes severe damage to water bodies and surrounding environments, and at least three major mining companies—Falconbridge, WMC, and BHP—have made public statements that they will not use riverine tailings disposal in future projects. In practice, this technology is being phased out due to recognition of its negative consequences: today only three mines in the world, all on the island of New Guinea, still use this method to dispose of mine wastes. The EIR agrees with the call for a ban on riverine tailings disposal.

Submarine tailings disposal (STD) is currently the waste disposal procedure preferred by many mining companies planning large-scale operations in mountainous areas of active seismicity, particularly in Southeast Asia and the Pacific. If major projects proposed for the region receive permission to use STD, there could be a significant increase in its use in the next 10 years for already approved and proposed large-scale mining operations. This is also a critical region of maximum marine biodiversity and thus of global marine conservation significance. The effects of STD (if any) on tropical marine life, marine resource use, and ecosystem function are not well understood, and there is an urgent need to address the major

gap in biological data on the possible effects of STD on tropical marine ecosystems, particularly in the Indo-Pacific deep sea.⁶⁹ On the basis of the precautionary principle, since marine biodiversity has global conservation significance and since the possible effects of STD on the tropical marine ecosystem are not well understood, STD should be avoided especially in island regions, where this method of disposal may not assure people's sustainable livelihoods.

Almost all STD operations worldwide, whether disposing at shallow depths or in the deep sea, have had problems, including pipe breaks, wider than expected dispersal of tailings in the sea, smothering of the benthic organism (although this is predicted) and loss of biodiversity, increased turbidity, introduction to the sea and marine biota of metals and milling agents (chemicals, such as cyanide, detergents, and frothing agents), and loss of potentially re-mine-able metals from tailings in the deep sea.

The EIR heard numerous other concerns about current as well as anticipated environmental and socioeconomic impacts of submarine tailings disposal in Southeast Asia.⁷⁰ STD presents an inherent economic risk to local and export fisheries, for example, because of real or perceived contamination of marine resources. It may affect large and often endangered marine life, including whales, dolphins, and marine turtles, and it may raise the risks to human health through direct or indirect exposure to mining wastes. Mining procedures such as STD may have a negative impact on numerous other important socioeconomic and environmental factors, ranging from reduced marine tourism potential to additional, often illegal small-scale mining activities by opportunistic individuals. Environmental impact assessments of mining operations with STD as their main mechanism for waste management do not adequately assess any adverse effects in the deep sea and marine food web, and such potential impacts should be included in the scope and terms of reference for such studies.

Project Closure Plans

People often leave traditional livelihoods behind in search of opportunities at extractive industry projects, but when the project closes, they lose their livelihoods. Communities may be left to deal with a loss of community services, long-term environmental risks, and unresolved grievances. 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. Companies are aware that closure of a project can be devastating unless adequate planning and preparation have been carried out long in advance.⁷¹ So 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 plans to the EIR. Funds for the PNG Sustainable Development Program Company, for instance, will come from future dividend payments from shares in Ok Tedi Mining Limited transferred by BHP Billiton. The dividend flows will fund sustainable development programs throughout the remaining 10 years of the mine's economic life and 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 a mine or project closes.⁷²

Project closure is something that many workers and their families live through, often several times. Labor maintains that sustainable development in the extractive industries really must imply the building of human capital, so that when a project closes its workers have the skills to find other jobs. This 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 closure,” as has occurred too often. 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.

Business Partners for Development 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 a multistakeholder, regional-level forum at the time of project planning (involving government, other businesses, and civil society) and continuing the dialogue at intervals throughout a project’s life.⁷³ 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.

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 means to rapidly agree on a plan. The components of such a forum include a steering committee—with the company, provincial and national officials, 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 of generating sufficient trust for the disputing parties to be willing to work together and with others to develop a closure plan.

Currently, WBG policies provide no clear guidance concerning project closure. There is strong concern about the perceived lack of closure plans for WBG-related extraction projects, including projects that still are in the proposal stage. Communities have expressed their concern that these plans are put in place too late.⁷⁴ The CAO also found that “there are currently no provisions for ensuring that clients continue to make financial provisions for closure once IFC and MIGA have exited a project.”⁷⁵

The Legacy of the Past

Legacies of the past were by far the most frequent grievance voiced by community members in EIR hearings; many of these problems continue to haunt communities today. At one hearing, for example, a representative of the Mapuche, a group who traditionally straddle the

border between Argentina and Chile, described an ongoing struggle for approximately 30 years to seek indemnity for ecological debt. And in the case of acid rock drainage, the legacy question is, Who should pay for the perpetual monitoring and water treatment required to prevent ongoing damage to the environment?

In almost all the consultations the EIR had with industry stakeholders, the issue of past legacies was raised. There is a general recognition that this issue is one of the most challenging problems faced by industry in dealing with other stakeholders, especially with civil society representatives. Although 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.

It was recommended that IBRD/IDA expand the scope of their activities in the sector by helping tackle the legacy problems of abandoned mines. The WBG as a whole, when funding projects related to the oil and gas industry, should maintain a strong commitment to solving environmental legacy problems, which can deter direct foreign investment in the sector. By addressing these problems, the WBG can help open up possibilities for further investment in poverty reduction.⁷⁶

Climate Change

There is a broad consensus that climate change is important and that the extractive industries are large contributors to the problem. Several regional workshops recommended that the WBG assume a greater role in improving the policy environment for tackling climate change. Suggested WBG activities included enhancing its role in removing barriers to implementing climate change policies, such as technical assistance for capacity building, regulatory reform, and technology transfer; encouraging the development of market-based mechanisms for sharing the burden of emissions reduction, such as carbon-trading schemes; and working to accurately reflect the costs of climate change related to extractive industries and elsewhere, such as through internalizing external costs relating to emissions and working to remove subsidies for fossil fuels.

There is a consensus among stakeholders that reducing the carbon intensity of economic growth is necessary to preserve the environment. The debate is over the best way to do this, taking into account possible tradeoffs between growth and emissions reduction, and over the future role of the WBG in this area.

Industry representatives maintain that the WBG has a role to play in influencing developing countries to adopt a low-carbon economic growth strategy by encouraging clean energy technologies, including renewables; improved energy efficiency; and energy market reform. Given the long “lock-in” period for energy infrastructure, which may be in place for decades, the WBG has an opportunity to encourage greater use of renewables and clean technologies in countries that are trying to expand access to modern energy supplies rather than passively watching them invest in and install infrastructure for fossil fuels. One way to do this in the near term is to encourage a shift to natural gas from other fossil fuels. The WBG should act as an honest broker in seeking a pragmatic and holistic approach to future energy policy in developing countries.

Are Social Costs Being Internalized?

Worker Health and Safety

The ILO has estimated that each year 14,000 mine workers are killed in accidents on the job in the whole mining industry, private as well as state-owned companies, 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 ILO, the sector employs less than 1 percent of all workers but is responsible for 5 percent of all worker deaths on the job.⁷⁷

Governments are responsible for setting policy, standards, and regulations to ensure that employees 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 ILO Convention 176 on safety and health in mines.⁷⁸ In the Philippines, this was the first occupational health and safety convention ratified by the government. Governments view health and safety as a responsibility they share with industry and workers.⁷⁹ Trade unions, companies, and government jointly are responsible for training. Government has to monitor health and safety conditions closely and enforce the consequences of noncompliance.

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.⁸⁰ This means that the safety of operations, products, and transport are also of prime importance. A good deal is being done within extractive industries to continuously improve the safety of operations and products. For example, TotalFinaElf has the goal of achieving, as close as possible, “zero risks” through safety and awareness programs and by developing new safety tools.⁸¹

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, also a Placer Dome initiative, which received a Development Marketplace Award in 2002 for venturing beyond preventative care.

In addressing health issues in the areas where they operate, extractive industry companies show a great wealth of creativity and a willingness to work with local partners, as well as with international organizations. Examples of this 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.⁸²

Involuntary Resettlement

A WBG study on resettlement states that “the potential for violating individual and group rights under domestic and international law makes compulsory resettlement unlike any other project activity. . . . Carrying out resettlement in a manner that respects the rights of affected persons is not just an issue of compliance with the law, but also constitutes sound development practice.”⁸³ For indigenous peoples, involuntary resettlement can be disastrous, severing entirely their various relationships with their ancestral lands.⁸⁴ As observed by the U.N. Sub-Commission, “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.”⁸⁵

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

Involuntary or forced resettlement, according to a U.N. report, “is considered a practice that does grave and disastrous harm to the basic civil, political, economic, social and cultural rights of large numbers of people, both individual persons and collectivities.”⁸⁶ The Committee on Economic, Social and Cultural Rights of the United Nations frequently expresses concern about forced relocation and has urged states to abandon the practice as incompatible with the obligations assumed under the International Covenant on Economic, Social and Cultural Rights.⁸⁷ The Committee “considers that instances of forced eviction are prima facie incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law.”⁸⁸

A WBG report in 1994 found that the impacts of involuntary resettlement could be devastating and could undermine any effort in achieving poverty alleviation and sustainable development.⁸⁹ More and more companies believe that resettlement is not always the best solution and that it is too often resorted to. Communities are part of the fabric of a project; any relocation should be looked at very carefully and should fully involve the community in the decisionmaking process.

Effectiveness of WBG Safeguard Policies in the Extractive Industry Sector

The reality in the field suggests that the current Safeguard Policies have been unable to ensure that “no harm is done” and that this is due to both poor implementation rates and deficiencies in the policies themselves. In general, the EIR found a strong level of discontent in all regions, especially among civil society, indigenous peoples, and academia, about the effectiveness of the WBG Safeguard Policies, some of which are out of date and inadequate to ensure poverty alleviation and sustainable development outcomes from EI projects.

A 2002 OED report states that “performance in the area of safeguards has been only partially satisfactory. Fundamental reform of implementation and accountability processes is crucial....

The current system does not provide the appropriate accountability structure to meet the WBG's commitments to incorporate environmental sustainability into its core objectives and to mainstream the environment into its operations."⁹⁰

The WBG internal evaluation on its experience in the extractive industries sector concluded that: *“with its global mandate and country development perspective, combined with public and private sector experience, the WBG is well positioned to help countries transform resource riches into sustainable development. . . . Much more needs to be done to improve implementation and monitoring of compliance with existing policies, and to address governance, transparency, and revenue management issues. Unless the WBG improves its performance in these areas, it will not be able to maximize the sector's contribution to sustainable development and face continued—and warranted—criticism.”*⁹¹

WBG Safeguard Policies that are in place are often not supported by effective compliance mechanisms; furthermore, project screening is often inappropriate, sometimes resulting in projects being incorrectly put at a lower level. The effectiveness of Safeguard Policies is jeopardized further by weak supervision, monitoring, and reporting:

- **Weak Project Screening.** The OED evaluation of the WBG experience in extractive industries found that the most significant inadequacies in implementing the safeguards were shortcomings during project screening.⁹² Projects were often assigned to a lower risk category, and this resulted in less attention and resources being devoted to assessment and mitigation of environmental problems. Furthermore, there was an inclination to downplay the relevance of individual safeguards in order to simplify the processing of projects, especially in technical assistance projects or sector adjustment loans (SECALs), suggesting that relevant safeguards may not be triggered since the wording in the policies makes them applicable only to “investment projects.” There is a high risk if projects are inappropriately categorized—they may be delayed, for instance, when problems arise that entail high costs.
- **Weak supervision, monitoring, and reporting.** The WBG Safeguard Policies lack any independent and generally agreed upon criteria to determine if a project is in substantial compliance.⁹³ Furthermore, fewer than half the projects reviewed by OED had been supervised adequately and reported implementation of Safeguard Policies. Although the OED sampled 38 projects that were likely to have adverse environmental and social impacts (half of them mining and the other half oil and gas projects), only 30 percent of them included environmental and social specialists in at least one supervision mission. (Reporting on social impacts and compliance with social safeguards continue to be weak in MIGA's reporting system. However, there are positive examples where MIGA sponsors have engaged in good reporting, such as an independent expert hired by senior lenders, independent auditing expert hired by the investor, investor head office auditing teams, and monthly or quarterly reporting by clients to lenders and MIGA.)

Overall, however, the WBG Safeguard Policies have tended to raise the standards of environmental and social practice in the extractives sector.⁹⁴ Investors in IFC/MIGA projects have benefited considerably from the site visits and advice of environmental and social

specialists and have expressed their appreciation for these inputs. These have been particularly helpful to investors concerned about land acquisition, resettlement, and community development, where the WBG has substantial experience and a competitive advantage.⁹⁵

EIR-supported research on the impact of WBG social and environmental policies on extractive companies and financial institutions found the following:⁹⁶

- WBG policy impacts on small exploration and production companies appear indirect and minimal to date. There are some signs of a “trickle down” effect from the large mining firms and their financial backers that are aware of WBG principles and policies. But there is little evidence that there is widespread awareness or acceptance of the guidelines among smaller firms or what implementing them might entail for their operations. Where companies did cite use of WBG guidelines, the level of public information provided on environmental and social policies often did not provide enough information to permit a detailed comparison of these policies with those of the WBG.
- The WBG appears to have a more significant and direct impact on environmental and social initiatives with private financial partners and export credit agencies. A number of these financial institutions, including some of the signatories of the Equator Principles, indicated that WBG guidelines have become a baseline reference for their activities, providing a useful tool to hold their extractive sector clients to higher environmental and social standards. In addition, some financial institutions say they are implementing their own best practices that go beyond the work of the WBG.

While welcoming this development, the EIR wants to be assured that these policies are binding, with assurance of compliance to make sure that companies are actually adhering to the policies in their operations.

Human Rights Considerations

International human rights law places clear and substantial obligations on states in connection with resource exploitation. The U.N. Human Rights Committee has stated that a state’s freedom to encourage economic development is limited by the obligations it has assumed under international human rights law.⁹⁷ The Inter-American Commission on Human Rights has observed that state policy and practice concerning resource exploitation cannot take place in a vacuum that ignores its human rights obligations, as have the African Commission on Human and Peoples’ Rights and other intergovernmental human rights bodies.⁹⁸ In other words, states may not justify violations of human rights in the name of national development. The basic principle, reaffirmed at the 1993 Vienna World Conference on Human Rights is that “while development facilitates the enjoyment of all human rights, the lack of development may not be invoked to justify the abridgement of internationally recognized human rights.”⁹⁹ The WBG must internalize and respect this principle, both in terms of its operating policies and in its relations with borrowers and clients.

Extractive industry companies are continuously faced with major external issues, such as the political stability and organization of the countries in which projects are operating. In many developing countries they must learn how to work with the army and police force to ensure protection. This becomes problematic for the companies when these forces have human rights violation records.¹⁰⁰ They are aware that the methods they use to address major security events may affect the way projects are perceived by the public, and companies regard security of employees and property as an important part of ongoing project management.

All companies do not have explicit human rights policies, but one encouraging example of change is the business and human rights exercise being carried out by the Prince of Wales Business Leaders Forum, featuring BG, BP, BHP Billiton, BOC, Premier Oil, Rio Tinto, and Shell.¹⁰¹ The best practice categories featured in this exercise include:

- Policy commitments. These include explicit human rights policies such as a declaration 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; the 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. Examples of this include board-level and senior management responsibility for overseeing human rights, assurance systems in place at operational level, internal communications and training on human rights, risk assessment and social impact studies, stakeholder dialogue, and performance audits and verifications.
- Disclosure strategies. Included here would be publication of social reports, disclosure of noncompliance, and disclosure of remedial steps over noncompliance.
- Engagement in global human rights initiatives. This would involve support for the U.N. Global Compact, support for the Global Sullivan Principles, and endorsement of the U.S./U.K. Voluntary Principles on Security and Human Rights.

The EIR received many testimonies concerning the military and police being 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 their 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 alleged human rights violations ranging from intimidation, torture, kidnapping, and detention to rape and killings. Women and children often are the most

severely harmed victims.¹⁰² According to information received by the EIR, the incidents of human rights violations are mostly not acknowledged by governments and courts in many developing countries. Sometimes they are acknowledged, but none of the cases received by the EIR had received any compensation, creating deep resentment and distrust among communities toward extractive companies as a whole. There was also a strong element of fear: quite a few people testifying to the EIR required anonymity when describing human rights violations.

Labor Rights

Labor groups, a distinctive part of civil society, maintain that there is often hesitation and conflicting views within the WBG about the benefits of adopting the ILO Core Labour Standards (CLS). In late 1999, the WBG began to observe the CLS systematically in countries eligible for concessional lending, but not in all Country Assistance Strategies.

While the WBG supports the CLS as an overall policy commitment, it often undermines labor rights through its advice at the WBG country policy level. Unions have complained that their views have been ignored, creating distrust and fear of massive job losses, thereby contributing to unemployment and further poverty. In October 2003 the World Bank Group published *Doing Business in 2004*, calling on developing countries to reduce the scope of employment legislation, to reduce minimum wages, and to replace collective negotiation by contracts “at will” between employers and employees—reinforcing the impression of many developing-country unions that the World Bank Group remains fundamentally anti-worker.

The promotion of the CLS is in line with the WBG’s overarching goal of poverty alleviation. There are concerns that IFC and MIGA have only partially adopted the CLS as part of their contractual requirements for project financing; labor would like to see all of the CLS adopted by the WBG and integrated into its operations in several ways. The CLS should be a contractual requirement for project financing; they should be included in the procurement guidelines as mandatory elements of the WBG’s Standard Bidding Document (currently only some voluntary labor standards are included).

Indigenous Peoples’ Rights to Lands, Territories, and Resources

For indigenous peoples, secure, effective, collective ownership rights over the lands, territories, and resources they have traditionally owned or otherwise occupied and used are fundamental to economic and social development, to physical and cultural integrity, to livelihoods and sustenance. Secure rights to own and control lands, territories, and resources are also essential for the maintenance of the worldviews and spirituality of indigenous peoples—in short, to their very survival as viable territorial communities.¹⁰³ Without secure and enforceable property rights, indigenous peoples’ means of subsistence are permanently threatened. Loss or degradation of land and resources results in deprivation of the basics required to sustain life and to maintain an adequate standard of living. Failure to recognize and respect these rights undermines efforts to alleviate indigenous peoples’ poverty and to achieve sustainable development.

Where there is unresolved conflict between indigenous peoples asserting rights over ancestral lands, territories, and resources and a national government that in law or in practice fails to acknowledge the distinct identity of these peoples and their rights, the conflict needs to be resolved in a consensual way. Otherwise it will continue and will jeopardize the potential for development and poverty alleviation from the extractives sector. Structural reforms and legal codes that provide for automatic approval of exploration and development concessions on indigenous lands, territories, and resources without the participation and the free prior and informed consent of these peoples and communities only exacerbate the problem.

Indeed, increased extractive activities on indigenous peoples' traditional lands, territories, and resources without guarantees for their rights often create public disorder, health concerns, political and social instability, and legal uncertainty. The U.N. Committee on Economic, Social and Cultural Rights concludes, and the EIR concurs, that "in indigenous communities, the health of the individual is often linked to the health of the society as a whole and has a collective dimension. In this respect, the Committee considers that development-related activities that lead to the displacement of indigenous peoples against their will from their traditional territories and environment, denying them their sources of nutrition and breaking their symbiotic relationship with their lands, has a deleterious effect on their health."¹⁰⁴

On the other hand, EI companies find it easier to collaborate with indigenous peoples when their rights are secured. And when indigenous peoples' rights are guaranteed and respected, they are more able to enter into fruitful and mutually acceptable relations with EI companies and governments.¹⁰⁵

The World Bank Group is currently reviewing its policy on indigenous peoples. This revision has been repeatedly repudiated by indigenous peoples for the manner in which consultations have been carried out and because it appears that the revised draft policy fails to uphold their rights and is in fact weaker than the policy it is designed to replace. There are concerns that in the draft Operational Policy (OP) 4.10 on indigenous peoples, WBG staff and borrowers are not required to recognize or respect indigenous peoples' property and other rights. To be legitimate and effective, a Safeguard Policy must be seen by the intended beneficiaries to provide adequate safeguards and must be consistent with their internationally guaranteed rights. This is presently not the case.

Women's Rights

Poverty is relevant to gender inequality and to the violation of women's human rights. Women are the most discriminated against, the most vulnerable, and the least empowered members of many societies, including those with rich mining, oil, and gas resources. It is therefore not surprising that women account for the majority of the poor, and their share is growing. As a result, improving gender equality and promoting women's rights should be a priority for the WBG, given its mandate of poverty alleviation.

The WBG recognizes the relevance of gender equality to poverty reduction and economic growth. It has had an operational policy on gender since 1994 and an external gender consultative group. However, WBG support for extractive industry projects, such as with the Lihir Gold Mine located in Papua New Guinea, have further disadvantaged and

disenfranchised local women. Despite its policy commitments, the failure of extractive industry projects to take adequate account of gender inequalities and women's perspectives has increased inequality and undermined the rights, roles, and responsibilities of women within their local communities, which has further impoverished and marginalized them.

The EIR found that the negative impacts on women of extractive industry projects are consistent across mining, oil, and gas projects, as detailed in numerous conferences, testimonies, and studies.¹⁰⁶ Any effort to reduce poverty through support for extractive industries must therefore give primary consideration to an analysis of their impacts on women's rights, gender equality, and the roles and responsibilities of the majority of the world's poor: women. Mining, oil, and gas projects and structural reform programs promoted by the WBG may serve to marginalize women. It should not be assumed that women automatically benefit from development efforts, especially in such projects.

The WBG currently pays little attention to these issues. In fact, an evaluation of IFC Safeguard Policies by the CAO found that gender issues were often not discovered due to incomplete coverage of social issues in the environmental assessment policy.¹⁰⁷

Conclusions: The Need for a Better Balance

The extractive industry sector amplifies the reality of a world where, according to WBG President James Wolfensohn, "too few control too much, and too many have too little to hope for. Too much turmoil, too many wars. Too much suffering."¹⁰⁸ Furthermore, he noted that there is a need to restore the balance to our world.

The knowledge, power, financial, and technical resource gaps between major extractive industry companies, civil society, developing-country governments, and local communities throughout the world are profound. The inequalities between local communities and transnational companies are not just economic in nature; they include access to political power and information and the ability to know and use the legal system to their advantage.

The EIR found that WBG involvement in the extractive industries sector until recently may have exacerbated these imbalances. WBG support for countries to reform the legal and regulatory framework of their extractive industry sectors and to promote commercialization, privatization, and improve the climate for private investment, for example, has mostly yielded positive returns in terms of increased investments and exports and reduced burden on state budgets.¹⁰⁹ But the attempts to strengthen public governance and social and environmental protection do not seem to have been sufficient to safeguard against the risks associated with the industries. Increased investments have not necessarily helped the poor; in fact, oftentimes the environment and the poor have been further threatened by the expansion of a country's extractive industries sector.

At the national level, the WBG has not given enough attention to helping governments develop strong pro-poor public governance, especially to manage revenues prudently and transparently. Governments require more advice and capacity building in order to retain

maximum benefit in the country, including assistance in negotiations over production-sharing agreements and in forward planning to maximize linkages with the rest of the economy.

Other areas of special concern regarding WBG support for governments in the extractive industry sector include a lack of participation by all stakeholders during the liberalization and privatization of companies, incorrect classification of projects, support for exploration in protected areas, and an overall lack of transparency.

IFC and MIGA social and environmental policies in this sector lag behind industry best practice in many areas. Those of special concern include community and indigenous peoples' participation in decisionmaking processes, the sharing of benefits with local communities, human rights, and the transparency of information on IFC/MIGA projects and policies as well as on the services available to communities, such as the CAO. IFC and MIGA need to ensure that local communities draw real benefits from their projects and need to monitor local poverty alleviation impacts. Current WBG policies need to be updated to go beyond "doing no harm" to "doing good." Furthermore, implementation of the WBG Safeguard Policies needs to be improved, and there needs to be clear monitoring, evaluation, and transparent reporting on the application of these policies on the ground.

The WBG also needs to take a clear position on upholding and supporting human rights in the extractive industry sector—specifically on the issues of labor rights, indigenous peoples' rights, and women's rights. This position must reflect and be consistent with the WBG's obligations as a subject of international law and account for the obligations incumbent on its borrowers by virtue of ratified human rights instruments and customary international law.

Finally and crucially, the WBG does not appear to be set up to effectively facilitate and promote poverty alleviation through sustainable development:

- There is an imbalance in the way the WBG allocates its resources to economic, social, and environmental issues. This is reflected in the number of staff, the allocation of budget, and the treatment of projects and project outcomes, despite notable improvements over the last decade. As of January 2003, for example, the IFC's Environmental and Social Development Department had only half a dozen social specialists to serve the entire institution.¹¹⁰ It is no surprise that with these limitations, many social issues such as gender, human rights, and health are not dealt with appropriately. An internal auditor's evaluation of MIGA found that it had never hired independent outside expertise to carry out its due diligence work on the projects reviewed and had relied on investors of other external agencies to finance this work. The main deficiencies in the assessments have been on social issues, except in a few cases. Furthermore MIGA has limited in-house capacity to adequately monitor and influence social safeguard outcomes.¹¹¹
- Incentives for WBG staff working in the extractive industry sector appear to favor brevity and inexpensive project preparation over safeguard compliance. Staff should be equally awarded for safeguard compliance and poverty alleviation impacts.

- There is a lack of coordination between the different arms of the World Bank Group. Given the importance of governance factors for the success of extractive industries projects, IFC and MIGA cannot treat their projects in a vacuum. They should cooperate proactively with IBRD/IDA to assess the various aspects of governance when they consider a project and to help governments address governance weaknesses where required. Coordination of timelines and procedures is also imperative when the different arms of the WBG work together on a project.

In the past, the WBG has successfully helped countries promote private investment to stimulate development. However, the focus of this development has been too much on economic development and too much on strengthening the private sector. If the WBG is to promote sustainable development and poverty alleviation through its involvement in extractive industries, it needs to rebalance its work and focus equally on the environmental and social aspects. There needs to be a shift of support to help governments integrate the public into development decisionmaking processes especially and to promote equal partnerships between the private sector and the public. There also needs to be a shift of support to strengthen government institutions and capacities in order to protect the environment.

In providing support for extractive industry companies, IFC and MIGA will need to make poverty alleviation and sustainable development goals explicit and equal to the economic and financial goals. These need to have clear criteria to be monitored transparently.

Chapter 3. Recommendations

The Extractive Industries Review believes that there is still a role for the World Bank Group in the oil, gas, and mining sectors—but only if its interventions allow extractive industries to contribute to poverty alleviation through sustainable development. And that can only happen when the right conditions are in place. This concluding chapter describes those “enabling conditions.” Where they are not in place, the WBG’s interventions should not promote an expansion of these sectors, although they can certainly influence and promote the right conditions.

The three main enabling conditions are:

- pro-poor public and corporate governance, including proactive planning and management to maximize poverty alleviation through sustainable development;
- much more effective social and environmental policies; and
- respect for human rights.

In order for the WBG to be able to promote these conditions, the institution itself needs to implement a number of serious reforms—changes in the composition of its portfolio, improvements and reinforced implementation of its Safeguard Policies, increased coordination across the arms of the WBG, and changes in WBG staff incentives. These are discussed in the final section of the chapter.

Promote Pro-poor Public and Corporate Governance in the Oil, Gas, and Mining Sectors

Tailor and Sequence Interventions to a Country’s Ability to Ensure That Extractive Industries Will Contribute to Poverty Alleviation Through Sustainable Development

IBRD/IDA programs should be tailored to the specific requirements and needs of a country and the existing adequacy of governance, taking into account the nature of the resources the area is endowed with, the relative importance of anticipated and existing resource revenues relative to the government budget, and anticipated social and environmental impacts.

The criteria of governance adequacy should be developed transparently and with the involvement of all stakeholders and should include minimum core and sectoral governance criteria. For the core macro-governance, they should include:

- government capacity and willingness to publish and manage revenues transparently and to maintain macroeconomic stability;
- government willingness to allow independent audits of its receipts from the extractive sector;
- the existence of effective frameworks for revenue sharing among local, regional, and national authorities;
- the quality of the rule of law;

- the absence of armed conflict or of a high risk of such conflict;
- the government's respect for labor standards and human rights, as indicated by its adherence to international human rights treaties it has ratified; and
- the government's recognition of and willingness to protect the internationally guaranteed rights of indigenous peoples.

The criteria of sectoral governance should include:

- the existence of effective environmental and social protection, including an environmental agency independent of the ministry of energy, hydrocarbons, or mining;
- meaningful and fully informed participation of communities in project decisions that affect them;
- government capacity to carry out participatory processes and consultations;
- government capacity to maximize benefits through linkages and synergies in regional development plans; and
- government capacity to promote sustainable development through economic diversification.

Focus First on Good Governance

IBRD and IDA should provide client governments with specific guidance on the aspects of core and sectoral governance that need to be in place for the oil, gas, and mining sectors to contribute to pro-poor sustainable development, and they should help interested governments create adequate governance conditions through technical assistance for capacity building.

Specifically, IBRD and IDA should not promote increased private investments in extractive industries through country-wide reform programs, such as structural adjustment loans (SALs), SECALs, and so on, where governance is inadequate. Governance should be strengthened until it is able to withstand the risks of developing major extractions. Once that has happened, IBRD and IDA can add support for the promotion of a well-governed extractive sector.

Further, IBRD and IDA should urge governments of countries with existing significant extractive industries to strengthen the appropriate governance structures and to put social and environmental protections in place through legislative frameworks, monitoring mechanisms, capacity building of relevant government agencies, and adequate participation of affected groups.

When IFC and MIGA consider investing in an oil, gas, or mining project, they need to specifically assess the governance adequacy of the country as well as the anticipated impacts of the project. Explicit core and sectoral governance requirements should be met before a project qualifies for IFC or MIGA funding. It is important that such criteria are appropriate for a given project and relevant to its size and anticipated impacts.

IFC and MIGA should develop—with the help of stakeholders—a set of specific project characteristics that would trigger concrete governance requirements. These in turn need to be assessed as part of integrated environmental and social impact assessments (ESIAs)—or even earlier, if possible—that consider the entire life cycle of a project, including closure. Under no

circumstances should the IFC and MIGA support oil, gas, and mining projects in areas involved in or at high risk of armed conflict.

IFC and MIGA should cooperate actively with IBRD and IDA on governance. Where it has been found inadequate, IBRD/IDA should help governments create the required governance framework and quality. The more specific building blocks of governance required for extractive industries include the following:

- Promote transparency in revenue flows. The WBG should vigorously pursue transparency at country and company level in all the resource-rich countries it works with. The WBG should partner with, for instance, the Extractive Industries Transparency Initiative and the “Publish What You Pay” campaign to promote revenue transparency in its client countries and should use its power as a convener to vigorously support existing efforts to build common action against corruption. WBG requirements need to be in line with these initiatives.
- Promote disclosure of project documents. The WBG should promote the disclosure of production-sharing agreements, host-country agreements, power purchase agreements, economic and financial assessments, environmental and social assessments, monitoring and evaluation results, and information on accident prevention and emergency response. Specifically, company annual monitoring reports to government agencies and those to the WBG should be made public.
- Develop the capacity to manage fluctuating revenues. Client countries need to be prepared and capable of managing fluctuations in revenues. There are various examples of how countries have addressed this issue successfully, such as the Chile Copper Stabilization Fund and Norway’s Oil Fund. The WBG should consider using these examples to develop a pilot project and should continue to provide advice and ongoing monitoring and training to ensure success.
- Develop the capacity to manage revenues responsibly. The WBG should help governments promote strong policy frameworks for transparent national receipt and expenditure plans that integrate local, regional, and national needs, with a focus on pro-poor sustainable development objectives. Governments should be assisted in establishing an efficient and accountable system of taxation of resource exploitation activities and integrating this into the national tax policy and administration.
- Help governments develop modern policy and regulatory frameworks. IBRD and IDA should help ensure that government agencies have clear mandates, enforceable legal and regulatory frameworks, and adequate capacity regarding social development and environmental protection associated with the extractive industries. Legal and regulatory frameworks need to include transparent cadastral and legal systems, land registries, and mining recorders, as well a transparent tax system with the capacity for governments to impose and collect taxes, adjust with the cyclical nature of commodity markets, and share these revenues among different levels of government.

IBRD/IDA policy lending in the oil, gas, and mining sectors should ensure that it does not support reforms that streamline investment processes and create new contract models in the extractive industries that undermine social benefits, local community rights, environmental protection, or the domestic private sector vis-à-vis transnational companies, which makes balanced development in all sectors of the economy difficult. IBRD and IDA should be especially cognizant of stability agreements, of new mining, oil, and gas codes on development and investment, and of domestic access to finance and markets.

- Integrate the public in decisionmaking processes at local and national levels. People should have a role in making and be informed of decisions that affect their lives. This becomes especially important in countries where exploitation of resources could have extensive environmental and social impacts. The strategy for a country's oil, gas, and mining sectors, as well as for specific projects, should be developed in an open and transparent manner, with the full participation of a country's citizens and government. Stakeholder participation in this decisionmaking process is vital for achieving meaningful poverty alleviation and sustainable development goals.

Regain Leadership for Best Practice and Encourage Improved Corporate Governance

IBRD and IDA should assist governments in creating policy, legal, and regulatory frameworks that promote best practice. The WBG should further promote partnerships to develop incentives for best practice and should advance the international application of best practice, such as through corporate responsibility, reputation risk, and the adoption of international norms and codes of conduct, as well as the creation of financial instruments such as performance bonds, mandatory insurance, and fines.

The WBG might also try to extend the reach of best practice by working with financial partners in developing countries. At a minimum, WBG-funded financial intermediaries, which loan to the sector, should apply IFC Safeguard Policies when lending to extractive industries. The WBG should also regularly review the application of its Safeguard Policies by these intermediary institutions.

The WBG could have a role in helping corporations in developing countries build the capacity to apply best practice. IFC and MIGA should provide support for their sponsors and partners to adopt international voluntary accords on human rights, to develop human rights policies as companies, and to comply with their human rights obligations as well as the obligations of the countries in which they operate.

IFC and MIGA should mandate best practice from their sponsors and insist that they follow the highest social and environmental standards. They should further require that sponsors keep up to date with evolving best practice. This may require an effective organizational structure (for example, experienced in-house social and environmental departments) and institutional arrangements, which should be assessed by IFC and MIGA.

Push for Pro-poor Benefits from Extractive Industries

The WBG should start by helping client governments assess the advantages and disadvantages of the oil, gas, and mining sectors compared with other development options. It should support comprehensive assessments of existing natural resource wealth in client countries, including geophysical surveys and mapping to help with land use planning.

In a mandatory comprehensive options assessment, the potential benefits and challenges posed by each sector should be addressed and the WBG should evaluate whether an extractive project provides the best option in the context of poverty alleviation through sustainable development and in line with the precautionary principle.

Where governments enter negotiations with extractive companies, the WBG should provide assistance, possibly through the use of independent consultants, to help negotiate deals that maximize the benefits retained in the country. IBRD/IDA policy lending should support policy and institutional reforms that ensure that extractive industry resource rents are used to stimulate more value-added and labor-intensive sectors.

IBRD and IDA should help governments to plan the integration of the power plants, deep-water ports, roads, and so on that EI development often requires into regional and national development plans. They should assist governments to enhance positive spillover effects by helping to create forward and backward linkages between mining investments, regional economies, and local communities. Export-oriented gas pipeline projects, for example, can make provisions for domestic use. Effective regional planning—supporting public-private partnerships and the design of realistic cost-sharing arrangements to create linkages early in the project planning cycle—will allow privately and jointly funded infrastructure to be big enough to meet the needs of the regional economy at little extra cost.

IFC and MIGA should specifically involve IBRD and IDA early in the assessment and design of projects. A comprehensive options assessment should be undertaken before IFC and MIGA go ahead and support a project. Cooperation between IFC, MIGA, and IBRD/IDA should take place to encourage and support the creation of linkages to the national and regional economies.

Ensure Local Communities Receive Benefits from Projects

The WBG should only support projects that benefit all affected local groups, including vulnerable ethnic minorities, women, and the poorest. The WBG should decline to finance projects where this is not the case or should redesign them to guarantee that the standards of living for local groups clearly improve. The communities closest to extractive projects should become involved in participatory assessments of projects, giving free and prior informed consent to plans and projects and developing poverty reduction plans before projects begin.

Require Companies to Engage in Consent Processes with Communities Directly Affected by WBG Extractive Industries Projects

The WBG should ensure that borrowers and clients engage in consent processes with indigenous peoples and local communities directly affected by oil, gas, and mining projects, to obtain their free prior and informed consent. For indigenous peoples, this is an internationally guaranteed right; for local communities, it is an essential part of obtaining social license and demonstrable public acceptance for the project. Participation should start at the project identification and comprehensive options assessment stage, before social and environmental assessment begins. It should lead to an agreed-upon environmental and social management system for construction, operation, and decommissioning. Social and environmental assessments need to be fully participatory and systematically updated as soon as there are plans to change any conditions.

Free prior and informed consent should not be understood as a one-off, yes-no vote or as a veto power for a single person or group. Rather, it is a process by which indigenous peoples, local communities, government, and companies may come to mutual agreements in a forum that gives affected communities enough leverage to negotiate conditions under which they may proceed and an outcome leaving the community clearly better off. Companies have to make the offer attractive enough for host communities to prefer that the project happen and negotiate agreements on how the project can take place and therefore give the company a “social license” to operate.

Clearly, such consent processes ought to take different forms in different cultural settings. However, they should always be undertaken in a way that incorporates and requires the FPIC of affected indigenous peoples and local communities. The most affected groups are often the poorest and the most vulnerable. Women, ethnic minorities, and indigenous peoples might otherwise not be included in local decisionmaking processes, even though they often bear the brunt of the burden of negative impacts.

The WBG should be informed and guided by the deliberations and conclusions of the United Nations Permanent Forum on Indigenous Issues regarding free prior and informed consent. The WBG should ensure that indigenous peoples’ right to give their free prior and informed consent is incorporated and respected in its Safeguard Policies and project-related instruments.

Ideally, local governments should play an important role in such processes and in the implementation and monitoring of the agreements between local communities and companies. It is also necessary to include covenants in project agreements that provide for multiparty negotiated and enforceable agreements that govern various project activities, should indigenous peoples and local communities consent to the project.

The WBG should require the use of independent, experienced, objective, and trusted facilitators in participatory processes. Professional services need to be effectively secured as part of social and environmental assessments and be paid for by the project proponent.

Require Revenue Sharing with Local Communities

IFC and MIGA should ensure that there will be an open, public planning process to distribute revenues in any proposed oil, gas, and mining projects fairly, whether this is provided for in the national legal framework or established on a project-specific basis, and that the local community will have equal access to the information it needs for meaningful participation in negotiation processes. Revenue and expenditure information should also be publicly available during project implementation.

Revenues should be shared among local, regional, and national governments. Regional governments have specific demands put on them in terms of planning and addressing such issues as in-migration and maximizing development impacts through infrastructure creation nationwide. An equitable share of the revenues should be provided to local communities. The WBG should consider “direct” or “local and regional” poverty alleviation goals as mandatory for the extractive industries projects it finances. And “sustainability dimensions” should be considered mandatory criteria by the IFC and MIGA.

Mandate the Use of Poverty Indicators That Are Monitored Systematically

Data on poverty alleviation in communities surrounding projects must be gathered; all WBG extractive industry projects should mandate the gathering of both baseline data and indicators. These will need to be monitored throughout the life of a project. The WBG needs to make adequate poverty assessments, measuring such indicators as access to potable water, access to services and infrastructure, educational levels of women and children, women’s income, and other quality-of-life measures. Much more data should be collected on resettlement as well as on occupational health and safety. The indicators should be simple, easily collected, and of relevance and interest to the people concerned. They are part of the ongoing trust-building exercise.

While recognizing that data of relevance and interest to local people will differ greatly from location to location, the WBG should attempt to ensure some commonality between local and regional data collection and reporting methods, including what data are collected; when, how, and where they are collected; and where they are made available. It should also ensure this collection is carried out in a manner that involves the local communities and regional bodies in ways that have credibility for poverty alleviation assessments.

IFC and MIGA should adopt clear reporting guidelines for projects so that regional and local impacts and benefits of investments and guarantees are systematically monitored and, if need be, mitigated. Marginalized and at-risk communities should be carefully monitored at the local level and should participate in poverty alleviation plans for a region. Reporting on the impact of the extractive industries should be locally driven and participatory. Furthermore, ongoing assessments should be made available publicly in a timely manner.

Encourage the Incorporation of Public Health Components in All Extractive Industry Projects

Extractive industry project design and operation should emphasize public health prevention and stringent risk reduction (through immunizations, for example, and vector control, treated

bed nets, prophylaxis, and condoms). Affected communities should be informed of all human and environmental health risks. Non-employees in the vicinity of a project should be admitted to the project's clinic for all public health measures that benefit the project, especially the control of communicable diseases, and this should be included in the project planning.

Extractive industry projects should offer health insurance or compensation for project-caused sickness, accidents, and toxic legacy issues. All relevant WBG-supported projects should mandate a health impact assessment along the lines of the course manual published by the World Health Organization in 2003.

Urge NGOs to Build Capacities of Affected Communities

Capacity building of local communities is crucial to ensure effective public participation and to help local communities understand and evaluate an integrated assessment process that incorporates social and environmental impacts along with the other important factors related to a project's potential to contribute to sustainable development. To participate effectively, people need a timely disclosure of information about projects. Communities also need the capacity to participate in the formulation and execution of community development plans.

Help Set Up Independent Grievance Mechanisms

IFC and MIGA should ensure that there is an effective local complaints and dispute resolution system in place in affected communities when supporting extractive projects. This might be done through the development of a Safeguard Policy on access to impartial dispute resolution.

IBRD and IDA should support the establishment of legal and regulatory frameworks, judicial reform, and arbitration tribunals for conflict resolution, which should give speedy and fair results. Relevant capacity building should support this work for all actors involved.

Help Artisanal and Small-Scale Miners

At the country level, IBRD and IDA should help governments develop policies that recognize artisanal and small-scale mining as a distinct sector and that distinguish between community-based miners and itinerant miners, giving communities clear priority over mining rights. WBG activities related to ASM should always recognize and respect indigenous peoples' rights and should particularly fight the problem of child labor in ASM.

When it is considering financing for ASM, the WBG must include adequate, verifiable, and participatory precautionary measures to account for extra-territorial issues, such as river pollution, that may affect communities, including indigenous peoples.

IBRD/IDA should propose objectives and strategies to address the specific challenges of ASM activities, including the very real environmental and social problems these sectors can cause, the illegal status of these miners almost everywhere, and their lack of access to markets for their goods. IBRD and IDA should thus support governments in legalizing ASM and making it environmentally and socially less harmful, while helping responsible artisanal and small-scale

miners earn more from their activities. In some instances, IBRD and IDA should help governments develop alternative livelihoods for ASM practitioners through community development programs.

The WBG needs to build the required internal capacity to address these issues, and should form a special ASM unit that is adequately funded to meet these challenges.

Help Governments Legalize and Regulate ASM and Integrate It into the Formal Sector

IBRD and IDA should assist governments to develop policies that legalize ASM activities. Community land rights and mining rights should be protected as a priority when giving these miners the opportunity to obtain licenses. National ASM policies should also address the integration of the sector in the national economy, giving artisanal and small-scale miners access to markets. The establishment of cooperatives may help ASM participate in the national market value chain. Policies should also outline strategies for addressing relations between small- and large-scale operators.

IBRD and IDA should assist governments to develop the capacity to regulate a formal ASM sector in parallel with the process of legalizing ASM activities. Social and environmental regulations should go hand in hand with the legalization of the sector, addressing issues including gender imbalances, child labor, and environmental management, particularly the use of toxic substances. Social and environmental impacts should also be addressed through support for direct capacity building activities of artisanal and small-scale miners to help them avoid, minimize, and mitigate environmental and social impacts.

Help Governments Integrate the ASM Sector into National and Regional Development Plans

The WBG should provide technical assistance grants to governments to help integrate ASM into rural development policies and to include the sector within the wider economic and social government planning of poverty alleviation strategies. Solutions to the problems associated with ASM could be more effectively addressed through rural development. Government capacity to deal with this sector could be improved through exchange programs during which officials visit countries where a legalized ASM sector has clearly contributed to poverty alleviation, such as in Papua New Guinea, where projects have exemplified greater awareness of environment and safety issues, increased production, and successful closure.

Develop Pilot Programs in Partnership with Others

The WBG should try a micro-lending approach to ASM in cooperation with aid agencies and other donors. Pilot projects could be developed in partnership with, for example, CASM or CAMMA, the Mines Ministers of the Americas. This form of financial support should be coupled with technical support and education designed to create opportunities to sell products at more competitive prices, incentives for better environmental management, a greater commitment to health and safety, and other improvements designed to put this sector on a more sustainable path.

Strengthen Environmental and Social Components of World Bank Group Interventions in Extractive Industries

Require Integrated Environmental and Social Impact Assessments

The WBG should take a holistic, multidimensional approach to environmental and social impact assessments, identifying cumulative impacts of projects and socioeconomic linkages to environmental issues. Social impacts should be fully identified, including health impacts and the impacts on vulnerable groups. And a strategy for impact prevention, minimization, and mitigation is needed. ESIAAs should be completed for all activities, including project expansion. They should be living documents and receive further attention during implementation.

In countries with significant extractive industries or anticipated growth in these sectors, the WBG's OP on structural adjustment (OP 8.60) should require upstream social and environmental analyses for policy lending affecting the oil, gas, and mining sectors—that is, for SALs, SECALs, technical assistance, and analytic and advisory activities (AAAs). These analyses should be developed in transparent and participatory processes with full public access to the drafts and final documents.

Extractive industry projects should be classified as Category A projects—likely to have significant adverse environmental impacts—unless there are compelling reasons to the contrary. IBRD/IDA projects such as structural reform programs, including sectoral reform and technical assistance, should also be subject to thorough ESIAAs. IFC and MIGA should clarify the categorization of projects by means of illustrative lists and examples, to prevent potentially high-impact oil, gas, and mining projects being misclassified as Category B.

Update and Fully Implement the Natural Habitat Policy as a Basis for Clear No-Go Zones

The pledge by 15 leading mining companies to recognize existing World Heritage properties as “no-go” areas, which was the result of a dialogue on biodiversity arranged by IUCN—The World Conservation Union and the International Council on Mining & Metals, is to be commended, as are similar pledges by non-mining companies such as Shell.

The WBG should not finance any oil, gas, or mining projects or activities (including through policy lending and technical assistance) that might affect existing World Heritage properties, current official protected areas, or critical natural habitat (as described in its current Natural Habitat Policy) or areas planned in the future to be designated by national or local officials as protected. In addition, any extractive industry projects financed within a known “biological hot spot” must undergo additional alternative development studies. The WBG should provide leadership in developing strategic decisionmaking models and assessment tools and build capacity to ensure that clear no-go zones for oil, gas, and mining projects are adopted on the basis of this policy and better integrated into land use management strategies.

The current Natural Habitat Policy should be updated to use quantitative thresholds to signal when the policy applies and to indicate the ratio of the specific habitat proposed for conversion compared with the total area of that ecosystem in the country. These thresholds should be determined in participatory processes. Further, companies should be formally required to invest in offsets or compensatory areas that are commensurate with the area to be converted under the proposed extractive industry project. Special attention must always be paid to ensuring that the rights of indigenous peoples to their lands, territories, and resources traditionally owned or otherwise occupied and used are respected when choosing and designing an offset. In all cases, the region in general should clearly be better off in the net benefit sense.

Update and Fully Implement the Resettlement Policy

The WBG should engage in consent processes leading to free prior and informed consent before resettlement takes place, thereby complying with indigenous peoples rights and receiving a social license to operate. This means WBG projects would only result in voluntary resettlements, not forced ones.

In order to discuss and design compensation and benefits that leave resettled groups genuinely better off, current livelihoods need to be evaluated using comprehensive assessments, including the value of informal activities and resources that are not captured through property rights—such as gathering nontimber forest products, fish, game, free water, and medicinal herbs. Compensation and project-derived benefits should lead to genuine improvement, assessed by independent reputable third parties, in situations where traditional subsistence patterns are being rapidly transformed by development.

As part of the project assessment and design, the WBG should satisfy itself that benefits allocated as part of the resettlement agreement are backed up by adequate financing by the sponsor. Further financing, such as performance bonds or resettlement insurance, should be available in case initial efforts to achieve better livelihoods are not effective. Resettled groups should furthermore count as part of the groups affected by the project and should receive clear benefits from it, such as receiving a share of project revenues allocated to indigenous peoples and local communities. The WBG should also make sure that all resettled people have access to independent effective complaint and dispute resolution mechanisms at the local level in a place that provides effective and prompt remedies, and also ensure that local groups are fully informed about the Inspection Panel and IFC's and MIGA's own Compliance Advisor/Ombudsman mechanism.

IBRD and IDA should provide technical assistance to governments to help them incorporate all these principles as a basis for national resettlement legislation.

Revise the Disclosure Policy

The WBG Disclosure Policy should be revised and broadened to include a series of documents that thus far have been protected by confidentiality agreements between IFC, MIGA, and project sponsors. Protection of the proponent's technical processes should be guaranteed, but this needs to be achieved with less confidentiality. As described earlier, the documents to be

disclosed should include production-sharing agreements, host-country agreements, power purchase agreements, economic and financial assessments, environmental and social assessment documents, and monitoring and evaluation results, as well as information on accident prevention and emergency response. Environmental and social obligations should be covenanted in loan, grant, or other agreements and be disclosed to public. Business confidentiality should only apply to information whose disclosure would cause some proven harm; furthermore, that harm has to outweigh the public interest in disclosure.

All relevant project documents need to be translated into local languages and disseminated in a culturally appropriate and timely manner. Specifically, environmental and social monitoring reports need to be disclosed during project implementation. IFC and MIGA should require disclosure of environmental and social assessments prior to appraisal for all Category A and B projects and at least 120 days prior to project approval, in order to allow meaningful consultation and participation of the public. The WBG should enhance disclosure after project completion, especially evaluations of private-sector project operations.

Net benefit analyses—including revenue flows to the national as well as the local level, taxes, and other means of income for each project—need to be prepared and published. The WBG could help governments create a database of agreements between governments and oil, gas, and mining companies in order to allow comparison of different arrangements.

The WBG should disseminate its Disclosure Policy more broadly at the start of the environmental and social assessment process in the early design phase of extractive projects, so that potentially affected people know what information is available to them. The WBG should expedite access to ensure that potentially affected people get prompt and timely access to the information they need. The WBG should mandate similar disclosure of information and transparency standards from its financial intermediaries and should regularly monitor and review implementation.

There should be an independent and impartial Information Ombudsman to monitor disclosure policy implementation and to ensure that citizens have the right to appeal in cases where they feel they have been wrongly denied information. The Information Ombudsman would also be responsible for implementation of the disclosure policy in regards to business confidentiality. A member of the inspection panel or the CAO might take on this function.

Develop Sector-specific Guidance for Tailings Disposal, Waste Management, and the Use of Toxic Substances

The WBG should develop a list of criteria for tailings placement for all mining projects. It should include information on climate (temperature, wind, precipitation, evaporation, and possible seasonal extremes of rain, snow, thawing, earthquakes, hurricanes, and so on); water, both hydrology and hydrogeology; land forms; geology and geochemistry; biological information; and adherence to all recommendations of the Tailings Dam Subcommittee of the International Commission on Large Dams. Social and cultural criteria need to be included also to avoid harm to local communities. All tailings disposal options should be rigorously evaluated, with an emphasis on the need for ongoing monitoring of waste and tailings dumps. No WBG-supported mining project should use riverine tailings disposal.

The WBG should apply the precautionary principle and not fund projects that would require submarine tailings disposal until balanced and unbiased research, accountable to balanced stakeholder management, demonstrates the safety of such technology. Future decisions should be based on the outcome of such research and be guided by it. The EIR further recommends that, irrespective of the final outcome of the research, STD and tailings disposal in rivers not be used in areas such as coral reefs that have important ecological functions or cultural significance or in coastal waters used by indigenous peoples and local communities for subsistence purposes.

WBG support for mines using toxic materials such as cyanide and mercury should be minimized and, where possible, safer substitutes should be used. The EIR recommends that the WBG make active efforts to stimulate the development of safer substitutes. Support of any substance used should depend on the country's and the company's capacity to handle the dangers associated with it. The WBG needs to revise its cyanide effluent guidelines so that they are consistent with the most advanced comparable guidelines in Canada, the United States, and the European Union or are adequate to prevent environmental degradation. It needs to promote the development of local and regional laboratories capable of performing suitable cyanide and metal analyses and toxicity testing (of mine effluents and affected waters) within the required holding times. If a region is unable to analyze for cyanide, the project should only go ahead once that capacity has been acquired.

Where cyanide is used, companies should be required to routinely monitor for other breakdown products associated with it. All of this recommended monitoring should be done within and around the mine site as well as on any nearby waters that serve as potential sources of drinking water and aquatic life habitats.

Develop Guidelines for Integrated Closure Planning

IBRD and IDA should support a focused effort to build capacity for conducting and participating in integrated closure planning in countries with the potential to develop significant mining, oil, and gas sectors. They should develop clear guidelines and require, as a condition of financing, that there is provision for sufficient funds to be built up in the balance sheet for closure from the start of any new development. This should be independently verified and annually updated, and the closure plans should be available to the public. The WBG should explore the options of establishing an insurance system or performance bonds for regions affected by mine closure or other legacy issues.

The EIR supports the CAO review of recent extractive industries projects and recommends that the IFC and MIGA apply available guidance on closure to all EI projects and ensure that social considerations are taken into account. Measures should be implemented to ensure funds allocated to closure are “ring-fenced,” or protected, even after the WBG exits.

Thus it is recommended that the WBG develop and adopt clear and uniformly applicable policies that specify:

- the outlines of the integrated closure planning process that should be conducted at IFC- and MIGA-supported projects;

- the type of analysis of acid drainage potential that is acceptable, how this information will be shared with the potentially affected public in an accessible and understandable way, and the measures that must be agreed beforehand if it later proves that a clear problem is developing;
- the creation of a secure bonding or financial or guarantee mechanism that will ensure resources are available to pay end-of-life social and environmental costs identified in the planning process; and
- the creation of a process of independent audits to determine closure plans and bonding amounts.

Develop Guidelines on Emergency Prevention and Response

WBG guidelines and its work in the oil, gas, and mining sectors should assure emergency response plans are in place from the outset of a project—involving plans and procedures to establish good lines of communication to be able to warn local communities, sufficient recognition of potential impacts, and adequate monitoring and maintenance. Such practice should be required in IFC and MIGA projects and encouraged in reforms of national legislation and regulation.

IFC and MIGA should promote emergency prevention by requiring project sponsors to use best practice and available technologies. Further, MIGA and IFC should require full and early disclosure of emergency response plans, as well as accident and response reports, to the extent feasible.

The WBG should mandate that projects it supports only use safe, modern, and well-run vessels to carry oil or hazardous cargoes. Safety and age criteria and labor standards should be required for all such vessels, along with systematic and stringent inspections.

Address the Legacy of the Past

IBRD and IDA should make a strong commitment to helping governments tackle the legacy of extractive industry projects and to building partnerships with governments and the private sector to help fund the cleanup. They should identify technologies and support programs to clean up the environmental legacy, develop inventories of abandoned sites, and establish priorities for cleanup based on socioeconomic and environmental risk. Compensation funds should be established for people affected by past developments. IFC and MIGA should address issues of inherited past liabilities, including human rights abuses, in all their projects where relevant.

In cooperation with the Global Environment Facility and other funding agencies, and in partnership with private industry, civil society, affected communities, indigenous peoples, and governments, the WBG should establish a targeted program aimed at restoring degraded lands, improving the life of the poor who are affected by previous project closures, and generating employment and skills training.

Respect Human Rights

Human rights crosscut all the thematic areas identified in this report. The WBG and its clients have obligations under international law to promote, respect, and protect all human rights.¹¹² The EIR therefore recommends that WBG develop a system-wide policy that integrates and mainstreams human rights into all areas of WBG policy and practice and that WBG policies and operations must be, at a minimum, consistent with its obligations, as a subject of international law, in relation to international human rights law.

The EIR recommends that the WBG ensures that it does not undermine the ability of its member countries to faithfully fulfill their international obligations and does not facilitate or assist violation of those obligations. What this means in practice will vary depending on the specific obligations of the various members of the WBG and how those obligations are implicated in WBG-financed activities. At a minimum, the WBG should assess state obligations and ensure that its operations, including macro-level intervention such as structural adjustment, do not violate those obligations. This should be done in all phases of the project, with meaningful participation by rights-holders and including independent human rights reviews. Additionally, the WBG should systematically incorporate experienced, independent, and reputable third parties to verify the status of human rights in all relevant projects. A central Human Rights unit is essential, with regional counterparts, together with a clear policy and a mandate for monitoring, verification, and transparent annual audits.

The Universal Declaration of Human Rights, for instance, calls on “every individual and every organ of society” to play its part in securing universal observance of human rights. This includes multinational corporations.¹¹³ IFC and MIGA therefore should assess the human rights records of these companies, including their policies on human rights and indigenous peoples, and ensure that WBG-funded projects are designed and implemented in a manner consistent with applicable international human rights standards. Adoption of and demonstrated compliance with human rights principles should be a prerequisite for companies seeking WBG support for extractive industries.

Finally, and ideally, the WBG should adopt a rights-based approach to development and ensure that its support for projects is directed toward fulfilling internationally guaranteed human rights and in particular addresses power imbalances that affect the full exercise and enjoyment of all human rights by the poor and most vulnerable.

Adopt Core Labour Standards for Programs and Projects

In conformity with WBG statements endorsing the ILO Core Labour Standards as being consistent with and supportive of the institution's poverty alleviation mandate, IBRD and IDA should adopt the CLS as contractual requirements for project financing by including them as mandatory elements of the WBG's Standard Bidding Document.

IFC and MIGA should adopt all four of the Core Labour Standards as part of their Safeguard Policies, and not just two, as is currently the case. Furthermore, IFC and MIGA should improve the monitoring and reporting mechanisms for these policies so as to ensure that they are complied with in the projects in which they invest, and should ensure that project sponsors

subject themselves to independent and impartial third-party verification. The ILO can be an effective partner in helping the WBG develop internal mechanisms for ensuring that its practices are consistent with the CLSs. The WBG should also work with governments, trade unions, industry groups, and other organizations, as well as the ILO, to promote the implementation and enforcement of the standards.

Recognize Indigenous Peoples and Their Land Rights

IBRD and IDA should continue and intensify its dialogue with freely chosen indigenous leaders, focusing on specific issues with extractive industries, including but not limited to frameworks for revenue sharing. They should work with governments to clarify and strengthen, where necessary, the legal basis for resource and tenure rights, including using technical assistance and coordination with other development partners to develop consistency between constitutional law and laws on the environment, on mining, oil, and gas codes, and on indigenous peoples to ensure compliance with indigenous peoples' rights.

Involuntary resettlement of indigenous peoples should be strictly prohibited. Resettlement should only be allowed if the indigenous community has given free prior and informed consent, there are guarantees of a right to return once the reason for resettlement ceases to exist, and subsequent to agreement on resettlement benefits. Moreover, the WBG should not support extractive industry projects that affect indigenous peoples without prior recognition of and effective guarantees for indigenous peoples' rights to own, control, and manage their lands, territories, and resources.

Similarly, the WBG should promote only those "sector reforms" that concomitantly recognize and guarantee indigenous peoples' rights to lands, territories, and resources traditionally owned or otherwise occupied and used by them.

The WBG should strengthen its policies to ensure that its reputation and assets are not put at risk in situations where there is no appropriate mechanism in place for a dialogue that involves affected indigenous peoples in a way acceptable to them.

With the meaningful participation of indigenous people, the WBG should revise its Safeguard Policy (Operational Directive (OD) 4.20 now in the form of draft OP 4.10) and ensure that it is consistent with indigenous rights in international law. The WBG must also ensure that there is consensus among indigenous peoples about the contents of the policy; the policy's beneficiaries must consider that it provides adequate safeguards. Indeed, the WBG should refrain from approving the current draft OP 4.10 before high-level discussions with indigenous peoples, including a legal roundtable discussion between WBG lawyers, indigenous representatives, and legal experts on the consistency of the policy with internationally guaranteed human rights. It is recommended that this high-level discussion take place within a year of the submission of this report.

Integrate Human Rights in Safeguard Policies Relevant to Extractive Industries, With Special Attention to Women's Rights

The WBG should make explicit the human rights basis for each Safeguard Policy; where a policy may lie outside international human rights law, it should be brought into line with current thinking and standards. The Safeguard Policies should become an explicit tool for ensuring that the WBG respects human rights, and the staff in extractive industries should receive adequate training to be able to implement the human rights dimensions of these policies effectively.

The IBRD/IDA Safeguard Policies and other operational approaches should recognize explicitly the rights of women through a commitment to nondiscrimination—a basic tenet of human rights—but also through ensuring that social management, community development, and consultation plans and exercises explicitly reach out to women and protect them from gender-based human rights violations, such as forced prostitution and rape.

The WBG should ensure that its approaches to transparency, disclosure, public participation, and consultation recognize procedural rights to information and are a full part of societal decisionmaking. These policies should be carried out in a way that ensures nondiscrimination.

Rebalance Institutional Priorities

Make Necessary Institutional Changes

The WBG does not appear to be set up to effectively facilitate and promote poverty alleviation through sustainable development in extractive industries in the countries it assists. In terms of staff and budget allocation, the institution does not appear to be as committed to the social and environmental aspects of sustainable development as it is to the economic aspects of development. This is further reflected in the balance of WBG projects and programs.

Adjust Staff Composition and Incentives

Success indicators for career development need to be further improved to align staff incentives to sustainability criteria in the extractive industries sectors. Instead of putting an emphasis on quantitative lending targets, staff should be rewarded for their contributions to ensuring compliance with Safeguard Policies and maximizing poverty alleviation impacts. They should be especially rewarded for moving a project beyond compliance toward greatest possible impacts, especially in challenging environments.

The whole range of staff incentives should be considered when adjusting staff incentives, including awards and reprimands, promotion and demotion, pay raises and cuts, and hiring and firing. Given the time lag between project cause and effect, retroactive performance adjustments may be necessary.

The WBG should also adjust the skill mix of its staff, including the staff of consulting firms, to increase the ratio of people with knowledge of social, environmental, and human rights

aspects of development. The institution needs to protect the independence of social and environmental specialists, who should be able to select the projects they work on based on project need rather than budgetary considerations. Social, poverty, human rights, and environmental specialists should join project teams from the start, including in the design of structural reform programs relevant to the oil, gas, and mining sectors (SALs, SECALs, AAA, technical assistance loans, and economic and sector work).

Monitor Projects Effectively by Involving External Parties

In addition to internal staff, monitoring systems should involve the public and outside experts to provide early warning of any previously unforeseen social or environmental impacts of an extractive industry project. Results should be transparently reported to the public. Independent and impartial third-party monitors may be appropriate. Any significant unforeseen impacts should be remedied as soon as detected by the monitors.

Improve Coordination Across the Different Arms of WBG

The activities of IBRD/IDA, the IFC, and MIGA need to be much better coordinated. IFC and MIGA extractive industry projects can have significant impacts on a country and on regions as a whole, which should be planned for at the national and regional level. Only where such planning occurs can maximum benefits be assured. Coordination might best be assured through the Country Assistance Strategy (CAS) process.

Where the different arms of the WBG cooperate on a given project, their timelines and procedures should be streamlined. IFC and MIGA should always inform the WBG Country Director about their proposed activities in the sector.

Enhance Social and Environmental Accountability for Joint WBG-IMF Operations

The World Bank Group should enhance social and environmental accountability and collaboration between WBG and IMF lending operations in countries with significant extractive industries. To begin with, the WBG should institute a monitoring mechanism of poverty, social, and environmental management indicators to complement the IMF's macroeconomic monitoring.

If a country will also be receiving program support related to structural reform of these sectors, such as a SAL or a SECAL, improved coordination between the WBG and the IMF is equally important. All major inconsistencies between these entities should be resolved during the SAL and SECAL design.

Systematically Address Challenges of Extractive Industry Sectors in CASs

Given the large potential positive and negative impacts of extractive industries, the CASs of countries with significant or potential extractive industries need to address the challenges posed by the sectors, regardless of whether the WBG is involved directly in the sector in a given country. The WBG should develop indicators—such as a high percentage of export earnings from the sector, high percentage of government earnings from the sector, or specific

social and environmental challenges compared with the existing legislative framework—that would trigger an automatic discussion of the sector in the CAS.

The CAS should outline clearly what governments need to do to assure that the conditions are in place for these extractive industries to lead to poverty alleviation and sustainable development. In order to ensure the CAS adequately addresses the challenges posed by these sectors, the guidelines on drafting the CAS and the staff working on the CAS should reflect these aims. The WBG’s poverty group and its environment departments should provide guidance on how the CAS drafting teams should handle these two priority goals.

For several months prior to a CAS review, the WBG should actively solicit comments from civil society on the effectiveness of the last CAS and on recommended priorities for the next, especially with regard to extractive industries. The WBG should release relevant background materials, such as CAS evaluations and economic and sector work. Once a new CAS is drafted, it should be made available and translated into the national language, and a series of face-to-face consultations should be held to discuss the draft. The WBG should report back to the public on the results of those consultations. The WBG should then disclose the final draft CAS when it is circulated to the Board, no later than 30 days prior to Board approval. These standards should govern the disclosure of CASs for both IBRD and IDA countries.

Strengthen Environmental and Social Protection in IBRD/IDA Policy Lending

The structural framework within which the oil, gas, and mining sectors exist is of fundamental importance to achieving pro-poor development outcomes that are sustainable. Poverty and the environment should be accorded strategic importance in designing and implementing structural reform programs that involve extractive industries (including structural adjustment, sectoral adjustment, technical assistance, economic and sector work, and analytic and advisory activities).

Such programs should improve environmental and social protection as well as strengthen government institutions and the legal framework, so that a nation’s strong extractive industry sectors are complemented by a commensurate ability to protect the environment and the poor and to draw benefits at the national, regional, and local levels.

IBRD and IDA should actively promote a “second round of reforms” in the structural framework of countries with significant oil, gas, and mining sectors, with the aim of ensuring the required social and environmental protection and adequate governance.

Update, Implement, and Ensure Compliance with Safeguard Policies Relevant to Extractive Industries

Compliance rates with existing Safeguard Policies are often far below acceptable and, in some cases, the substance of the policies is inconsistent with internationally recognized rights. Much greater emphasis needs to be placed on ensuring compliance with Safeguard Policies and the consistency of these policies with human rights. Serious efforts should be made to review, improve, and update the policies relevant to the extractive industries within the

framework of poverty alleviation through sustainable development. This effort should include the active involvement of relevant stakeholders.

The WBG has stated that EI projects are “high-risk” projects, which require higher levels of scrutiny to ensure that poverty alleviation and sustainable development are paramount considerations and that the rights of affected persons, communities, and indigenous peoples are respected. So-called transaction costs must be adequate and commensurate with the high-risk nature of EI projects, rather than reduced, and Safeguard Policies must account for and address the high-risk nature of EI projects. The precautionary principle must also be actively adhered to.

Because these are high-risk projects, conditionality may be appropriate and necessary. This is particularly the case with projects affecting indigenous peoples and local communities. Although the OED has concluded that country-level commitment to the project is more effective than conditionality, the EIR recommends that in the case of EI projects, a verifiable and enforceable commitment by the WBG and the borrower to comply with appropriate conditions and effective Safeguard Policies is a prerequisite for WBG involvement.

Report on Lessons Learned

The WBG should systematically report on lessons learned, good or bad, from its interventions in the extractive sector. Such a report should be linked to monitoring of impacts and should be readily available to staff preparing similar projects to ensure institutional learning and prevent the repetition of mistakes. Lessons learned should also be reported systematically in Annual Reports to assure institutional accountability. Adjustments in individual projects as well as project concepts should be made promptly when the lesson that is learned is that a project had unintended negative impacts.

Actively Promote Sustainable Energy Policies, Energy Efficiency, Recycling, and Cleaner Fuels, Especially Renewables

Oil, gas, and coal are produced not as ends in themselves but as a means to provide energy that is beneficial for poverty alleviation. To meet the need for sustainable development, however, energy that is generated by fossil fuels must take into account the release of greenhouse gases and their contribution to climate change, with its negative impact on agriculture and food production in developing countries.

While recognizing that it is each country’s right to set its own energy strategy, IBRD and IDA should position themselves to help governments adopt sustainable energy strategies that address the energy needs of the poor and that minimize climate change, which will disproportionately affect the poor. Countries should be helped to remove subsidies from carbon-based fuels, taking due account of the potential impacts on the poor, by shifting subsidies to meet the basic needs of the poor and by ensuring mitigating plans. And WBG lending should concentrate on aggressively promoting the transition to renewable energy and endorsing natural gas as a bridging fuel—building new pipelines and renovating leaking ones.

The WBG should apply carbon shadow value analysis systematically to its cost-benefit analysis and rate of return calculations in order to internalize the currently externalized costs of all energy projects, such as greenhouse gas emissions, as a follow-up to its carbon back-casting as input for its strategies to encourage investment in low and no-carbon energy alternatives. Shadow pricing should internalize both local costs, like pollution, and global costs, such as climate change.

On this basis the WBG should phase out investments in oil production by 2008, the year of the first commitment period under the Kyoto Protocol, and devote its limited scarce resources to investments in renewable energy resource development, emissions-reducing projects, clean energy technology, energy efficiency and conservation, and other efforts that delink energy use from greenhouse gas emissions. During this phasing out period, WBG investments in oil should be exceptional, limited only to poor countries with few alternatives. Meanwhile, the WBG should build local capacities of developing countries to help them negotiate better deals from foreign companies, with the funds used for poverty alleviation through sustainable development.

The WBG has for the last few years not invested in new coal mining development. This should continue. The WBG should concentrate its lending on activities that reduce pollution and greenhouse gas emissions, such as lending to replace coal-fired power plants with gas-fired ones. It should also promote clean technology and help replace old polluting infrastructure with newer technologies, updating inefficient coal generators.

IBRD and IDA should accelerate the help given to countries to phase out uneconomic and environmentally unsound coal mining by helping them address any negative economic impacts of a phaseout and bridge a transition to cleaner energies. Mine closure strategies should recognize the high dependence of mining communities on this source of income and employment and should provide adequate compensation, job creation, and training to affected workers and communities beforehand. Any such strategies should be designed and implemented with the participation of local governments and workers.

When a mine is to close, a “just transition fund” could be created to finance programs for community development, retraining, and social safety nets. The fund could be supported by trust funds from industrial countries, in light of their contribution to climate change problems. This model could also be explored to help countries address the social and economic impacts on the poor of removing subsidies to carbon-based fuels.

Using materials more than once is another form of efficiency, and the WBG should help governments develop economic instruments, policies, and incentive systems that promote materials recovery and recycling through effective collection systems and the creation of markets, education, and incentives for waste separation. Recycling needs to be regulated to ensure it is conducted in a way that is both socially and environmentally responsible.

The WBG should make funds available through the Global Environment Facility or other body to promote renewable energy vigorously. It should develop a robust portfolio for renewable energy, aggressively increasing investments in renewable energies by about 20 percent annually and thereby moving toward a better balance between support for fossil fuel

projects, currently 94 percent of the energy portfolio, and renewables projects, currently just 6 percent.

The promotion of renewable energy that is needed in poverty alleviation efforts and in response to climate change should be done by setting up a specialized WBG unit or team for renewables and energy conservation. It should support country teams by proactively identifying possible energy conservation and renewables projects or programs, assessing country capacity to produce and service renewables and energy conservation, and identifying ways to build up that capacity, as well as by assessing lending capacity for renewables and energy conservation and ways to strengthen that capacity.

The WBG can help tackle global imbalances in energy production and use by promoting dialogue and partnerships to discuss ways to deal with climate change, such as through technology transfer. It should publicize research on climate change as a public information good and should publicly “name and shame” countries or companies with irresponsible policies and practices.

And finally, the WBG should take the initiative to coordinate various research activities throughout the world to focus on a combined global effort of striving for sustainable energy development that could contribute significantly to poverty alleviation through sustainable development.

Follow-up

To follow up on the recommendations in this report, a global consultation workshop should be held in 2005 to assess the extent to which the World Bank Group has succeeded in moving the extractive industry sector on to a sustainable development path that contributes to poverty alleviation worldwide.

Acronym List

AAA	analytic and advisory activities
APELL	Awareness and Preparedness for Emergencies at a Local Level
ASM	artisanal and small-scale mining
BPD	Business Partners for Development
CAMMA	Mines Ministers of the Americas
CAO	Compliance Advisor Ombudsman
CAS	Country Assistance Strategy
CASM	Communities and Small-scale Mining Initiative
CLS	Core Labour Standards
EIR	Extractive Industries Review
ESIA	Environmental and Social Impact Assessment
FPIC	free prior and informed consent
GDP	gross domestic product
HFO	heavy fuel oil
IBRD	International Bank for Reconstruction and Development
IDA	International Development Association
IFC	International Finance Corporation
ILO	International Labour Organization
IMF	International Monetary Fund
MIGA	Multilateral Investment Guarantee Agency
NGO	nongovernmental organization
OD	Operational Directive
OED	Operations Evaluation Department
OP	Operational Policy
PNG	Papua New Guinea
SAL	structural adjustment loan
SECAL	sector adjustment loan
STD	submarine tailings disposal
UN	United Nations
UNEP	United Nations Environment Programme
WBG	World Bank Group
WMI	Whitehorse Mining Initiative

Reference List

- Addo, Michael. ed. 1999. *Human Rights Standards and the Responsibility of Transnational Corporations*. The Hague: Kluwer Law International.
- African Commission on Human Rights. 2001. "Decision Regarding Communication No. 155/96." Nigeria: The Social and Economic Rights Action Center and the Center for Economic and Social Rights.
- Amerasinghe, C.F. 1996. *Principles of the Institutional Law of International Organizations*. New York: Cambridge University Press.
- Amis, L., and D. Prescott. 2002. *Business and Human Rights: Policy Commitments and Disclosure in the Extractive Sector*. London: International Business Leaders Forum.
- Auty, R.M. 2001. *Resource Abundance and Economic Development*. London: Oxford University Press.
- Bernard, D. 2001. "When Two Hulls Are Better than One." *Oil and Gas Magazine* (December): 28-31.
- BG Group. 2002. "BG Group Submission to the World Bank Extractive Industries Review." Berkshire, U.K.
- BHP Billiton. 2002. "BHP Billiton Submission to the World Bank Extractive Industries Review."
- BP (British Petroleum). 2003. "BP Submission to the Extractive Industries Review." Presented at the EIR Asia-Pacific Workshop in Bali, Indonesia.
- CAMMA (Mines Ministries of the Americas). 2002. "Minerals, Metals and Sustainable Development." Ottawa, Canada.
- Campbell, B., P. Hatcher, A. Lfortune, and B. Sarrasin. 2003. "African Mining Codes Questioned." *Mining Journal* (February): 106-9.
- CAO (Compliance Advisor Ombudsman). 2000. *Investigation into the Mercury Spill of June 2, 2000 in the Vicinity of San Juan, Choropampa, and Magdalena, Peru*. Washington, D.C.: World Bank
- . 2002. "Review of IFC's Safeguard Policies." http://cao-ombudsman.org/ev.php?URL_ID=1820&URL_DO=DO_TOPIC&URL_SECTION=201&reload=1055324195.
- . 2003. *Extracting Sustainable Advantage? A review of how sustainability issues have been dealt with in recent IFC and MIGA extractive industries projects*. Washington, D.C.: World Bank.
- Cuddington, John, Rodney Ludema, and Shamila Jayasuriya. 2002. "Prebisch-Singer Redux." Georgetown University, Washington, D.C. Unpublished.

- Davis, G.A. 1995. "Learning to Love the Dutch Disease: Evidence from the Mineral Economies." *World Development* 23(10): 1765-1779.
- Davis, Graham, and John Tilton. 2002. "Should Developing Countries Renounce Mining: A Perspective on the Debate." Colorado School of Mines.
- de Ferranti, D., G. E. Perry, D. Lederman, and W. F. Maloney. 2002. *From Natural Resources to the Knowledge Economy*. Washington, D.C.: World Bank.
- Everett, Richard, and Andrew Gilbov. 2003. "Impacts of the World Bank Group's Social and Environmental Policies on Extractive Companies and Financial Institutions, Phase One." Research commissioned by the EIR.
- Forest Peoples Programme and the Tebtebba Foundation. 2003. "Extracting Promises: Indigenous Peoples, Extractive Industries and the World Bank, Synthesis Report." Research commissioned by the EIR.
- Freeport-McMoRan Copper & Gold Inc. 2002. *Real People Real Commitment: Working Toward Sustainable Development: 2002 Economic, Social, and Environmental Report*. New Orleans, Louisiana.
- Gelb, A.H., and Associates. 1988. *Oil Windfalls: Blessing or Curse?* New York: Oxford University Press.
- Gibson, Ginger. 2003. "Community Perspectives on the Extractive Industries: A Report for the Extractive Industries Review." CoDevelopment Canada. Research commissioned by the EIR.
- Global Witness. 2002. *All the President's Men*. London.
- Government of Tanzania. 2003. *Poverty Reduction Strategy: The Second Progress Report 2001/02*. Dar es Salaam, Tanzania.
- Guerin, Bill. 2003. "Indonesia's Mining Quagmire." *Asia Times*. 13 May.
- Gylfason, T. 2001. "Natural Resources, Education, and Economic Development." *European Economic Review* 45: 847-859.
- Hancock, Graeme. n.d. "Mining and Sustainable Development: Is It a Contradiction in Terms?" World Bank Project Unit, Department of Mining, Port Moresby, Papua New Guinea.
- ICMM (International Council on Mining and Metals). 2002. *The Mining and Metal Industries: Progress In Contributing to Sustainable Development*. London.
- ICOLD (International Commission on Large Dams), and UNEP (United Nations Environment Programme). 2001. "Tailings Dams: Risk of Dangerous Occurrences." *ICOLD Bulletin* 121. Paris.
- Inter-American Commission on Human Rights. 1997. "Report on the Situation of Human Rights in Ecuador." OEA/Ser.L/V/II.96, Doc. 10 rev. 1 1997, 89.

- . 2002. “Report N° 75/02, Case N° 11.140, Mary and Carrie Dann (United States), Dec. 27, 2002.” OEA/Ser.L/V/II.116, Doc. 46.
- Inter-American Court of Human Rights. 2001. “Judgment in the Case of The Mayagna (Sumo) Indigenous Community of Awas Tingni v. the Republic of Nicaragua.” *Inter-American Court on Human Rights, Series C, No. 79*.
- IPIECA (International Petroleum Industry Environmental Conservation Association) and OGP (International Association of Oil and Gas Producers). 2002a. *Industry as a Partner for Sustainable Development*. London: Beacon Press.
- . 2002b. *The Oil and Gas Industry: From Rio to Johannesburg and Beyond, Contributing to Sustainable Development*. Oxford, U.K.: Words and Publications.
- Isham, Jonathan, Michael Woolcock, Lant Pritchett, and Gwen Busby. 2003. “The Varieties of Rentier Experience: How Natural Resource Endowments Affect the Political Economy of Economic Growth.” Manuscript.
- IUCN – The World Conservation Union. 2000. World heritage and Mining. Gland Switzerland, IUCN, UNESCO World Heritage, ICME: Technical Workshop (9/21-23).
- Jennings, N. 2003. “Small Mines: Big Issues—Various Social and Labor Issues Facing Small Scale Miners in Asia and the Pacific; Suggestions for Intervention at All Levels.” Presented at the EIR Asia-Pacific Workshop in Bali, Indonesia.
- Kahn, B. 2003. “Potential Environmental and Socio-economic Impacts of Submarine Tailing Disposal (STD) in Regions of Intense Marine Resource Use and Exceptional Coastal and Oceanic Marine Bio-diversity.” Presented to the EIR Asia-Pacific Consultation, Bali, Indonesia.
- Leite, C., and J. Weidman. 1999. “Does Mother Nature Corrupt? Natural Resources, Corruption and Economic Growth.” Working Paper WP99/85. International Monetary Fund. Washington, D.C.
- Liebenthal, A. 2002. *Promoting Environmental Sustainability in Development: An Evaluation of the World Bank's Performance*. Washington, D.C.: World Bank.
- Mainhardt-Gibbs, H. 2003. “The Role of Structural Reform Programs towards Sustainable Development Outcomes.” Research commissioned by the EIR. Washington, D.C.
- Manzano, O., and R. Rigoban. 2001. “Resource Curse or Debt Overhang?” Working Paper No. 8390. National Bureau of Economic Research, Cambridge, Massachusetts.
- Mines and Geosciences Bureau. n.d. *Philippine Government Initiatives on the Sustainable Development of the Country's Mineral Resources*. Department on the Environment and Natural Resources, The Philippines.
- Minewatch-London. 2000. *Women United and Struggling for Our Land, Our Lives, Our Future. Proceedings of the First International Conference on Women and Mining*. London.

- Miranda, Marta, Philip Burris, Jessie Froy Bingcang, Phil Shearman, Jose Oliver Briones, Antonio La Viña, and Stephen Menard. 2003. *Mining and Critical Ecosystems: Mapping the Risks*. Washington, D.C.: World Resources Institute. Research commissioned by the EIR.
- Neale, T. 2003. "Program Successes in Small-Scale Mining in PNG." Presented at the EIR Asia-Pacific Workshop in Bali, Indonesia.
- OED (Operations Evaluation Department), OEG (Operations Evaluation Group), and OEU (Operations Evaluation Unit). 2003. *Extractive Industries and Sustainable Development: An Evaluation of World Bank Group Experience*. Washington, D.C.: World Bank Group.
- Oxfam Community Aid Abroad. 2002a. *Mining Ombudsman Annual Report 2001–2002*. Victoria, Australia.
- . 2002b. *Tunnel Vision: Women, Mining and Communities*. Victoria, Australia.
- PDAC (Prospectors and Developers Association of Canada). 2003. "Submission to the World Bank Extractive Industries Review."
- Ramos, Horacio C., and Manuel A. Banaag. 2002. "Challenges and Initiatives in Improving the Local Management of Mineral Wealth." Paper presented during World Bank Workshop. World Bank, Washington, D.C.
- Ross, M.L. 1999. "The Political Economy of the Resource Curse." *World Politics* 51(2): 297-322.
- Sachs, J. D., and A.M. Warner. 2001. "The Curse of Natural Resources." *European Economic Review* 45(4-5): 827-838.
- Sala-I-Martin, Xavier, and Arvind Subramanian. 2003. "Addressing the Natural Resource Curse: An Illustration from Nigeria." Working Paper WP/03/139. International Monetary Fund, Washington, D.C.
- Sampat, Payal. 2003. "Scrapping Mining Dependence." In Worldwatch Institute, *State of the World 2003*. New York: W.W. Norton & Company.
- Sands, Philippe, and Pierre Klein. 2001. *Bowett's Law of International Institutions*. London: Sweet and Maxwell.
- Schermers, Henry G., and Niels M. Blokker. 1995. *International Institutional Law: Unity within Diversity*. The Hague: Martinus Nijhoff Publishers.
- UN (United Nations). 1992. "Rio Declaration on Environment and Development." A/CONF.151/26 (Vol.I). Geneva.
- . 1993a. "The Human Rights Dimensions of Population Transfer, Including the Implantation of Settlers." E/CN.4/Sub.2/1993/17. Geneva.
- . 1993b. "Vienna Declaration and Programme of Action." A/CONF.157/23, 12 July 1993. Geneva.

- . 1994. “Transnational Investments and Operations on the Lands of Indigenous Peoples.” E/CN.4/Sub.2/1994/40. Geneva.
- . 1995. “Copenhagen Declaration on Social Development. Report of the U.N. World Summit on Social Development.” A/CONF.166/9. Geneva.
- . 2000. “General Comment 14: The Right to the Highest Attainable Standard of Health.” E/C.12/2000/4. Geneva.
- . 2001. “Indigenous Peoples and Their Relationship to the Land.” E/CN.4/Sub.2/2001/21. Geneva.
- . 2002a. “Human Rights and Indigenous Issues.” E/CN.4/2002/97. Geneva.
- . 2002b. “International Decade of the World’s Indigenous People.” E/CN.4/Sub.2/AC.4/2002/3. Geneva.
- UNECE (United Nations Economic Commission for Europe). 1998. “Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.” Adopted at the Fourth Ministerial Conference, Environment for Europe, Aarhus, Denmark, 25 June.
- United Nations Human Rights Committee. 1992. “I. Lansman et al. vs. Finland.” CCPR/C/52/D/511/1992, 10. Geneva.
- United States, U.S. House of Representatives. 1990. *Oil Pollution Act of 1990*. Public Law 101-380 (33 U.S.C. 2701 et seq.; 104 Stat. 484). Washington, D.C.
- WBG (World Bank Group). 1994. *Resettlement and Development: The Bankwide Review of Projects Involving Involuntary Resettlement 1986-1993*. Environment Department: Washington, D.C.
- . 1995. “Miracle in the Arctic: Oil Spill Cleanup is Successful.” *DevNews Media Center*. October 19. Washington, D.C.
- . 2001a. “Peru Country Assistance Strategy Progress Report.” Report No. 22033-PE. Washington, D.C.
- . 2001b. *Poverty Trends and Voices of the Poor*. 4th edition. Washington, D.C.
- . 2003. *World Development Report 2003. Sustainable Development in a Dynamic World: Transforming Institutions, Growth, and Quality of Life*. New York: Oxford University Press.
- Weber-Fahr, Monika. 2002. *Treasure or Trouble? Mining in Developing Countries*. International Finance Corporation, Washington, D.C.
- Weissbrodt, David. 2000. “Principles Relating to the Human Rights Conduct of Companies.” E/CN.4/Sub.2/2000/WG.2/WP.1. Geneva.
- WMMF (World Mines Ministries Forum). 2002. “Summary Notes of Roundtable Discussion.” <http://www.wmmf.org/historical/2002.shtml>.

- World Commission on Environment and Development. 1987. *Our Common Future*. Oxford: Oxford University Press.
- WWF. 2002. *Ecological Effects of Mining Spills in the Tirza River System in 2000*. Vienna, Austria.
- Yukon Conservation Society and Yukon Status of Women Council. 2001. *Gaining Ground: Women, Mining and the Environment*. Yukon, Canada.

Notes

- ¹ See Gelb and Associates 1988, Sachs and Warner 2001, Auty 2001, Leite and Weidman 1999, Gylfason 2001.
- ² WBG 2001b.
- ³ Poverty and the International Covenant on Economic, Social and Cultural Rights: 10/05/2001. Statement Adopted by the Committee on Economic, Social and Cultural Rights on 4 may 2001. UN Doc. E/C.12/2001/10, at paras 7-8.
- ⁴ World Commission on Environment and Development 1987, p. 43.
- ⁵ WBG 2003.
- ⁶ WBG 2003.
- ⁷ OED, OEG, and OEU 2003, vol. 1, p. 1.
- ⁸ OED, OEG, and OEU 2003, vol. 3, p. 11.
- ⁹ Global Witness 2002.
- ¹⁰ See Davis 1995; Ross 1999; Manzano and Rigoban 2001; Cuddington, Ludema, and Jayasuriya 2002; Davis and Tilton 2002; de Ferranti et al. 2002; Weber-Fahr 2002; WBG 2003; Isham et al. 2003; Sala-I-Martin and Subramanian 2003.
- ¹¹ Mainhardt-Gibbs 2003.
- ¹² Forest Peoples Programme and the Tebtebba Foundation 2003.
- ¹³ Campbell et al., 2003, pp.106–09.
- ¹⁴ Criticism from NGOs, labor and academia, during EIR consultation workshops.
- ¹⁵ Mainhardt-Gibbs 2003.
- ¹⁶ In Peru, regulatory improvements are needed to identify who exactly should benefit and what type of investments should be made with the money. In Indonesia, the Revenue Sharing law amounts to only a small percentage of the revenue going to the regencies as it only accounts for royalties. Corporate tax and VAT, the larger revenue generators, still go to the central government.
- ¹⁷ WBG 2001a.
- ¹⁸ Government of Tanzania 2003.
- ¹⁹ Guerin 2003.
- ²⁰ Mainhardt-Gibbs 2003.
- ²¹ OED, OEG, and OEU 2003, vol. 2, p.15.
- ²² Mainhardt-Gibbs 2003.
- ²³ Russian submission to EIR Consultation Workshop in Budapest.
- ²⁴ WMMF 2002; Minister of Energy and Mines, Burundi and Ministry of Mines, Geology and Environment, Republic of Guinea.
- ²⁵ OED, OEG, and OEU 2003.
- ²⁶ OED, OEG, and OEU 2003.
- ²⁷ CAO 2003.
- ²⁸ EIR consultation input from academia, NGOs, indigenous peoples, and local communities in ECA, ASPAC, ECA, and Africa.
- ²⁹ EIR consultations with EI industry representatives and government opinions throughout the EIR consultation process.
- ³⁰ Gibson 2003, p. 6.
- ³¹ Gibson 2003, p. 7.
- ³² OED, OEG, and OEU 2003, vol. 2.
- ³³ CAO 2003.
- ³⁴ *General Recommendation XXIII (51) concerning Indigenous Peoples*, Adopted at the Committee's 1235th meeting, 18 August 1997. UN Doc. CERD/C/51/Misc.13/Rev.4.
- ³⁵ *Concluding Observations by the Committee on the Elimination of Racial Discrimination : Australia. 24/03/2000. CERD/C/56/Misc.42/rev.3*, at para. 9. See, also, among others, *Concluding Observations*

of the Committee on the Elimination of Racial Discrimination: Costa Rica. 20/03/2002 and, Concluding Observations of the Committee on the Elimination of Racial Discrimination: United States of America. 14/08/2001.

³⁶ Inter-American Commission on Human Rights 2002.

³⁷ *Report on the Second Session of the Permanent Forum on Indigenous.* UN Doc. E/C.19/2003/22, at para. 33(a).

³⁸ IPIECA and OGP 2002a.

³⁹ Gibson 2003.

⁴⁰ BP 2003, Freeport McMoRan 2002.

⁴¹ Hancock n.d.

⁴² Ramos and Banaag 2002.

⁴³ Gibson 2003.

⁴⁴ Gibson 2003.

⁴⁵ Oxfam Community Aid Abroad 2002a, pp. 2, 16–17.

⁴⁶ The UN/ECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) was adopted at the 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.

⁴⁷ Jennings 2003.

⁴⁸ Neale 2003.

⁴⁹ In PNG today 97 percent of the land is owned by indigenous peoples and 3 percent is owned by government.

⁵⁰ It is estimated that PNG has 50,000 small-scale miners who benefit approximately 400,000 people and produce up to 145,000 ounces of gold per year, equivalent to \$45 million. The average income per miner is \$900, way above the PNG average income of \$250.

⁵¹ Statement supported by in-country interviews with private sector and civil society, July 2002.

⁵² Testimonial in Eastern Europe and Central Asia EIR Consultation Workshop, June 2002.

⁵³ CAO 2000.

⁵⁴ ICOLD and UNEP 2001.

⁵⁵ <http://www.cyanidecode.org>.

⁵⁶ ICOLD and UNEP 2001, p. 6; Miranda et al. 2003.

⁵⁷ Bernard 2001, pp. 28–31.

⁵⁸ IPIECA and OGP 2002b.

⁵⁹ United States 1990.

⁶⁰ WBG 1995.

⁶¹ IUCN 2000.

⁶² Miranda et al. 2003.

⁶³ Mainhardt-Gibbs 2003.

⁶⁴ <http://www.decoin.org>.

⁶⁵ CAO 2003.

⁶⁶ Miranda et al. 2003.

⁶⁷ WWF 2002.

⁶⁸ <http://www.mineralresourceforum.org/incidents/BaiaMare/summary.htm>.

⁶⁹ Kahn 2003.

⁷⁰ Kahn 2003.

⁷¹ IPIECA and OGP 2002a.

⁷² BHP Billiton 2002.

⁷³ <http://www.bpdweb.org> and <http://www.bpd-naturalresources.org>.

⁷⁴ EIR Project Visit to Papua New Guinea, 2–11 August 2002.

- ⁷⁵ CAO 2003.
- ⁷⁶ BG Group 2002.
- ⁷⁷ ILO cited in Sampat 2002, p. 119.
- ⁷⁸ Mines and Geosciences Bureau n.d.; CAMMA 2002.
- ⁷⁹ CAMMA 2002.
- ⁸⁰ ICMM 2002.
- ⁸¹ TotalFinaElf, *The Path to Sustainable Development*, brochure, 2001.
- ⁸² IPIECA and OGP 2002b.
- ⁸³ WBG 1994, p. 1/4.
- ⁸⁴ For an extensive overview of the impact on indigenous peoples of relocation caused by dams, see, Dams, Indigenous Peoples and Ethnic Minorities. *Indigenous Affairs*, Vol. 3-4, International Work Group on Indigenous Affairs and Forest Peoples Programme (1999), especially, M. Colchester, Introduction, 4-55.
- ⁸⁵ UN 1993a, paras 101, 336.
- ⁸⁶ *Study concerning the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms. Final report submitted by Mr. Theo van Boven, Special Rapporteur*. UN Doc. E/CN.4/Sub.2/1993/8, at 10.
- ⁸⁷ General Comment No. 4, The Right to Adequate Housing (Art. 11(1) of the Covenant), adopted at the Committee's Sixth session, 1991.
- ⁸⁸ General Comment No. 4, The Right to Adequate Housing (Art. 11(1) of the Covenant), adopted at the Committee's Sixth session, 1991, at para. 18. See, also, General Comment No. 7, The Right to Adequate Housing (Art. 11(1) of the Covenant): forced evictions, *supra* note 7, at para. 1.
- ⁸⁹ WBG 1994.
- ⁹⁰ Liebenthal 2002, pp. 21, 24.
- ⁹¹ OED, OEG, and OEU 2003, vol. 1, pp. 10–11.
- ⁹² OED, OEG, and OEU 2003, vol. 2, pp. 22–23. Out of 11 projects reviewed, 6 were B projects that should have been appropriately categorized as A and 5 were C projects that should have been more appropriately categorized as B.
- ⁹³ OED, OEG, and OEU 2003, vol. 2, p. 21.
- ⁹⁴ PDAC 2003.
- ⁹⁵ OED, OEG, and OEU 2003, vol. 4.
- ⁹⁶ Everett and Gilboy 2003.
- ⁹⁷ United Nations Human Rights Committee 1992, p. 10.
- ⁹⁸ Inter-American Commission on Human Rights 1997, p. 89; African Commission on Human Rights, paras 58 and 69.
- ⁹⁹ UN 1993b, Part I, para. 10.
- ¹⁰⁰ The EIR Asia and Pacific Regional Workshop Bali, Indonesia, 26-30 April 2003, Testimonials and Consultation Report.
- ¹⁰¹ Amis and Prescott 2002.
- ¹⁰² Testimonials from Regional EIR Consultations, including closed testimonials in the Asia Pacific Region and Eastern Europe and Central Asia.
- ¹⁰³ UN 2002a, paras. 39-40; UN 2001; Inter-American Court of Human Rights 2001, para. 149.
- ¹⁰⁴ UN 2000, para. 27.
- ¹⁰⁵ UN 1994, at para. 20; UN 2002b, p. 3.
- ¹⁰⁶ Oxfam Community Aid Abroad 2002b; Minewatch-London 2000; Yukon Conservation Society and Yukon Status of Women Council 2001.
- ¹⁰⁷ CAO 2002.
- ¹⁰⁸ Address by James D. Wolfensohn, President of the World Bank Group, to the Board of Governors of the World Bank Group at the Joint Annual Discussion, Dubai, September, 2003.
- ¹⁰⁹ OED, OEG, and OEU 2003.

¹¹⁰ CAO 2002.

¹¹¹ OED, OEG, and OEU 2003, vol. 4.

¹¹² Among others, Amerasinghe 1996, p. 240; Schermers and Blokker 1995, pp. 824, 988; Sands and Klein 2001, pp. 458-59.

¹¹³ Among others, see UN 1992, UN 1995, Weissbrodt 2000, Addo 1999.