



**Report of the South-South Exchange and Training  
Workshop on Extractive Industries and  
Sustainable Development**



*Empowered lives.  
Resilient nations.*



**Organized by UNDP Extractive Industries Development Solutions Team**

**And UNDP-UNEP Poverty-Environment Initiative - Asia Pacific**

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## Further Information

For further information about the workshop, visit:

<http://www.unpei.org/south-south-exchange-and-training-workshop-on-extractive-industries-and-sustainable-development> - Presentations available

<https://undp.unteamworks.org/node/504493> - Log in required. Presentations, videos and additional reading materials are available

## Abbreviations & Terminology

AICHR	ASEAN Intergovernmental Commission on Human Rights
AIPP	Asia Indigenous Peoples Pact
ASEAN	Association of Southeast Asian Nations
ASGM	Artisanal and Small-Scale Gold Mining
ASM	Artisanal and Small-Scale Mining
CCCMC	China Chamber of Commerce of Metals and Chemicals Importers & Exporters
CDA	Community Development Agreements
CSR	Corporate Social Responsibility
DFID	UK Department for International Development
EI	Extractive Industries or Extractive Industry
EIA	Environmental Impact Assessment
EI DST	Extractive Industries Development Solutions Team (UNDP)
EIS	Environmental Impact Statement
EITI	Extractive Industry Transparency Initiative
EU	European Union
FV	Financial Valuation
GIA	Gender Impact Assessments
IEE	Initial Environmental Evaluation
IFC	International Finance Corporation
IPD	Investment Promotion Department (Lao PDR)
KPK	Indonesia's Corruption Eradication Commission (Komisi Pemberantasan Korupsi)
NRF	Natural Resource Fund
PEI	Poverty-Environment Initiative
SEPA	Swedish Environmental Protection Agency
SIDA	Swedish International Development Cooperation Agency
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNEP-WCMC	UNEP World Conservation Monitoring Centre

## Context and Objectives of the Workshop

In countries and provinces with rich mineral resources, extractive industries affect virtually all the Sustainable Development Goals, some positively and others negatively. For instance, their operations directly affect targets such as ensuring that all men and women have equal rights to economic resources, ownership and control over land and natural resources; or the target on reducing proportion of youth not in employment. By generating fiscal resources to finance health, education and infrastructure, mineral resource extraction also indirectly relates to goals and targets related to maternal and child mortality, communicable and non-communicable diseases, universal health coverage, education, including vocational education. The list can go on.

Mineral resources are critical for financing development and sustaining economic growth in Asia Pacific. The region produces over a third of the world's minerals, oil and gas<sup>1</sup>. Asia is also a large consumer of and investor in mineral resources.

However, negative environmental and social impacts, as well as governance challenges accompanying growth of mining, oil and gas extraction remain a concern.

Worldwide, resource extraction is associated with high risk of corruption. Lack of knowledge and negotiating capacities, particularly in developing countries with less mature mineral, oil and gas industries, can lead to foregoing of significant financial resources generated from resource extraction, and lost opportunities to finance development.

While environmental standards and regulations are in place in most Asia Pacific countries, their implementation lags behind. As a result, the negative environmental impacts of resource extraction are greater than they could be. These impacts mostly affect the poorest and most vulnerable communities whose lives and livelihoods depend on the environment and natural resources.

Human rights impacts of extractive industries are also considerable in the region, with issues ranging from displacement, loss of land, and violation of rights by security forces.

Growth of extractive industry can also lead to exacerbating inequalities by benefitting only the richer and better skilled groups in the society, while not benefitting or negatively impacting poorer and low-skilled people.

The current decline of prices of commodities and the downturn of the extractive industry is negatively impacting resource-rich countries. However, it is the time to put in place better systems – for managing fiscal revenues, for managing environmental and social impacts, for building the capacity of governments and non-governmental institutions to work together with the extractive industry and for improving sustainability performance of the industry.

This workshop was organised jointly by UNDP Extractive Industries Development Solutions Team (EI DST) in the Bangkok Regional Hub and UNDP-UNEP Poverty-Environment Initiative (PEI). Its objectives were to provide training on a broad range of development issues faced by resource-rich countries, to enable exchange of experiences between countries, and to engage with experts, industry, international organisations and donors.

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<sup>1</sup> On average in 2007-2011.

The workshop brought together government, NGO, academic and industry participants. From Asia Pacific, eleven countries were represented: Afghanistan, China, India, Indonesia, Lao PDR, Mongolia, Myanmar, Pakistan, Philippines, Solomon Islands and Thailand.

The workshop focused primarily on the mining sector, although the petroleum sector issues were also covered to some extent.

## Executive Summary

### Overview of UNDP and UNEP Work on Extractive Industries and Sustainable Development

**UNDP** has worked in the Extractive Industries (EI) sector since the 1960s-1970s. Recently, its work related to extractive industries was formalised in 2012 with the development of [UNDP's Strategy for Supporting Sustainable and Equitable Management of the Extractive Sector for Human Development](#). UNDP supports governments to strengthen institutions, improve community participation and civil society engagement; it helps develop business linkages with extractive industry at the local level, promote transparency in revenue management. UNDP also supports improvement of standards in small-scale mining. It also conducts research and organises knowledge sharing activities. In the Asia Pacific region, the Extractive Industries Development Solutions Team (EI DST) was formed to address extractive industries issues in a more systematic way. An initial survey of country offices in the Asia Pacific region was conducted to see where interests lay, what concerns existed, and what the issues were. Conflict prevention, resolution and mitigation, governance, lack of policies (or existence of contradictory policies), livelihoods, revenue sharing between national and subnational levels, and gender were identified as primary issues affecting the countries in this region. Detailed assessments have been conducted thus far in Indonesia, Mongolia, the Philippines and Afghanistan, which formed the basis of interventions at the national level.

**UNEP**, as the environmental arm of the United Nations system, focuses on the environmental sustainability aspects of extractive industries. It provides strategic policy advice, deployment of environmental experts in emergency situations, and conducting environmental assessments in the post-conflict settings. It helps minimising and eliminating the release of mercury including in artisanal small-scale gold mining, supplies environmental spatial data to extractive industries, works on reducing methane and black carbon from oil and natural gas, and promotes eco-innovation in metal value chain and trans-boundary collaboration on combating oil pollution incidents. Through the joint UNDP-UNEP Poverty Environment Initiative (PEI), UNEP is also working to improve quality of investments in natural resources including mineral resources; to monitor and enforce compliance with environmental and social obligations, and to promote equitable sharing of benefits and effective use of revenues from mineral resources to invest in poverty eradication and natural capital building. As demonstrated by PEI, greater cooperation of multiple actors is needed to reverse the declining trends of sustainability of extractive industries. The newly adopted 2030 Sustainable Development Agenda is an opportunity to further consolidate cooperation so that different expertise and strengths can be brought together to better manage social and environmental risks and opportunities, enhance linkages with other sectors and inject the triple bottom-line of environmental, social and economic sustainability across the whole value chain.

## **Mineral Extraction and Trends in Resource Supply and Demand**

Knowledge about what drives the extractive industry and how it operates is essential for the better governance of the sector.

Demand for minerals is expected to double or even triple by 2050. The Asia Pacific region, which currently consumes 53% of the world's resources, is expected to see further increase in its share of consumption. There are two key trends in relation to resource supply from an environmental perspective: decline in ore grades and increased competition of extractive industry with other land uses. Declining ore grades mean higher costs for mining companies and greater environmental impacts of operations. Increased competition for land with settlements, conservation or agriculture can lead to increase in social conflict between extractive companies and communities, operational delays and legal barriers. Thus, trends point to a growing gap between resource supply and demand. Resource efficiency policies and sustainable consumption and production are needed to narrow this gap.

Market trends indicate a continued decline in mineral prices since 2011; the turnaround might not occur until 2017. In the long term, metal demand remains high and will continue to grow slowly.

Various stages of mining, oil and gas operations have different implications on financial flows and employment. While exploration and development (construction) stages require significant financial investments and tend to employ larger number of workers, they do not bring income to the operating companies and the government. Money starts flowing in the production period to both companies and the government, but employment intensity declines. Closing and decommissioning stages see dramatically reduced employment and may require significant financial resources.

## **Environmental and Social Impacts and Mitigation Tools**

### ***Environmental Impacts***

Mining impact on the environment depends on the geophysical characteristics and the resulting method of mining. However, it also depends on the management of the mining process – clearing, waste management and infrastructure building. Poor mine rehabilitation (closure) can also have lasting detrimental environmental impacts, such as coal mine spoils leading to erosion and downstream impacts from salts and silt.

A key environmental risk management tool is an Environmental Impact Assessment (EIA) process, which involves screening and scoping of the impact, preparation of the EIA report, government review and decision-making (issuance of an environmental compliance certificate), and monitoring. Smaller scale extractive operations can undergo a simplified EIA process. At the end of mining, mine closure must be undertaken, with the objectives of creating safe, stable, and self-sustaining post-mining land use options, and leaving non-polluting mine waste storage facilities. Legal, financial and technical procedures for mine closure need to be put in place from the very early stages of planning the mine. Local stakeholders must be consulted to analyse environmental conditions and species selection for rehabilitation.

Initiatives related to these issues include the Poverty-Environment Initiative (PEI), which works to integrate poverty and environmental sustainability issues into core development planning, budgeting and investment management processes in eight countries in the Asia Pacific region: Bangladesh, Bhutan, Indonesia, Lao PDR, Mongolia, Myanmar, Nepal and the Philippines. UNEP's World Conservation Monitoring Centre (UNEP-WCMC) produces tools that can be used by governments, NGOs and the private sector<sup>2</sup>, to allow the identification of potential conflicts between mineral resources and biodiversity and to inform national or regional priority-setting processes. UNDP is currently launching a new programme entitled "Strengthening Human Rights, Gender, and Rule of Law in Environmental Public Administration: Large-Scale Mining Focus". In addition to focused support to four countries, the programme will organise south-south exchanges and support on environmental governance and conducting public administration assessments.

### **Social Impacts**

Due to mining developments, communities are often displaced forcefully by military and police and turned into migrants. Self-reliant subsistence farmers become landless labourers. Biodiversity loss brings multiple negative impacts. As a result, many people live in extreme poverty and in polluted environments. They have to resort to child labour. Moreover, existing social hierarchies are aggravated; women's paid and unpaid work in mining areas is generally unaccounted, undervalued and criminalised. Livelihoods remain marginal, as work generated by mining is mostly informal, casual, contractual and unsafe, and the unsustainability of livelihoods directly impacts children's lives, rights, safety and health. However, these local and national costs of extractive industries remain largely invisible.

Mineral resource extraction involves high economic stakes that influence, transgress and violate laws and cover up violations. This results in corruption, militarisation and *mafia-isation* of governance structures and suppression of civil society and democratic public vigilance. Accountability is often not enforced due to weak regulatory mechanisms. Moreover, mining companies avoid accountability through out-sourcing and sub-contracting.

Due to perceptions in mining companies that social engagement is a 'soft' area of work, companies tend to respond to social impacts in a simplistic or defensive way. Companies should follow good guidelines and international standards and should work closer with governments in a supporting role than waiting for them to do random compliance testing. In addition, companies should be required to provide formal employment rather than contractual (outsourced) work.

Gender Impact Assessment (GIA), part of Social Impact Assessment, helps reveal the impacts of extractive industry on women as individuals, and women in the context of families and communities. The International Finance Corporation's (IFC) [Financial Valuation \(FV\) Tool](#) for sustainability investments helps demonstrate the financial value of sustainability investments to companies (social investments).

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<sup>2</sup> [World Database on Protected Areas \(WDPA\) and Protected Planet](#), the [Integrated Biodiversity Assessment Tool \(IBAT\)](#), the [Coastal and Marine Data /Ocean Data Viewer](#), [Biodiversity A-Z](#), and the [Proteus website](#).

## ***China's Overseas Investments***

Chinese foreign direct investment has been increasing rapidly, reaching a record high of \$123.12 billion in 2014. The Chinese government has developed regulatory policies and guidelines in recent years, which resulted in greater awareness of CSR and sustainable development issues by Chinese companies. However, Chinese companies investing overseas lack professional human resources, experience in risk management and due diligence analysis. The China Chamber of Commerce of Metals and Chemicals Importers & Exporters (CCCIMC) has developed a set of guidelines on social responsibility, sustainable investment and due diligence. The CCCIMC evaluates company performance, and plans to release the ranking of these companies to encourage transparency of their performance. The CCCIMC closely cooperates with relevant line ministries to set up an incentive mechanism to motivate Chinese companies to follow CSR principles, for example through financing or taxation.

## **Management of Revenues from Extractive Industry**

### ***Macroeconomic policies***

Mineral resource dependent countries face challenges in macroeconomic management. Economic growth fuelled by mineral growth can be very volatile. Employment may increase in mining, oil and gas, but may decline in agricultural and manufacturing sectors producing for exports. Over time, the loss of competitiveness of these export sectors can affect the balance of payments and the fiscal balance. A key dilemma for governments is how to spend revenues from resource extraction on development in a sustainable manner and in a way benefiting future generations. Various options exist, such as saving in financial assets or investing in human capital and infrastructure. Monetary and other policies should assist fiscal policies to counter the effect of the Dutch disease and invest in future generations.

### ***International and Domestic Laws and Contracts with Extractive Industry***

The legal framework on extractive industries consists of the national constitution, legislation and contracts, as well as international law.

Investment contracts made between an investor (often a foreign company) and the government can often overshadow the legislation in developing countries, whereas in more developed countries, laws and regulations are sufficiently detailed, leaving very few details to be fixed by contracts. Reliance on contracts over domestic law leads to a more disadvantaged negotiating position for host governments, creates more opportunities for corruption, and creates difficulties in administering and enforcing contracts. To minimise these disadvantages, countries should adopt model contracts, with deviations from the model contracts to be publicised and justified.

Contract transparency is important because it represents a deal made by a government on behalf of the people. Increasingly, contract disclosure is becoming adopted: 20 out of 58 countries disclose all or some of their contracts. In some cases, separate community development agreements (CDAs) are made between an investor and the community.



## ***Taxes and Royalties; Natural Resource Funds***

A good fiscal regime should capture a fair share of rents (income) for the state and at the same time allow reasonable returns for the investor. Revenues from the extractive industry consist of taxes such as corporate income taxes, royalties, import duties and VAT, excess profits taxes, and production share, income from dividends (if the government holds equity stake), as well as fees and bonuses. The fiscal regime should be enforceable and easily administered, provide relatively stable and predictable revenues, and be robust and flexible in changing circumstances.

A Natural Resource Fund (NRF) is a government-owned fund financed by oil, gas or mineral revenues, of which at least a portion is invested in foreign assets. In the current low mineral price environment, NRFs may seem less relevant, as fiscal surplus is less likely. However, a drop in revenues has also made countries realise opportunities lost during boom times. Therefore, a period of low prices is a good time to set up structures and rules to be used later, when mineral prices recover.

## ***Financial Modelling***

Financial models can be used to estimate revenues and expenditure flows for governments, and quantify the wider economic, social and environmental impacts.

However, such models should never be taken as absolute; they are based on assumptions that may change, for example, assumptions about the life of a mine, future production volumes, price forecasts and production costs.

## ***Benefit Sharing***

Revenues from extractive industry are shared between central and local governments in order to benefit people who have the rights to land and natural resources and to compensate for damage to the environment, displacement and other social consequences; depletion of natural resources; and the need to maintain public services and infrastructure for more people. In recent years, governments in various parts of the world have increasingly decentralised their revenues from extractive industries, responding to demands at the local level and in order to avoid conflict and separation. Models of extractive revenue sharing include the centralised model (most revenues are retained and spent by the national government), the decentralised needs-based allocation model (most revenues are allocated to provinces equitably), and the decentralised production-based allocation model (most revenues are allocated to mineral producing provinces). Also, some countries have adopted special mechanisms for sharing revenues with indigenous communities.

## ***Jobs and Livelihoods***

### ***Local Content***

Local content in the extractive industry is the amount of goods and services purchased by the industry from the host country. The more local goods and services does the extractive company buy, the more the local economy is boosted and the more employment it generates.

While many inputs used in the mining industry cannot be supplied by developing countries, there are also many which can be. The examples of these inputs include geological and exploration services, spare parts for mining equipment and electricity. National ownership and domestic value added are often confused; local content policies give preference to goods and services produced by companies owned by citizens, whereas a far greater impact can be made by giving preference to goods and services that are domestically produced (value-added).

Frequently, companies do make an effort to increase local content. Some countries have regulation on local content, but often they are not followed. Therefore, governments need to work in cooperation with companies to increase local content.

In 2014, UNDP organised a [conference in Brazil](#) with private sector and government representatives on Extractive Industry and Sustainable Development Goals, where local content development was discussed.

### ***Artisanal and Small-Scale Mining***

Artisanal and small-scale mining (ASM) is usually informal or illegal. There are more than 30 million artisanal miners in 80 countries worldwide, with more than half of these located in the Asia Pacific. It is estimated that ASM contributes 15-20% of global mineral production. It contributes directly to poverty reduction by providing employment opportunities in areas with a lack of employment alternatives, enables to improve the quality of life by investing in housing and education. It can contribute to livelihoods resilience for traditional agro-based communities and response to climate change impacts, create rural employment, reduce rural-urban migration, serve as a financial source for education and health, contribute to economic diversification in rural areas and help develop strong social networks, e.g. through community mining. However, it can also be informal, extra-legal or illegal, can lead to conflicts with other land users, migration and social instability, child labour, human development issues, accidents and fatalities, negative health impacts, poor environmental management and ecosystem destruction, mercury pollution and chemical use, physical degradation of the environment and deforestation, water pollution, air pollution, and contribute to a vicious poverty cycle, as the majority of ASM miners remain poor. More countries are now realising that rather than trying to outlaw the artisanal mining sector, it is better to formalise the sector and work with it.

The [Minamata Convention on Mercury](#), a global treaty to protect human health and the environment from the adverse effects of mercury, includes measures such as a ban on new mercury mines, the phase-out of existing ones, control measures on air emissions, and the international regulation of the informal sector for artisanal and small-scale gold mining.

## **Governance of Extractive Industries**

### ***Institutional Framework and Intra-Government Coordination***

A key feature of good governance is responsible and competent institutions. Due to the exhaustible nature of minerals, there is even more reason to govern it as best as possible. Three basic functions of the government in the petroleum sector are: 1) policy, such as legislation and social impact management; 2) regulation, such as licencing and monitoring;

and 3) business, such as commercial participation and business promotion. By separating these functions clearly, Norway was able to provide a fair environment for non-state investors, high emphasis on health, safety environment, improved recovery, and functional, rather than prescriptive, regulations. While a country's governance system is based on local and national norms and traditions and cannot be easily copied or transferred from one culture to another, individual features can inspire a similar approach within a local framework.

### ***Corruption Risks in Extractive Industry***

Corruption risks in extractive industry are widespread and varied. These risks can be mitigated in a number of ways. The EITI, a global standard to promote open and accountable management of natural resources, helps increase transparency in revenues from extractive industry through a set of systems and processes and empowerment of civil society. Assessment of corruption risks and identifying mitigation measures can help tackle specific risks at various stages of the resource extraction process. Civil society can play an important role by pressuring and bringing the voices and concerns of affected communities, engaging in dialogue, defending the rights of these communities, and monitoring progress, building alliances between media and human rights organisations.

### ***Protection of Human Rights vis-à-vis Extractive Industries***

The UN Guiding Principles on Business and Human Rights include: the state's duty to protect human rights, the corporate responsibility to respect human rights, and access to remedy for victims of business-related abuses. Resource extraction can lead to wide-ranging, severe violations of human rights. Human rights institutions must play a strong role in protecting human rights. In the Philippines, the Commission on Human Rights investigates and monitors human rights to determine and document human rights violations, and advises the government on reforms to improve compliance with state obligations on human rights. The Association of Southeast Asian Nations (ASEAN) member states individually commit themselves to different human rights and environmental standards, but at ASEAN level there is no specific standard on the protection of human rights vis-à-vis the extractive industry. The Asia Indigenous Peoples Pact (AIPP) is an important mechanism for protection of human rights. In addition, the national legal system, national and regional human rights institutions and mechanisms, grievance mechanisms of companies and international financial institutions, and international human rights instruments play a key role in defending human rights.

## Report of the Sessions

### *Opening Remarks*

**Nicolas Rosellini (Deputy Regional Director for Asia and the Pacific, UNDP)** highlighted the important role of extractive industries in sustainable development, but pointed to disproportionate negative impacts suffered by communities, underscoring the need for a multi-disciplinary development approach that UNDP adopts in working in this sector. Asia Pacific is a major player in extractive industries – as a producer, consumer and investor. However, in many countries, resource extraction fuels corrupt practices. In addition, lack of knowledge and capacity results in inability of the government to protect the rights of people who are most affected by resource extraction. Communities living near mine sites or oil fields are suffering the worst impacts while not benefiting enough from extraction processes. Many communities are displaced either directly, or indirectly due to environmental impacts of mining, oil and gas extraction. These environmental impacts reduce the ability of men and women to earn their livelihoods and therefore can increase poverty among these communities. The extractives industry is a good example of the kind of multi-disciplinary development work we have to pursue if we want to achieve the newly adopted Sustainable Development Goals. Our response to the challenges posed by the industry promotes inclusive and equitable growth, supports effective governance and seeks to ensure sustainable use of natural resources. Global experiences from the past two decades strongly suggest that poverty is higher and falls more slowly in resource-dependent economies than their non-resource-dependent counterparts. In this context, peace-building and poverty reduction efforts can become meaningless in countries that rely on extractive industries that are not adequately governed.

**Kaveh Zahedi (Regional Director and Representative for Asia and the Pacific, UNEP Regional Office for Asia and the Pacific (ROAP))** discussed UNEP's work on extractive industries. UNEP, as the environmental arm of the United Nations system, focuses on the environmental sustainability aspects of extractive industries. It provides strategic policy advice, deployment of environmental experts in emergency situations, environmental assessments in the post-conflict setting, supporting to minimise and eliminate the release of mercury including in artisanal small-scale gold mining, supplying environmental spatially explicit data to extractive industries, reducing methane and black carbon from oil and natural gas, eco-innovation in metal value chain and trans-boundary collaboration on combating oil pollution incidents. Through the joint UNDP-UNEP Poverty Environment Initiative (PEI), UNEP is also working to improve quality of investments in natural resources including mineral resources, monitor and enforce compliance with environmental and social obligations, and promote equitable sharing of benefits and effective use of revenues from mineral resources for investing in poverty eradication and natural capital. As demonstrated by PEI, greater cooperation of multiple actors is needed to reverse the declining trends of sustainability of extractive industries. The newly adopted 2030 Sustainable Development Agenda is an opportunity to further consolidate cooperation so that different expertise and strengths can be brought together to better manage social and environmental risks and opportunities, enhance linkages with other sectors and inject the triple bottom-line of environmental, social and economic sustainability across the whole value chain.

## Session 1: Extractive Industries and Sustainable Development

### *1.1 Overview of UNDP's Work on Extractive Industries and Sustainable Development*

**Degol Hailu (Global Lead on Extractive Industries and Senior Advisor, UNDP)** outlined where UNDP's approach and work on extractive industries. UNDP has a history of working in this sector since 1960s-1970s. In recent years, its work related to extractive industries was formalised in 2012 with the development of [UNDP's Strategy for Supporting Sustainable and Equitable Management of the Extractive Sector for Human Development](#). UNDP supports governments to strengthen institutions, supports community participation and civil society engagement, helps develop business linkages with extractive industry at the local level, promotes transparency in revenue management, and works on small-scale mining. It also conducts research and organises knowledge management activities. The European Union (EU), the UK Department for International Development (DFID) and the Swedish International Development Cooperation Agency (SIDA) support various areas of UNDP's work in this area. UNDP also partners with the World Bank in managing [GOXI](#), the Governance of Extractive Industries knowledge platform.

### *1.2 UNDP's Approach to Extractive Industries in Asia Pacific and Support to Countries till Date*

**Phil Matsheza (UNDP Governance Team Leader and EI DST Team Leader, UNDP Bangkok Regional Hub)** discussed the journey of UNDP in Asia Pacific in relation to work on the EI sector. In this region, there was interest in working on the extractive industry-related development issues for a number of years. The Extractive Industries Development Solutions Team (EI DST) was formed to address EI issues in a more systematic way. An initial survey of country offices in the Asia Pacific region was conducted to see where interests lay, what concerns existed, and what the issues were. Five primary issues were identified as those more affecting the countries in this region: (1) conflict prevention, resolution and mitigation, (2) governance, lack of policies, or existence of contradictory policies, (3) livelihoods, (4) revenue sharing between national and subnational level, and (5) gender. Three assessments have been conducted thus far in Indonesia, Mongolia, and the Philippines. These assessments were the basis of interventions at the national level.

### *1.3 Trends in Resource Supply and Demand in the 21<sup>st</sup> Century and Sustainability Considerations*

**Janet Salem (Programme Officer, Resource Efficiency and Sustainable Consumption and Production, UNEP Regional Office for Asia and the Pacific (ROAP))** presented trends in demand and supply for resources, and the resource efficiency required to fill the gap between the two. Demand for minerals is expected to double or even triple by 2050. The Asia Pacific region, which currently consumes 53% of the world's resources, is expected to see further increase in its share of consumption. Moving to a low-carbon pathway (modes of operation with less emissions of carbon dioxide) will require greater quantity of metals and minerals, and hence will have implications for extractive industries.

There are two key trends in relation to resource supply from an environmental perspective. The first is a decline in ore grades. This leads to building of deeper mines, and an increase in emissions, wastes and consumption of energy and water. This means not only that

operational costs of mining will increase, but also that environmental impacts of operations will be greater. The second key trend is increased competition (of mining or inland oil and gas production) with other lands uses, such as settlements, conservation or agriculture. This trend is associated with an increase in social conflict between extractive companies and communities, operational delays and legal barriers. In many jurisdictions, these conflicts cause more than 50% of delays in operations. A sign of the stress on the supply side is that, at present, the discovery rate of resources is dropping, while exploration costs are rising. Thus, there is a gap in resource supply (more challenging) and demand (increasing). Resource efficiency policies and sustainable consumption and production are needed to narrow this gap.

#### *1.4 Stages, Cycles and Methods of Mineral Extraction and Exploitation Operations. Industry Structure and Mineral Commodity Price Trends.*

**Masuma Farooki (Senior Resources Policy Consultant, SNL Metals and Mining)** introduced the stages, processes and structure of the extractive sector (mining, oil and gas), in order to enhance knowledge and understanding about the way the extractive industry operates for improving the governance of the sector include prospecting, advanced exploration, mine construction, mine operation, mine closure, and reclamation and monitoring. In oil and gas, the stages include seismic exploration, site surveys, exploration, appraisal drilling, development, producing wells and closure / decommissioning. The extraction process involves primary, secondary and enhanced recovery.

Each of these stages has different implications on financial flows to and from investor and the government, as well as employment. Therefore, knowledge of these stages is crucial in negotiations, designing of tax regimes and in supporting employment generation activities.

Prospecting requires minimal capital and labour, and virtually no revenues to the government. Advanced exploration stage requires more capital investment and involves high risk. Mine construction stage requires major capital investments, but at this stage, there are still no financial flows neither to the company nor to the government. However, this is also the most labour-intensive stage of the mining process. During the mine operation stage, less workers are needed, less, but stable capital flows are required. At this stage, significant financial flows (income) can be generated and this is when governments see a major increase in revenues from extraction. At mine closure stage, labour and capital requirements decrease. At reclamation and monitoring stage, capital may be required, and often environmental deposits paid upfront are used for reclamation. Monitoring costs are typically borne by governments.

In South-East Asia and the Pacific, most of the exploration takes place in Indonesia (which accounts for 30% of mining exploration budget of the region), Papua New Guinea (28%) and the Philippines (24%)<sup>3</sup>. While exploration budgets are generally connected with mining (more exploration now, more mining in the future), only a small proportion of exploration translates into commercially viable mining.

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<sup>3</sup> Not including South Asia, Central Asia and North-East Asia.

The primary types of mining are open-pit mining, underground and in-situ mining, brine mining and marine mining. The choice of the type of mining depends on the geological features of the deposit.

Mining is essentially a process of excavating and separating valuable commodity from the surrounding waste material. Mining waste includes top soil, over-burden (soil and rock), waste rock, dust and tailings. Other mine wastes with recycling potential includes oils, tyres and mechanical parts from machinery. Environmental pollution of mining is associated with non-hazardous material (silting of river beds/lakes) and hazardous material (acid/alkaline drainage, leaching of heavy metals). While decline of ore grades (proportional content of the mineral in earth) is a concern, it should be noted that some of the decline is due to changes in the market. If prices of minerals are high, it is economically feasible to mine even low-grade ores, so at times of high prices ore grades tend to decline.

Only about 2,000 mines produce over 90% of world mineral output. Outside of these, production is very small. Mining companies are categorised into majors, medium or mid-tier companies, and juniors. Most exploration is nowadays conducted by juniors, while majors mostly manage large mining activities.

The market trends indicate a continued decline in mining since 2011 - metal prices, activity and market capitalisation of mining companies are still falling. The turnaround might not occur until 2017. However, mining equipment market will grow, even if mine capacity is constant, as capital intensity is increasing due to falling grades, maturing mines, technology, and policy issues. Metal demand remains high and grows slowly even if prices are down.

## Session 2: Environmental and Social Impacts and Mitigation Tools

### *2.1 Environmental Impacts of the Extractive Industry; Practices and Tools to Manage Environmental Risks*

**Seonmi Choi (PEI Regional Manager, UNEP Regional Office for Asia and the Pacific (ROAP))** provided an overview of the Poverty-Environment Initiative (PEI) in the Asia Pacific region. PEI works to integrate poverty and environmental sustainability issues into core development planning, budgeting and investment management processes in eight countries in the region: Bangladesh, Bhutan, Indonesia, Lao PDR, Mongolia, Myanmar, Nepal and the Philippines. PEI's approach for the sustainability of extractive industries involves assessing environmental, social and economic costs and benefits; adopting participatory approaches with communities and marginalised people; promoting compliance with environmental and social obligations; ensuring equitable allocation of revenues and benefit sharing; and promoting the use of revenues for social and environmental objectives.

**Timothy Scott (Environment and Natural Capital Advisor, UNDP HQ)** informed about the launch of a new programme titled "Strengthening Human Rights, Gender, and Rule of Law in Environmental Public Administration: Large-Scale Mining Focus" (short name: Environmental Governance in Mining). The programme is a joint initiative between the Swedish Environmental Protection Agency (SEPA) and UNDP, to be implemented from 2015 to 2018. In addition to focused support to four countries (Colombia, Kenya, Mongolia and Mozambique), the programme envisages organising south-south exchanges and support to communities of practitioners on environmental governance, conducting public

administration assessments, documenting case studies of good environmental governance in mining, and developing e-learning modules and webinars.

**Peter Erskine (Senior Research Fellow, Sustainable Minerals Institute, The University of Queensland, Australia)** provided an overview of environmental impacts of mining and environmental risk management tools.

Mitigation hierarchy involves a succession of actions to address these impacts, whereby each previous action is preferred to the next one. Avoiding or preventing the environmental impact is the preferred form of mitigation, followed by reducing or minimising negative impacts, then rectifying negative impacts by restoring the affected environment to its previous condition and, as a last resort, providing an offset in a different location to compensate for the residual negative impact.

A key environmental risk management tool is an Environmental Impact Statement (EIS), which describes the current environment of a site, a project's environmental impacts, and ways of addressing these impacts<sup>4</sup>. However, the effectiveness of EISs and Environmental Impact Assessments (EIAs) is limited. In practice, they tend to be lengthy documents, running into thousands of pages, and there are no known examples where of EIS prevented a mine operation.

Mine waste is material which currently has no economic value, and may be in the form of solid waste, water waste, or gaseous waste. Environmental contamination and pollution is a result of improper mining, smelting and waste disposal practices, which commonly occurs around the world.

In addition to surface impacts of mining, ecosystems are disturbed through clearing, waste storage, and infrastructure. At present, there are very few examples of good rehabilitation.

With regards to mine closure<sup>5</sup>, legal, financial and technical procedures need to be in place from the very early stages of planning the mine itself. Mine rehabilitation objectives are to create safe, stable, and self-sustaining post-mining land use options, and to leave non-polluting mine waste storage facilities. A monitoring programme should be created to explain how to assess if the rehabilitation is progressing towards the objectives. Local stakeholders must be consulted to analyse environmental conditions and species selection for rehabilitation.

**Annelisa Grigg (Head of Programme, Business and Biodiversity, UNEP World Conservation Monitoring Centre (UNEP-WCMC))** introduced the concept of biodiversity, talked about the impact of extractive operations on biodiversity and presented ways in which the impact can be reduced.

Several trends make the impact of the extractive industries on biodiversity very salient. Increasingly, unconventional and renewable resources are becoming more viable. More and more extractive operations are based on remote areas and in proximity to biodiversity – there is greater overlap with protected areas and areas of biodiversity importance.

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<sup>4</sup> Or also referred to as Environmental Impact Assessment (EIA). Actions to mitigate or reduce the risks and impacts are stated in the Environmental Management Plan (EMP), which are usually submitted to regulatory authority together with a mine license application.

<sup>5</sup> Also referred to as mine rehabilitation.



Extractive operations are also moving closer to indigenous peoples and communities. Increased impacts of climate change prompt greater public focus on and more regulation.

WCMC produces tools that can be used by governments, NGOs and the private sector<sup>6</sup>. For governments, they allow the identification of potential conflicts between mineral resources and biodiversity and can inform national or regional priority-setting processes. They can also be used to inform and guide design and implementation of National Biodiversity Strategies and Action Plans. For companies, they can be used for risk and opportunity assessment, compliance, meeting disclosure requirements, and for early warning and emergency response. Decisions on resource extraction are made quickly, but gathering data on biodiversity is a long process. Therefore, these tools provide readily available information that can be used in planning and decision stages by extractive companies.

**Saleumsack Xayyamonh (Deputy Chief of Division, Department of Environment and Social Impact Assessment, Ministry of Natural Resource and Environment, Lao PDR)** spoke about the environmental and social impact assessment (ESIA) mechanisms and their application in Lao PDR. The Environmental Impact Assessment (EIA) legal framework in Lao PDR includes the Environmental Protection Law 2012 (amended version), the EIA process, the EIA/IEE Ministerial Instructions and other technical guidelines, and the Public Involvement Guidelines in the EIA Process.

The EIA process involves four basic steps: (1) screening and scoping, (2) preparation of the EIA report, (3) review and decision-making (issuance of an environmental compliance certificate), and (4) post-project monitoring. Investment projects are divided into two categories. Depending on the scale and type of project, some projects only undergo an Initial Environmental Evaluation (IEE), while others are also required to do an EIA.

PEI in Lao PDR supports the government to strengthen institutional capacity to improve ESIA system at national and local levels. Specifically, PEI helped develop EIA/IEE guidelines; reviewed the EIA Decree and Public Involvement Guidelines; supported coordination of between the Investment Promotion Department (IPD) and the Department of Environment and Social Impact Assessment (DESIA) by conducting joint monitoring and linking investor databases. However, the introduction of the ESIA process is faced with challenges such as limited capacity.

## Discussion

**Resource extraction and climate change.** One of the biggest issues that the industry is faced with is climate change. The impacts of climate change on EI will firstly include pressure for reducing greenhouse gas emissions which will affect supply and demand for the industry. Additionally, biophysical impacts of climate change on the industry, particularly mining, will be related to water resources, extreme events, temperature increases, and so on. The extractive industry also has significant impacts on climate change. Although resource extraction contributes significantly to emissions, some minerals are crucial for low-carbon technology. Countries should consider the amount of water needed for different types of

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<sup>6</sup> [World Database on Protected Areas \(WDPA\) and Protected Planet](#), the [Integrated Biodiversity Assessment Tool \(IBAT\)](#), the [Coastal and Marine Data /Ocean Data Viewer](#), [Biodiversity A-Z](#), and the [Proteus website](#).

mining when developing climate change adaptation plans. When countries are planning water supplies or resources, decisions have to be made on how to allocate them to different sectors, especially for the mining sector, particularly if they are to be processed before they are exported. Examining the impact of the coal sector on climate change was suggested – the extent of coal produced artisanally, as well as coal burnt in stone or brick production is significant, but little is known about it.

**Monitoring of environmental and social management and planning** was raised in the context of Lao PDR. In Lao PDR, there are different scales of mining projects. Large-scale mining projects are controlled by national law and international standards. These projects are monitored by government staff. In the case of serious situations, the government has the right to ask the project to undergo third party monitoring, which is conducted by an international organisation. The government also does regular monitoring on a monthly, quarterly and yearly basis. Companies must prepare monthly reports (which are submitted to the local authority), and quarterly and annual reports (which are submitted to the national authority).

**Legal provisions for social safeguards.** This question was raised in the context of safeguards for ethnic minorities in Lao PDR. Currently, the most important social issue that is considered in the EIA report is the health impact. In this regard, the Ministry of Public Health is a key partner of the Ministry of Environment and Natural Resources. As people living in rural areas depend heavily on natural resources, particularly water, the health assessment is very important in the EIA.

## *2.2 Social and Gender Impacts of Extractive Industries in Large-Scale and Artisanal Mining*

**Warwick Browne (Extractive Industry Consultant, UNDP Indonesia)** discussed social impacts of mining in Asia Pacific. Due to perceptions in mining companies that it is a ‘soft’ area of work, companies tend to respond to social impacts in a simplistic or defensive way. People with the right skills are often not in the right positions within mining companies to work on these issues. Even if civil society, government and donors are proactive on addressing social impacts of mining, the industry itself must also be on board to make true progress. This requires understanding the issues and implementing properly.

Most exploration is conducted by small companies who find the minerals, and are then bought out or sell the prospects to larger companies. These small players often do not give full attention to proper social impacts.

In Asia Pacific, mining and mining commodities are key drivers for development and for trade within the region. Some of the direct social impacts of large-scale mining in the region include impacts on water, safety, in-migration, resettlement, inflation, land displacement and corruption. Indirect impacts include conflict and violence, poverty, crime and prostitution.

Companies should have a good set of guidelines (international standards, for example), and should always employ professionals in the relevant positions. Mining companies need to work closer with governments in a supporting role than waiting for them to do random compliance testing.

**Kuntala Lahiri-Dutt (Senior Fellow, Resource Environment and Development Program, Crawford School of Public Policy, The Australian National University)** talked about a more nuanced understanding of gender and introduced Gender Impact Assessments (GIA), which is part of a Social Impact Assessment.

The process of a GIA involves five steps: (1) understanding current gender relations, (2) assessing probable developments without new policy, (3) analysing the new policy/plan, (4) identifying potential effects on gender relations, and (5) evaluating positive and negative potential effects on gender relations. GIA can reveal impacts on women as individuals, and women in the context of families and communities, as well as potential obstacles and ways of overcoming these obstacles, gender relations and changes in them.

### *2.3 Community Perspectives on Social and Gender Impacts*

**Bhanumathi Kalluri (Founder and Director, Dhaatri Resource Centre for Women's and Children's Rights, India)** discussed gender concerns in relation to extractive industries.

Communities are often displaced at gun point and turned into migrants, terrorised by military and police forces. Self-reliant subsistence farmers become landless labourers. Biodiversity loss brings multiple negative impacts. Usually local and national costs of extractive industries are invisible. As a result, many people live in extreme poverty and in polluted environments. They have to resort to child labour. Moreover, existing social hierarchies are aggravated. Women's paid and unpaid work in mining areas is generally unaccounted, undervalued and criminalised. For local communities, often the only difference between large- and small-scale mines is the extent of land and resource destruction. Livelihoods remain marginal, as work generated by mining is mostly informal, casual, contractual and unsafe, and the unsustainability of livelihoods directly impacts children's lives, rights, safety and health.

The politics of resources involve high economic stakes that influence, amend, transgress and violate laws, cover up violations, and result in militarisation and *mafia-isation* of governance structures and suppression of civil society and democratic public vigilance. Accountability is often not enforced due to weak regulatory mechanisms. Moreover, mining companies avoid accountability through out-sourcing and sub-contracting.

To improve social impacts, resource extraction needs to be reduced until regulatory mechanisms and constitutional safeguards are upheld. In addition, companies should be required to provide formal employment rather than contractual (outsourced) work, and they should redefine Corporate Social Responsibility (CSR).

### *Discussion*

**Strengthening accountability in the extractive industry.** Many governments are trying to move away from constitutional and legal accountability, by bringing in 'soft', voluntary policies and guidelines on human rights. However, such departure from legal accountability can be dangerous. CSR is not an answer to address the social impacts of mining, as it can never replace the rights that are lost due to mining activities. Questions need to be explored such as "how does resource extraction affect communities?", "how can complaint mechanisms can be incorporated?" and "what kinds of compensation and conflict

resolutions can be designed to address any complaints from the communities?” The stronger the social accountability, the better social conflicts can be addressed. Governments need to be strengthened and they should steer sustainable development plans, rather than leaving such development planning to companies.

#### *2.4 China's Overseas Investments: Environmental and Social Policies of Chinese Overseas Investments*

**Sun Lihui (Director, International Cooperation Department, China Chamber of Commerce of Metals and Chemicals Importers & Exporters (CCCMC))** presented initiatives to strengthen Chinese companies' role in sustainable development. The China Chamber of Commerce of Metals, Minerals & Chemicals Importers and Exporters (CCCMC), with over 6,200 members, is supervised by the Ministry of Commerce. Chinese foreign direct investment has been increasing rapidly, reaching a record high of \$123.12 billion in 2014. Recently, the Chinese government launched the One Belt One Road initiative, which aims to create an economic land belt and a maritime corridor to improve cooperation and trade with countries across Asia, the Middle East, Europe and Africa. The Chinese government has developed regulatory policies and guidelines in recent years, which resulted in greater awareness of CSR and sustainable development issues by Chinese companies, proactive integration of CSR / sustainable development into their overseas business strategy, and increased focus on mutual benefits and balance between social, economic and environmental values. However, Chinese companies investing overseas lack professional human resources and service providers with international business management experience, lack experience in risk management and due diligence analysis of investment projects, and have little awareness of CSR. In response to this, the CCCMC has developed the Guidelines for Social Responsibility in Outbound Mining Investments, the Chinese Mineral Due Diligence Guidelines, the Guidelines of Sustainable Investment and Operation of Chinese Overseas Rubber Industry, and a 3-Year Action Plan.

#### *2.5 Financial Sector Perspectives on Managing Social and Environmental Risks*

**Arjun Bhalla (Senior Operations Officer, International Finance Corporation (IFC))** gave an overview of the Financial Valuation (FV) tool for sustainability investments, i.e. social investments made by companies in local communities. The [FV Tool](#) helps demonstrate the financial value of sustainability investments to companies, thereby improving decision making around social investments. The tool estimates expected net present values of sustainability investments given a set of identified risks and the relevant stakeholders. It does so by answering three questions: (1) What is the financial return of specific sustainability investments? (2) What is the optimal portfolio of sustainability investments? (3) What is the intangible value (i.e. risk mitigation) of sustainability investments?

Users of the FV tool need to overcome substantial limitations, such as lack of data availability and verification, need for cross-functional engagement and changing culture within the company. Nevertheless, the FV tool helps assess the financial value of sustainability programmes, and develop a risk register that incorporates social risks in a company's environment and social management system.

## Discussion

**Corporate social responsibility of Chinese overseas investors.** A number of questions were raised, and participants were referred to the 3-Year Action Plan, which was developed to address these. The Chinese Chamber of Commerce also has an internal working group to evaluate company performance based on the information submitted by companies. CCCMC will release the ranking of these companies to encourage transparency of their performance. CCCMC is developing tools to encourage companies to follow the guidelines, to evaluate their performance and it will also set up a reporting system to monitor implementation of these guidelines. If a company does not follow the guidelines, there will be a blacklist mechanism, which will be closely monitored by the government. The CCCMC is also in close cooperation with relevant line ministries to set up an incentive mechanism to motivate Chinese companies to follow CSR principles, for example through financing or taxation. Regarding host countries and local communities, the CCCMC is in the process of setting up a communication platform and will establish a network with companies and stakeholders (domestic and international).

**Financial Valuation Tool.** The tool is voluntary, and will never be a conditionality to an IFC loan. The uptake of the tool has been about 50% (i.e. about 50% of IFC borrower companies use it). The lack of uptake is due to issues of turnover, companies being bought out, and the fact that the use of the tool requires significant commitment.

## Session 3: Management of Revenues from Extractive Industry

### *3.1 Macroeconomic Policies in Resource-Dependent Countries. Managing Fiscal Revenues from Extractive Industry.*

**Degol Hailu (Global Lead on Extractive Industries and Senior Advisor, UNDP)** provided a synopsis of five key macroeconomic variables affected by resource dependence: economic growth, inflation, unemployment, balance of payments and fiscal balance.

Production of oil, gas and minerals and related investments in infrastructure (for instance, building a railway from mine to port) adds to economic growth. However, inequalities tends to increase with most of the benefits accruing to the few. In addition, if growth is highly dependent on minerals, it is very volatile, which is why countries should diversify away from dependence on a single commodity. High growth of oil, gas and minerals can also generate demand-driven inflation. As a result, non-mineral exports – such as agricultural or manufacturing exports – become uncompetitive and may decline. This also has an effect on employment, because the extractive industry itself is not very labour-intensive; if it leads to declining agriculture and manufacturing, the overall employment can decline. Over time, after exhaustion of mineral exports, due to decline of agricultural and manufacturing exports, the overall balance of payments will deteriorate, with the current account, determined by the difference between exports and imports, resulting in a deficit. This also impacts the fiscal balance – decline of other exports results in decline in the fiscal revenues.

While resource-dependent country is receiving windfall revenues from royalties, corporate taxes and fees from extractive industries, it faces a dilemma – how to spend these revenues on development and avoid the Dutch disease, despite the challenges of volatility and exhaustibility. If revenues from royalties and taxes on extractive industry are invested in public services, and prices of minerals collapse, the level of expenditure cannot be

maintained. In addition, these resources are exhaustible, so the question is what to leave for future generations and whether the resources should be extracted now, or over time.

There are three ways of investing revenues: 1) maintaining permanent income; 2) backloading and 3) frontloading. When investing to maintain permanent income, a certain proportion of the extractive revenues is saved and invested until the commodity is exhausted so that the country can permanently earn the same amount of income. When backloading of investment, the government puts away all of the revenues into savings (such as US treasury bills), and the earned interest is invested to ensure savings for future generations and to avoid problems with absorptive capacity (for example, Timor Leste). When frontloading of investment, investments are made in education, health, infrastructure, because investing today brings higher returns and future generations would benefit from higher human capital and infrastructure (for example, Malaysia in the 1970s, with significant investments in education). Monetary policy should assist fiscal policies, by using interest rates and subsidised credit to counter Dutch disease and invest in future generations.

## Discussion

**Dealing with the diversification challenge.** Examples of countries that have achieved a degree of diversification away from mineral resources include Thailand, Indonesia, Chile and Botswana. In Thailand, natural resource revenues have been specifically earmarked for developing the agro-processing sector. In Indonesia, gas and mineral revenues have been used to subsidise growth in the footwear and garment sector. Copper revenues in Chile have been used to develop the salmon and winery sector. Botswana has used diamond revenues to invest heavily in education and infrastructure.

**Fiscal management,** including debt management. Mining revenues do not come in the first five years (or during mine construction), and only after companies start pay royalties and taxes. Even before the countries receive inflows of taxes and royalties, they can borrow against future income after signing contracts with multinational companies, as happened in Mongolia. But during this period, the price might collapse, and loan repayments may not be possible.

### *3.2 International and Domestic Laws and Contracts Related to Extractive Industry. Typologies and Elements of Contracts.*

**Amir Shafaie (Senior Legal Analyst, Natural Resources Governance Institute (NRGI))** introduced NRGI and presented on legal frameworks and contracts in the extractive sector.

[NRGI](#), formerly RWI (Revenue Watch Institute), provides training to improve public oversight of revenues and expenditures in resource-rich countries, including for parliamentarians; and conducts applied research.

The legal framework consists of the national constitution, legislation and contracts. It also includes international law, such as the International Arbitration Convention (New York Convention), bilateral investment treaties, human rights, labour and environmental conventions. A hierarchy of legal instruments means that a national constitution should be above all, followed by domestic laws, and then followed by contracts with large extractive

companies. However, in many resource-rich developing countries, contracts can overshadow (supersede) the legislation. Some governments have even agreed to terms in individual contracts that actively contravene the provisions of the law or regulation. Reliance on contracts over domestic law leads to more a disadvantaged negotiating position for host governments, creates more opportunities for corruption, and creates difficulties in administering and enforcing contracts. In more developed countries, much of the extractive operations are regulated through laws and regulations, leaving very few details to be fixed by contracts. The problem is that in many developing countries, laws and regulations are not sufficiently detailed. To minimise the disadvantages brought about by a legal regime reliant on contracts, countries should adopt model contracts, with any deviations from the model contract publicised and justified.

Overall, in designing the legal and contractual system: 1) rules matter: a strong legal framework is particularly important in the extractive sector given complexity, types of players involved and risk of excessive discretion in extractive sector, 2) consistency is key: divergence between elements of legal framework should be avoided, and 3) focus on law: in designing a system, laws should be favoured over contracts insofar as possible and efforts should be made to mitigate risks of contract focused systems.

A large number of contracts are made by investors – such as investment agreements, shareholder agreements, sales contracts, financing agreements, subcontractor agreements. The key contract to be negotiated with governments is the investment agreement, where fiscal terms are agreed upon. In addition, mainly for oil sector, where government is a shareholder, the oil sales agreement plays a crucial role.

The main types of such government-investor investment agreements in the extractive industry are: 1) concession agreements, where company owns the resources and pays royalties and taxes to the government; 2) production sharing contracts, whereby the government and the company jointly own the production company and agree on how the company recovers its costs and gets a share of the profit; 3) service contracts, whereby the government owns the resource and hires a company for fee to manage production. However, more attention should be paid to the content of agreement, rather than the form, because two contracts with different names can have the same features.

In addition to fiscal terms, the key elements in a contract include the parties to the contract, social and environmental obligations, and issues relating to confidentiality and contract transparency.

Parties to the contract should be examined – company's own sources of information, stock market disclosures and EITI are the possible information sources. If the party is a subsidiary of a company, the guarantees provided to it are important. In addition, the beneficial ownership of the company – party to agreement should be identified.

Stabilisation clauses in contracts should be avoided or limited so that governments can regulate issues of public interest, such as labour, health, safety, environment, security and human rights.

Contract transparency is important because it represents a deal by the government on behalf of the people. Increasingly, contract disclosure is becoming adopted: 20 out of 58 countries disclose all or some of their contracts.

Contracts should specify environmental impact and its monitoring, mitigating damage, use of resources, accidents, rehabilitation and decommissioning, including financing. Contracts also have provisions that touch on the lives of neighbouring communities. In some cases, separate CDAs are made between an investor and the community. In making CDAs, several issues should be considered: how does the agreement interact with other agreements and obligations? Who are the parties – who represents the community? Does the community have negotiation capacity? What happens if the company or nature of the project changes? Is the dispute resolution and grievance mechanisms suitable?

**San Myint (Deputy Director General, Directorate of Investment and Company Administration (DICA), Myanmar)** provided an overview of international and domestic laws and contracts related to extractive industries in the Myanmar context. Myanmar made a formal commitment to become an EITI-compliant country. Currently, Myanmar is overhauling its domestic legal system and is in the process of signing several bilateral investment treaties. Most investment treaties allow foreign investors to bring claims against a host state that has failed to provide the protections guaranteed by an investment treaty directly to international arbitration. This is a “one-way” system: investment treaties allow foreign investors to bring claims against states but do not allow states to bring claims against foreign investors to international arbitration. The international investment legal framework presents a challenge: there is a risk that Myanmar will enter into investment treaties that are inconsistent with national laws and policies. Therefore, the country need to balance honouring its international commitments and adherence to international standards on the one hand, with development of its own policies, laws and national regulatory framework on the other hand.

## Discussion

**Beneficial ownership.** EITI is piloting disclosure of beneficial ownership, which is being implemented in 12 countries. Initially, a review was done to see if governments were disclosing such information and whether they even collect this information. For most large commercial contracts, there are generally provisions that tie to change of control, and in these contexts, governments and others have been collecting some of this information. Information is also gathered around shareholder structure, all the way up to the beneficial owner. Such information needs to be collected from the start, and is subject to penalties if it is not correctly provided.

### *3.3 Taxes and Royalties and their Characteristics. Objectives and Distinctions of Savings and Stabilisation Funds.*

**Amir Shafaie (NRGI)** provided an overview of generating and managing fiscal revenues from extractive industries. A good fiscal regime should capture a fair share of rents for the state and at the same time allow reasonable returns for the investor. The overall ‘government take’ and the ‘investor take’ should be looked at, not only separate tax instruments, such as royalties. Governments should analyse how revenues change over time (for instance, signature bonus provides revenue at the start of the project, while corporate income taxes come in and grow later in the extractive project timeline), as well as how revenues change with increasing profitability of the project. The fiscal regime should be enforceable and



easily administered, provide relatively stable and predictable revenues, and be robust and flexible in changing circumstances.

Governments can collect revenues by: 1) imposing charges on the inputs (such as import duties and VAT), 2) collecting a share of the output (such as royalties), 3) collecting a share of the profits (such as corporate income tax, excess profits taxes, and production share), 4) participating in the ownership of the venture (state equity), and 5) through fees and bonuses. Financial modelling helps develop tax policies, do risk assessment, and monitor actual results against forecast.

One of the key instruments for managing extractive revenues is a savings fund, often referred to as a Natural Resource Fund (NRF). NRF is a government-owned fund financed by oil, gas or mineral revenues, of which at least a portion is invested in foreign assets. Examples of NRFs with bad results included Kuwait, Libya and Russia. [NRGI and Columbia University research](#)<sup>7</sup> shows that good governance of NRFs requires that six criteria are met: 1) set clear fund objectives, 2) establish fiscal rules, 3) establish investment rules, 4) have a clear institutional structure, 5) require extensive disclosure and audit, and 6) establish strong independent oversight. In the current low mineral price environment, NRFs may seem less relevant, as fiscal surplus is less likely. However, a drop in revenues has also made countries realise opportunities lost during boom times. Now is a good time to set up structures and rules to be used later, when mineral prices recover. However, before investing in NRF, countries should repay their debt – it does not make sense to be paying high interest on debt and at the same time saving in NRF at lower interest.

**Otgonbayar Chimeddorj (Head, Macroeconomic Policy Division, Economic Policy Department, Ministry of Finance, Mongolia)** shared Mongolia's experience of managing fiscal revenues from the extractive industry. Over the past decade, mining exploration confirmed the existence of large mineral deposits in Mongolia, notably copper, uranium, oil, coal, iron ore, and gold. Mining propelled economic growth in Mongolia, generated by rising international commodity prices and new mineral discoveries. However, the economy has become more volatile as commodity prices have declined.

The government has tried to establish a fund that accumulates revenue from the mining sector and can be used for the development of the country. However, during parliamentary elections in 2004 and 2008, political parties competed with one another by making political promises such as cash allowances and untargeted social welfare measures. The Mongolian Development Fund (MDF) and Human Development Fund (HDF) have been used as vehicles to fulfil these populist political promises. In addition, the MDF and HDF could be spent on covering budget deficits. The result of cash allowances and social welfare spending was high inflation and economic overheating. Inefficient public resource spending increased public debt, rather than accumulating wealth for future generations.

Learning from this experience, a number of reforms in fiscal frameworks were made recently. A Future Heritage Fund is being established with the purpose of diminishing the unpredictability in government revenue and expenditure. In addition, the budget revenues are now estimated on structural basis, which reduces pro-cyclicality of the budget. Clear

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<sup>7</sup> See also website on sovereign wealth funds: <http://www.resourcegovernance.org/natural-resource-funds>

rules, which restrict government spending from the fund on social welfare, increase government credibility. Solid institutional arrangements and good governance are crucial to create a successful sovereign wealth fund.

## Discussion

**Good practices of sovereign wealth funds from developing countries.** Although there are no examples of developing countries which meet all the criteria of a well-functioning sovereign wealth fund, the Middle East and Gulf Cooperation Council countries have funds operating reasonably well – in response to a drop in oil prices, their sovereign wealth funds are selling assets. However, these funds rate poorly on transparency issues and independent oversight. Ghana is an example of a country where there is independent oversight, and a certain level of disclosure and publication of information.

### *3.4 Financial Modelling Tools to Estimate Fiscal Revenues from Large Extractive Operations and their Practical Application*

**Masuma Farooki (SNL Metals and Mining)** introduced the use of financial models to estimate revenues and expenditure flows for governments, and quantify the wider economic, social and environmental impacts.

A cost-benefit analysis of a mining operation involves asking: What revenue flows occur and when do they occur? What expenditures need to be incurred? This information is typically contained in the feasibility studies of mining companies. Based on this information, a government is able to quantify revenues occurring based on existing fiscal regime, including corporate income tax, profit tax and variable income tax, or extractive-specific taxation, such as resource rent tax, royalties and production tax.

Beyond this purely financial flows, governments should also estimate social and environmental impacts, which usually take the form of indirect benefits and costs. These include: multiplier effects (secondary impacts on incomes from the extractive project), administration costs incurred by governments, costs of contract commitments (such as forgone revenues due to tax breaks and infrastructure commitments), increased health care, education and security expenditure, and intangible costs, such as the cost of environmental impacts.

However, any such model should never be taken as absolute, since such models are based on assumptions that may change, for example, assumptions about the life of a mine, future production volumes, price forecasts and production costs.

**Outakeo Keodouangsinh (Deputy Director General, Investment Promotion Department, Ministry of Planning and Investment, Lao PDR)** talked about the application of financial modelling for mining in Lao PDR. UNDP-UNEP PEI supports the Lao government's mining endeavours through mine model development, alongside the development of an investment compliance database, improved provisions in contracts, and research on local mine expenditures. Two models are in use in Lao PDR by the Ministry of Energy and Mines and the Ministry of Planning and Investment. The model has been used for preliminary assessment of potash mines.

The model requires an extensive list of inputs, but not all information is available to provide these inputs, and some key inputs require estimation (such as capex, rehabilitation, volumes, operating and processing costs, and depreciation of assets). As a solution, the model is linked to the Department of Mines Feasibility Study Guideline, so that investors are aware of what data are required in submitted feasibility studies. This enables incorporating data into the model directly from companies' feasibility studies, which saves time, improves the accuracy of the model, allows comparisons, helps to level the playing field during negotiations, and improves transparency. Going forward, the Investment Promotion Department (IPD) of the Ministry of Planning and Investment with PEI will use the model for two upcoming mine negotiations, continue advancing IPD's ability to use and understand the model, including advanced MS Excel skills, and develop specialists at IPD's Screening Division to focus on various aspects of the model.

## Discussion

**Who benefits and who loses?** Typically, the benefits of resource extraction often go to entrepreneurs, while the costs are borne by people in the local communities. Still others face rising costs and are pushed out of homes and livelihoods. A much larger exercise is needed to demonstrate who benefits and who loses. However, the above model can be used to look at aggregate costs and benefits, at an initial indication of what the overall impacts will be.

**Uses of the model.** The information generated from these models is useful not only to inform key decision makers, but also to inform the public – to find out when cash inflows to the government are expected, and how much it is going to be. It is the job of mining company or civil society to take that information and convey it to people in a way that is understandable. For example, [OpenOil](#) is a platform of oil modelling that is free to access. In Lao PDR, the information from the model is normally used for the government – the model also informs those working on budget allocations at the local level are informed. In addition, following the operation, the company provides a report to the public.

**Margin of error.** All of the numbers in such a model are assumptions, and the margin of error is significant. Thus, if any decision is to be made, it needs to consider these margins of error. Users should also note that while these models are helpful, they can be manipulated to get an idea of what can happen in different scenarios, but also to achieve the results that one wants when presenting a policy or financial case.

### *3.5 Mechanisms for Benefit Sharing from Extractive Industries at the National and Local Level*

**Uyanga Gankhuyag (Extractive Industry Specialist, UNDP Bangkok Regional Hub)** discussed central-local sharing of extractive revenues in the context of decentralisation. The objective of extractive revenue sharing is to benefit people who have the rights to land and natural resources on or under the land (de jure rights and de facto rights). Specifically, extractive revenues are shared with resource-producing provinces in order to compensate for damage to the environment, natural resources and resulting social consequences, such as indirect displacement of communities; compensate for maintaining public services and infrastructure for more people; compensate for depletion of non-renewable natural

resources and replacing with other assets; and respond to demands by provinces, avoid conflict and separation.

There are various models of extractive revenue sharing. One is the centralised model, with extractive revenues collected by the central government and distributed through the general fiscal system. This allows to manage volatility and invest in big infrastructure, but there is limited local investment and a lack of compensation to producing provinces. The decentralised needs-based allocation model allows for more equalising between provinces, but there is a lack of compensation to resource-producing provinces. The decentralised derivation-based allocation model provides for compensation and less risk of conflict, but it leads to volatility of local governments' revenues, increase in inequality between provinces and inefficiencies.

In practice, production-based decentralised extractive revenue sharing model can be complemented with other features so that its weaknesses can be addressed – volatility, inequality between regions, and inefficiencies. For instance, to address volatility, countries assign or allocate more stable taxes (such as royalties, as opposed to profit taxes), assign or allocate taxes from commonly distributed minerals (rather than taxes from highly concentrated minerals such as copper). To address inequalities between regions, countries supplement revenue allocations to producing regions with equalising transfers to non-producing regions. To address inefficiencies, they assign responsibilities to local governments corresponding with transfers, set the geographic origin of revenue allocations wider, and assign revenues at higher levels of local government. Countries also require local governments to use extractive revenues for investment or debt repayment (as opposed to consumption).

**Anna Liza Bonagua (Director, Bureau of Local Government Development, Department of Interior and Local Government (DILG), Philippines)** presented the experience of the Philippines on maximising benefits from extractive industries. Much of the mineral potential remains untapped. Thus the extractive industry currently has a relatively low contribution to Gross Value Added and GDP compared to its potential. Its contribution to exports is larger, but it accounts for only 0.5% of total employment. Despite the increase in mining tax revenues, the contribution of mining to total government revenue remained low, averaging at 1.18%. The 1987 Constitution, the Philippine Mining Act of 1995, Executive Order (EO) 79 (2012), Presidential Decree (PD) 87 (Oil and Gas), and Presidential Decree (PD) 972 (Coal) form the natural resource governance framework in the Philippines.

Revenues and benefits from extractive industry come from national internal revenue taxes to national and local governments, royalties to concerned indigenous cultural communities/indigenous peoples and special funds to implement social development and environmental management programmes. 40% of gross collections from mining taxes, and royalties, are allocated among local governments where the natural resources are located. The challenges include issues of capacity of regulating agencies to negotiate, regulate and monitor extractive sector, capacity in revenue sharing, addressing environmental and social costs, and overlapping and weak enforcement of mining laws.

**Joko Purwanto (Chair of Board, Bojonegoro Institute, Indonesia)** shared the experience from Bojonegoro, a province in Java, Indonesia. Bojonegoro Regency has a population of over 1.2 million, 70% of whom work in the agriculture sector. It faces floods and droughts every year, with a long history of endemic poverty. Oil and gas has been discovered in

various locations in Bojonegoro. Learning from other regions, the regency prioritises three issues: 1) the resource extraction process, 2) transparency mechanism, and 3) revenue management-development plans. The main purpose of ensuring revenue transparency (and related information) is to maximise revenues from oil and gas, facilitate planning, prevent corruption and minimise conflicts. However, the public still lacks access to basic information related to revenue sharing. Local governments have low capacity to understand the mechanism of oil and gas revenue sharing, and lack bargaining power. There are also usually delays in transferring revenues from the central government.

The Bojonegoro province distributes revenue shares to villages on the principles of equity and equality, boosting rural areas, with consideration of social and environmental costs arising from mining. Some of the major lessons learned from Bojonegoro include the need to build a strong foundation of trust between stakeholders, the usefulness of building an effective multi-stakeholder group, and the awareness that innovating is easy, but preserving it through institutionalisation is the real challenge.

## Discussion

Around the world, there are daily reports of **violence against activists campaigning on mining issues**, which reflects high stakes involved in mining and lack of revenue transparency. The Philippines is enrolled in the EITI, which will make the public aware of revenues, contracts and other information regarding the mining industry. Vigilance among citizens and civil society organisations to hold the government to account is also encouraged. With regards to human rights violations, the Philippines is putting in place mechanisms which consider such environmental issues as a human rights concern. The Commission on Human Rights of the Philippines is currently addressing many issues with regards the environment and human rights, and the ombudsman is now venturing into cases of the use of natural resources.

**Focus of public expenditures in Bojonegoro.** A question was whether there is targeted public spending on women in Bojonegoro, for example in health. In Bojonegoro, there is a strategy called budget consideration, by which one issue is focused on per year. For example, in 2009 the focus was on infrastructure, so 35% budget went to it. Using budget consideration, it is known what the focus issues are. In 2015, the focus is education, and health will be the focus for 2016; it changes depending on the mid-term development plan. In the model and budget for local governments, gender is mainstreamed as a cross-cutting issue between the sectors.

## Session 4: Jobs and Livelihoods

### *4.1 Local Content Development. Development of National and Local Suppliers to the Extractive Industry.*

**Masuma Farooki (SNL Metals and Mining)** spoke about local content development and the extractive sector. Local content in the extractive industry is the amount of goods and services purchased by the industry from the host country. Definitions of local content vary. If geographical location is used in the definition, this means that goods and services are bought from locally incorporated businesses. If participation is used, this means that goods and services are bought from businesses that are majority-owned by citizens of the host

country. If value addition is used, this means that goods and services need to be produced (value-added) in the host country.

The more the extractive company buys local goods and services, the more the host country's economy or local economy is boosted, and the more employment it generates (indirectly). Local companies and small and medium-sized enterprises supplying the extractive company can be of two kinds: captive companies, that supply only to the extractive company and have no life beyond it and other, more diversified companies, for whom the extractive company is only one of markets. Increase in diversified companies reduces the reliance on the extractive sector.

While many inputs in the mining industry, for example, cannot be supplied by developing countries, there are also many which can be. The examples of these inputs include geological and exploration services, spare parts for mining equipment and electricity.

In order to boost local procurement of goods and services, countries need to define local procurement potential and identify local capacity to supply these goods and services. They also should create more enabling environment for local suppliers to compete, as well as coordinate implementation and measure local procurement. However, often, the local content policy fails. For instance, if there is misalignment between trade and industrial policy (if imports of mining inputs are exempt from taxes, the company will have no incentive to buy local inputs). Also, if what the local suppliers can produce and supply does not meet the standards of the mining company, the local content policy can fail. Cooperation with extractive company, rather than forcing local content by regulation, is needed. Also countries often confuse national ownership and domestic value added – in other words, local content policies give preference to goods and services produced by companies owned by citizens; whereas far greater impact can be made by giving preference to goods and services that are domestically produced / value-added. In addition, countries need to upgrade skills and technological capability of its potential supplier firms, and address the infrastructural constraints.

**Aldi Muhammad Alizar (Head of Sustainability Division, Medco Energi Internasional Tbk, Indonesia)** presented on how Medco Energi integrates sustainability framework into its business process. Medco Energi was established in 1980 as the first Indonesian-owned oil drilling contractor; since then it became the largest domestic oil and gas producer in Indonesia. Medco has adopted good corporate governance principles, and is committed to preserving the environment, ethics and governance, health and safety and sustainable business growth through integrating communities' interests. Principles and standards such as the the Equator Principles, the IFC Performance Standards, national sustainability-related regulations, and companies' business process management are integrated into the business process. This integration involves an environmental and social assessment, action plan and management systems, in addition to monitoring, reviewing and reporting, and requires organisational capacity and competence.

**Abdul Situmorang (Technical Adviser for Natural Resource Governance, Cross Cutting Unit, UNDP Indonesia)** discussed the proposal for establishing Extractive Industries Centre for Excellence in Indonesia. Challenges in the extractive sector include growing concerns within government, public and business sectors over the improper management of natural resources. Extractive industry is often the target of criticism as a negative contributor to development. Negative perception and publicity often outweigh positive examples, where

some businesses implement social and environmental best practice. The Centre for Excellence is proposed as a solution, as a focus point to profile, share and adapt best practices. It is envisaged that the centre will have four primary roles: (1) a resource centre for extractive industry social and environmental best practice information, such as papers, books, guides, policy development and case-studies; (2) a network hub; (3) a forum where business, government and civil society can engage to better learn and share extractive industry best practices for social benefit, and issues related to extractive industry resilience to rapid change and managing the expected change by public; and (4) a coordination centre where knowledge and work around extractive industry best practices is pooled to ensure a consistent and efficient approach. UNDP Indonesia and Medco will be the initiators of this centre. They will conduct a feasibility study, a dialogue with key stakeholders to agree on institutional arrangement and rules, and conduct regular monitoring and evaluation of the Centre. The anticipated timeline for the initial feasibility study is between October 2015 and April 2016.

## Discussion

**Definitions for local content** are varied and create confusion. Therefore, countries should be clear about what local content is, especially in contracts and policy documents. Understanding the definitions in use also helps civil society to hold people accountable on the local content.

**Increasing local content.** Frequently, companies do make an effort to increase local content. Even when there is regulation on local content, it is not followed, thus forcing adherence through regulation does not seem to be working. Governments working in cooperation with companies is the better alternative. For example, in Angola, the Big Seven (oil companies) hired supplier development firms to ensure that they were complying with local content regulations.

**Capacities of local enterprises.** Not enough is being done to increase the capacity of local firms to meet the needs of the extractive industry in the next five or ten years.

**Partnering for local content development.** There is a need to increase awareness of local content development opportunities and policies. In 2014, UNDP organised a [conference in Brazil](#) with private sector and government representatives on Extractive Industry and Sustainable Development Goals; among the issues, local content development was discussed. The World Bank has conducted a [study on how countries promote local content in the oil and gas industry](#). Only a few (large) companies are able to invest in having CSR departments and supplier development programmes, so partnership among companies in the extractive industry is needed.

**Compliance with laws and regulations.** This question was raised in the context of Medco Energi. Laws and regulations in Indonesia are not as strong as they could be. For instance, under ESIA requirements, only generic issues are regulated such as environment, biochemical and socio-economic conditions. While the environmental compliance aspect is strong, the social aspect is almost like a ticking-the-box exercise. Best practices need to be institutionalised not only with the government, but within companies. The company also needs to comply with Equator Principles, if it is to get financing from banks which subscribe to these principles. To do that, the company needs to do an assessment at every village

where it operates. It is also developing a retention plan, a contractor management system, local communication system and collaboration with local chambers to develop suppliers.

#### *4.2 Artisanal Mining and its Economic, Social and Environmental Implications. Regulatory Approaches and Experiences with Formalisation and Legalisation.*

**Patience Singo (Manager, Swiss Development Cooperation project on Artisanal and Small-Scale Mining in Mongolia)** shared experience in formalising artisanal and small-scale mining (ASM) in Mongolia (see short video of "[ASM in Mongolia Yesterday and Today](#)") and gave an overview ASM challenges globally and approaches to address them.

ASM is usually informal or illegal, but formalisation of the sector is becoming popular in countries such as Colombia, Ethiopia and Mongolia. There are more than 30 million artisanal miners in 80 countries worldwide, with more than half of these located in the Asia Pacific. It is estimated that ASM contributes 15-20% of global mineral production. It contributes directly to poverty reduction by providing employment opportunities in areas with a lack of employment alternatives, enables to improve the quality of life by investing in housing and education. It can contribute to livelihoods resilience for traditional agro-based communities and response to climate change impacts, create rural employment, reduce rural-urban migration, serve as a financial source for education and health, contribute to economic diversification in rural areas and help develop strong social networks, e.g. through community mining. However, it can also lead to conflicts with other land users, migration and social instability, child labour, human development issues, accidents and fatalities, negative health impacts, and contribute to a vicious poverty cycle, as the majority of ASM miners remain poor. ASM can also result in poor environmental management and ecosystem destruction, mercury pollution and chemical use, physical degradation of the environmental and deforestation, water and air pollution.

Despite these challenges, there are already cases of positive ASM management. For instance, in some countries ASM mine rehabilitation takes place, mercury-free gold processing methods are used. Also, market-based certification is emerging as an incentive for responsible ASM, such as Fairmined and Fairtrade standards.

Regulators should consider that ASM will exist as long as poverty and mineral abundance persist. Legality and formalisation leads to responsible ASM.

**Usman Tariq (Programme Officer, UNEP Regional Office for Asia and the Pacific)** talked about artisanal and small-scale gold mining (ASGM) and its specific environmental impacts. It is a highly variable sector, with methods ranging from simple panning to high-volume ore processing. While ASGM is a source of employment to 10-20 million miners in over 70 countries, a direct benefit to the local economy, and a means of transferring wealth to people in poverty, it can also be informal, extra-legal or illegal, and be a source of social problems such as child labour or other labour issues, gender issues, land tenure issues, migrations and other social instability, and conflict. Mercury is used in ASGM as it is relatively cheap, easily accessible, quick, easy to use and independent. However, exposure to mercury can lead to nervous disorders, kidney damage, respiratory failure, or even death, with growing evidence that it can cause cancer.

The short-term solution is to reduce mercury use and emissions by avoiding worst practices and minimising mercury exposure and releases, while the long-term solution is to transition



to mercury-free techniques, such as gravity-only or chemical leaching processes. For ASGM to become profitable and “sustainable”, it is necessary to improve technical knowledge, create an enabling policy framework, allow a limited, controlled mercury supply, and provide market incentives and access to financial resources. In addition, miners should have clear legal status and land tenure rights. The [Minamata Convention on Mercury](#), a global treaty to protect human health and the environment from the adverse effects of mercury, includes measures such as a ban on new mercury mines, the phase-out of existing ones, control measures on air emissions, and the international regulation of the informal sector for artisanal and small-scale gold mining.

## Discussion

**Distinction between ‘informal’ and ‘illegal’.** Illegality in ASM is occurring in areas where it is not allowed, such as in protected areas or in a private concession without consent. Informality occurs in the context of a legal framework, but one which the ASM miners have not yet begun to comply with.

**Diversification and livelihoods.** In Mongolia, the [Swiss Agency for Development and Cooperation programme on ASM](#) has focused on the legality and formalisation of ASM in the last nine years. This year, economic strengthening objective was added. The project provides business training opportunities as alternative livelihoods for miners, engaging with other organisations such as World Vision. There are good examples from Peru and Bolivia, where whole communities have established funds for social and health insurance. In Mongolia, when mining communities formalise, they have to pay social and health insurance contribution, and contribute to an environment fund. Furthermore, there are examples in Mongolia where ASM communities they start to support the local authorities, for example by purchasing motorbikes and renovating local government offices.

**Engage large companies to work with ASM.** In Mongolia, meetings are facilitated between large companies, small-scale miners and local authorities where good practices are shared. Globally, there are platforms such as the [IFC Sustainability Framework](#), to which they are sometimes invited to present good practices. In early November, the International Governmental Forum will discuss how governments should formalise ASM.

**Gender issues in ASGM.** Women working in ASM are often unaware of their rights, ignorant of health hazards related to mining activities. They also work long hours in harsh conditions and are not paid a fair price for their work. In addition, children may be working in the mines instead of attending school. UNEP through its partners conducts technical trainings on not using mercury and using toolkits.

## Session 5: Governance of Extractive Industries

### *5.1 Governance of Extractive Industries: Challenges and Opportunities*

**Phil Matsheza (UNDP Governance Team Leader and EI DST Team Leader, UNDP Bangkok Regional Hub)** drew upon the examples of the Philippines and Indonesia to discuss aspects of EI governance. The Philippines has rich biodiversity; 45% of its land remain as forests. The civil society is organised and they generally advocate that mining should be discouraged as far as possible. In Indonesia, the contribution of extractive industry is higher, but at the local

level poverty can be higher in resource-rich provinces. In Papua province, for example, the incidence of poverty is three times the national average. Research by the Ministry of Environment shows that 95 of 114 districts which have EIAs do them insufficiently. It is necessary to have an institutional regulatory framework that takes into account the realities on the ground, with regulations and laws that are not contradictory. There has been a proliferation of permits issued by local governments, some issued to areas that were not zoned for mining, or multiple permits issued per location. The number of mining permits increased from 5,000 (2000) to 12,000 (2015). Many political actors at the local level are also miners. An audit of permits was conducted, but only 55% of them were classified as “clean”. These issues demonstrate contradictions and weaknesses in the legal and administrative framework of the extractive industry.

## *5.2 Institutional Framework for Managing Extractive Industry. Intra-Governmental Coordination to Address Multi-Sectoral Impact of Extractive Industry.*

**Claes Reksten (Project Director, Petrad, Norway)** presented the Norwegian approach to institutional structures and intra-governmental coordination in the petroleum sector. Petrad is a non-profit foundation established by the Norwegian authorities to share petroleum governance experiences with other nations. It organises capacity building courses and programmes for government officials in Norway and in host countries, in which more than 20,000 people from 108 have participated.

A key feature of good governance is responsible and competent institutions. Due to the exhaustible nature of minerals, there is even more reason to govern it as well as possible. In Norway, the three basic functions of the government in the petroleum sector are: 1) policy, such as legislation and social impact management; 2) regulation, such as licencing and monitoring; and 3) business, such as commercial participation and business promotion. By separating these functions clearly, the country was able to provide a fair environment for other investors (other than the Norwegian state-owned oil company). Licenses are issued on competitive basis, seeking to promote diversity among licensees. High national (state) participation as a shareholder enables balance between national and international participation in the oil industry. There is also an emphasis on health, safety environment, improved recovery, and functional, rather than prescriptive, regulations. The petroleum sector is organised in such a way that it has well defined roles for all institutions, close coordination among government entities, and continual dialogue with major stakeholders, including licensees, public institutions and the public. While a country’s governance system is based on local and national norms and traditions and cannot be easily copied or transferred from one culture to another, individual features can inspire a similar approach within a local framework.

## **Discussion**

**Experiences of Petrad’s work with developing countries.** Petrad has worked successfully in Uganda, where it has worked for a long time. Uganda established a good organisation, and now that discoveries have been made in the country, they are struggling to maintain the structure that has been built. A lot of work has been put into planning, negotiations, and establishing a sovereign fund. In general, there are no examples of complete successes or

failures; instead, countries are going through phases where they are more successful in one period and less successful in another period.

**Transferrable lessons from the Norwegian model.** Despite the difficulties of transferring lessons to developing countries, due to social, political and historical differences, several elements can be learned from and should be promoted: (1) systemic leadership where countries commit to uphold principles of good governance, (2) how to make good governance work to benefit citizens, and (3) the philosophy of teamwork with distinct roles and functions of agencies to avoid conflict and to be efficient and effective. Other aspects that do not relate too much to Norwegian culture (and therefore are easier to transfer) include: promoting the diversity of companies, adopting a slower pace, saving money for a rainy day, and building functional regulations. Having a diversity of companies - having more than one working on a single block, makes regulation easier for the authorities, since at any time, two companies will be keeping an eye on the operator. By adopting a slower pace in resource development, countries can build capacity, including technological capacity and greater efficiency. Saving for the future and to protect the economy from a downturn requires establishing a sovereign fund. Finally, rather than prescriptive regulations, the government should adopt functional regulations, whereby the regulator is looking not for the exact method of achieving a certain outcome, but for the outcome. Such approach promotes innovation, as companies start to look for the most efficient ways of achieving a goal. However, this requires substantial training of regulators.

**Institutional coordination** is necessary both horizontally at national level, and also between national and sub-national levels. In Norway, there is a culture of consulting between institutions when or before something is decided. However, it has not always been that way, this culture was developed over a long time.

**The role of civil society and other institutions.** In Norway, the civil society and the media play an important role in influencing various institutions. However, they do not have a formal function in influencing decisions. In terms of mining in the northern areas of Norway, the Sami Parliament is an important institution in resolving internal affairs, and that they have played a role in the resolution of some mining questions there.

*5.3 Corruption Risks in Extractive Industries. EITI Objectives, Standards and Adoption in the Region. Role of Oversight Institutions and Civil Society. UNDP Extractive Industry Corruption Risk Assessment Tool.*

**Alex Gordy (Thailand Country Manager, Extractive Industries Transparency Initiative)** introduced the Extractive Industries Transparency Initiative (EITI). EITI is a global standard to promote open and accountable management of natural resources, seeking to strengthen government and company systems, inform public debate, and enhance trust. In each implementing country it is supported by a coalition of governments, companies and civil society working together. In the Asia Pacific region, there are 48 member countries, 31 of which are EITI-compliant. The extraction of resources can lead to economic growth and social development; however, when poorly managed it has often led to corruption and even conflict. More openness around how a country manages its natural resource wealth is necessary to ensure that these resources can benefit all citizens. EITI reporting helps to mitigate risk by ensuring transparency and accountability in more areas of the natural

resource value chain. At the country level, a national multi-stakeholder group decides how their EITI process should work. This group publishes an EITI report, where government revenues and other data are disclosed and independently assessed. The findings are communicated to create public awareness and debate about how the country should better manage their resources. EITI information can impact change by creating a neutral space for building trust and facilitating discussion and by linking EITI to broader national policy priorities. The information is also useful in evaluating and diagnosing pressing policy questions and challenges, it enables informed public understanding and policy debates, and increases accountability and development. Key challenges arise from the diversity of conditions in the 48 implementing countries, including mainstreaming and integrating EITI reporting into government systems, data timeliness and accessibility, and transitioning from reports to real reform.

**Abdul Situmorang (Technical Adviser for Natural Resource Governance, Cross Cutting Unit, UNDP Indonesia - presenting on behalf of the Anti-Corruption Commission (KPK))** discussed mining governance issues in Indonesia. Indonesia has rich resources such as tin, gold, copper and gas. However, it also has large inequalities and many poor people. The Corruption Perception Index score for Indonesia, Doing Business Index and the Forest Governance Index demonstrate that corruption is a major issue in Indonesia.

KPK, a state audit office, conducted a comprehensive assessment to explore issues in the mining sector. The assessment identified the following issues: despite commitments to improve contracting and licensing, contracts with various contract holders have not yet been renegotiated and the improvement of the mining licensing process has not been completed. The policy of increasing value added of mineral and coal commodities has not been implemented well, data and information systems are not integrated, and operational regulations to follow up the new Mining and Coal Law have not yet been issued. In addition, regular reporting by mining permit holders and local government to the Ministry of Mining and Energy resources is not in place. Furthermore, reclamation and post-mining activities are not carried out by most mining companies. Moreover, many mining permit holders have unpaid obligations to the government and there are no effective sanctions. Many of these issues are due to limited government capacity – both general and the monitoring capacity, and ineffective coordination and alignment between central and regional government.

KPK is now coordinating a joint effort to enhance mining governance involving various ministries, agreeing an action plan to address mining governance issues, assisting provincial government to develop action plans regarding the coal and mining sectors, and monitoring agreed action plans every three months. Data was collected on Mining Governance Index; the analysis of the index is to be launched on Anti-Corruption Day in December 2015. Mining licensing administration is improving, and coordination among government agencies and CSO involvement is welcomed and encouraged.

**Khim Lay (Regional Programme Coordinator, East Asia Regional Office, Oxfam United States)** presented Oxfam's work in supporting the role of the civil society in extractive industry governance. CSOs have a critical role by putting pressure and representing the voices and concerns of affected communities, engaging in dialogue, defending the rights of affected communities, and monitoring progress. Oxfam's work in Asia Pacific seeks to promote universal principles that empower the poor and support good governance, rights-based approaches and roles of CSO in EI governance. Oxfam also works to change the

behaviours and practices of the affected communities to assert their rights, government agencies to improve policies, and companies to uphold international standards and practices. Oxfam supports CSO space and capacity to build trust, solidarity, voice, critical thinking and demand. This can lead to fair policies, best CSR practices, benefit sharing, transparency, and accountability of revenues and expenditures, with the end goal of improved and respected livelihoods and ways of life. A list was presented of where companies stand in terms of [Oxfam's Community Engagement Spectrum](#).

In Cambodia, there is no national guidance on how to conduct an EIA, thus Oxfam is supporting the Ministry of Environment to develop EIA guidelines for oil, gas and mining, and it is open to civil society to engage. In the Mekong region, there are many concessions, such as for hydropower, extractive industries and agriculture, especially rubber. Continuing to work in siloes leads to a risk to the sustainability of and respect for the human rights of those who live on that land.

**Degol Hailu (Global Lead on Extractive Industries and Senior Advisor, UNDP)** presented UNDP's Guide on Anti-Corruption in Extractive Industries. The guide helps to identify what the corruption risks are, and what kind of mitigation measures can be put in place. It looks at five stages of the extraction process, outlining risks and mitigations for each stage: (1) Design of a country's legal framework: when this is designed, what are corruption risks, and what are mitigation measures? One example is patronage of key personnel who design these frameworks. This could be mitigated by ensuring that recruitment is based on open competitive methods, and is not done by appointment; (2) Contract negotiations: an example of a risk is taking bribes to grant favourable tax rates. One mitigation measure is to have a competitive bidding process, such as an open and transparent auction; (3) Extraction of the resource: there are associated risks related to regulatory compliance. This could be mitigated by hiring independent teams to perform monitoring; (4) Revenue management: risks at this stage could include diversion of funds for personal use, transfer pricing or trade mispricing. This could be mitigated through the disclosure of payments, and independent verification of production and export volumes; (5) Expenditure management: risks include clientelism and awarding of public contracts to friends. One potential mitigation measure at this stage is ensuring that there are open public procurement rules.

The guide will be finalised, and followed by a training and piloting in one or two countries, in 2016.

## Discussion

**Beneficial ownership.** Disclosure of beneficial ownership information in the Philippines is a significant step, but is not enough, because investors will then seek to invest in other companies that receive less attention.

**Environmental rights.** The Philippines Office of the Ombudsman recently created the Environmental Ombudsman to protect environmental rights.

**The space for citizen participation and protecting the rights of activists.** Working in the extractive sector can be sensitive and dangerous. In Cambodia, Oxfam built a strong alliance with the media and human rights organisations, highlighted cases of human rights abuses to the public, and sought to address the crisis. In order to prevent human rights violations, civil

society needs to come up with much stronger and cohesive support to those activists so they can represent the voice and concerns of the affected communities.

#### *5.4 Mechanisms for Protection of Human Rights vis-à-vis Extractive Industries, Including UN Principles on Business and Human Rights*

**Livio Sarandrea (Programme Specialist, Rule of Law and Crisis Prevention, UNDP Bangkok Regional Hub)** provided an overview of the UN Guiding Principles on Business and Human Rights. The first principle is the state's duty to protect human rights. It is derived from international law, and requires preventing, investigating, punishing and redressing human rights abuses through policies, legislation, regulation and adjudication. The second principle is the corporate responsibility to respect human rights. Companies must avoid causing or contributing to adverse human rights impacts through their own activities, as well as activities directly linked to their operations (through contractors). It applies to all enterprises regardless of their size, sector, operational context, ownership and structure, and when they identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in the remediation process. The third principle is access to remedy for victims of business-related abuses. States must take appropriate steps to ensure through judicial, administrative and legislative means that people affected by violations have access to effective remedy, and non-judicial grievance mechanisms should be provided alongside judicial mechanisms.

**Jesus Torres (Legal and Investigations Office, Human Rights Commission, Philippines)** provided an overview of the Commission on Human Rights of the Philippines (CHRP) and its mandate. The main purposes of CHRP's investigation and monitoring of human rights is to determine and document human rights violations of individuals, groups and communities by state or non-state actors, map out trends and patterns of violations to advise the government on reforms to improve compliance with state obligations on human rights, and recommend appropriate courses of action and policy measures.

In the Philippines, the Mining Act of 1995 is the primary legal act regulating mining; it has a monitoring mechanism. Since the State is deemed the owner of natural resources, it affirms the State's duty to respect, protect, and fulfil human rights. The legal mechanisms must make human rights standards justiciable. The principle of "concession" in Philippine Corporate law affirms that human rights standards are legally binding for non-State actors, such as business enterprises. While the UN Guiding Principles recognise "actual human rights risks", the Philippines HRC must consider the impact of the State's discretionary powers versus ministerial powers, and also the role of civil society and oversight.

**Seree Nonthasoot (Thailand Representative, ASEAN Intergovernmental Human Rights Commission)** outlined the need for and challenges in adopting an intergovernmental approach to human right protection.

States remain the prime duty bearers to protect human rights. However the efforts of states alone are insufficient to systematically address the issues; regional cooperation is essential. The present 'pillar' structure of ASEAN has rendered it difficult to mainstream the human rights-based approach. ASEAN member states individually commit themselves to different human rights and environmental standards, but at ASEAN level there is no specific standard on the protection of human rights vis-à-vis EI, although there have been ASEAN attempts at

exploring the extractive industry for industrial purposes, for example the ASEAN potash mining project in Thailand. [There is also the Hanoi Declaration on Sustainable ASEAN Connectivity in Minerals](#), amongst other mechanisms, however enforcement and implementation of the various mechanisms and articles is often lacking. The ASEAN Intergovernmental Commission on Human Rights (AICHR) is plagued by constraints placed upon it by the decision making process: principles of consensus and non-interference are abided by, which has been interpreted very widely; even the mention of human rights can sometimes be blocked. Going forward, ASEAN leaders will announce the new ASEAN Community Vision 2025 in November 2015, with Three ASEAN Community Blueprints. A discussion is needed on the role of national human rights institutions, and extraterritorial investigations by home states of human rights abuses (including environmental cases) abroad. In the future, the role of other stakeholders, such as the extractive industry, must also be considered.

**Prabindra Shakya (Coordinator, Human Rights Campaign and Policy Advocacy Programme, Asia Indigenous Peoples Pact)** presented mechanisms adopted by the Asia Indigenous Peoples Pact (AIPP) for protection of human rights vis-à-vis extractive industries and related challenges.

The first mechanism is the national legal system. While many indigenous communities have used court cases to take forward their land claims, they face many barriers, such as the length of time the process takes, legal costs, language barriers and accessibility.

The second mechanism is the national and regional human rights institutions and mechanisms. One example is SUHAKAM's nationwide Native Customary Land Rights Inquiry, 2011-2012 in Malaysia, in which customary land rights complaints were mostly related to logging, plantation and dam projects. Challenges related to such mechanisms include lack of awareness on the role of national human rights institutions, and the absence of enforcement powers of these institutions in many cases. The AICHR was adopted by the ASEAN Heads of States in 2012; however, civil society, human rights bodies and even governments raised concern on the very weak nature of its contents, including the failure to include the rights of indigenous peoples.

The third mechanism is grievance mechanisms of companies and international financial institutions. Operational-level grievance mechanisms generally do not exist, but this practice is now beginning, particularly after the endorsement of the UN Guiding Principles on Business and Human Rights. Redress mechanisms for internationally financed projects include the Inspection Panel of the World Bank, the Compliance Advisor/Ombudsman of the International Finance Corporation, the Accountability Mechanism of Asian Development Bank, and UNDP's Social and Environmental Compliance Review and Stakeholder Response Mechanism. The fourth mechanism is international human rights instruments, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. Also, there are the Guiding Principles on Business and Human Rights, and the open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights.

## Discussion

**ASEAN vision.** The Southeast Asia Women's Caucus on ASEAN is not satisfied with the new ASEAN vision, and have produced an alternative vision document. Human rights was a highly contentious issue in the ASEAN negotiations. The umbrella article relating to the fact that protection is provided to everyone can be used. However, it is not legally binding, so ASEAN is considering developing a regional instrument on human rights. The adoption of transboundary impact assessments and cumulative impact assessments may also need to be considered. Oxfam noted that civil society groups have come up with a framework that defines the scope and regulations relating to human rights protection and environmental protection aspects, which can be considered for inclusion in relevant ASEAN documents.



## Annexes

### Annex 1. Workshop Agenda

#### Day 1: Tuesday, 6<sup>th</sup> October 2015

8:00 am – 8:30 am      **Registration**

8:30 am – 8:50 am      **Opening Remarks**

- Nicholas Rossellini, Director, Bangkok Regional Hub (BRH), UNDP
- Kaveh Zahedi, Regional Director and Representative for Asia and the Pacific, UNEP

#### Session 1: Extractives Industries and Sustainable Development

8:50 am – 9:30 am      Facilitator: Uyanga Gankhuyag, Extractive Industry Specialist, UNDP Bangkok Regional Hub (BRH)

##### **Overview of UNDP work on extractive industries and sustainable development**

- Degol Hailu, Global Lead on Extractive Industries and Senior Advisor, UNDP

##### **UNDP's approach to extractive Industries in Asia Pacific and support to countries till date**

- Phil Matsheza, Governance Team Leader and EI DST Team Leader, UNDP BRH

9:30 am – 10:30 am      **Trends in resource supply and demand in the 21<sup>st</sup> century and sustainability considerations**

- Janet Salem, Programme Officer, Resource Efficiency and Sustainable Consumption and Production, UNEP Regional Office for Asia and the Pacific (ROAP)

##### **Stages, cycles and methods of mineral extraction and exploitation operations. Industry structure and mineral commodity price trends**

- Masuma Farooki, Resources Policy Consultant, SNL Metals and Mining

10:30 am – 10:45 am      **Refreshment Break**

## Session 2: Environmental and Social Impacts and Mitigation Tools

10:45 am – 12:00 pm Facilitator: Seonmi Choi, PEI Regional Manager, UNEP ROAP

### **Environmental impacts of the extractive industry and practices and tools to manage environmental risks**

- Peter Erskine, Senior Research Fellow, Sustainable Minerals Institute, The University of Queensland, Australia
- Annelisa Grigg, Head of Programme, Business and Biodiversity, UNEP World Conservation Monitoring Centre
- Timothy Scott, Environment and Natural Capital Advisor, UNDP; UNDP-Swedish Environmental Protection Agency project on environmental governance in mining
- Saleumsack Xayyamonth, Deputy Chief of Division, Department of Environment and Social Impact Assessment, Ministry of Natural Resource and Environment, Lao PDR

12:00 pm – 1:00 pm **Lunch**

1:00 pm – 2:30 pm Facilitator: Koh Miyaoi, Gender Advisor, UNDP BRH

### **Social and gender impacts of extractive industries in large-scale and artisanal mining**

- Warwick Browne, Extractive Industry Consultant, UNDP Indonesia
- Kuntala Lahiri-Dutt, Senior Fellow, Resource Environment and Development Program, Crawford School of Public Policy, The Australian National University

### **Community perspectives on social and gender impacts**

- Bhanumathi Kalluri, Founder and Director, Dhaatri Resource Centre for Women's and Children's Rights, India

2:30 pm – 2:45 pm **Refreshment Break**

2:45 pm – 3:30 pm Facilitator: Seonmi Choi, PEI Regional Manager, UNEP ROAP

### **China's Overseas Investments: Environmental and social policies of Chinese Overseas Investments**

- Sun Lihui, Director, International Cooperation Department, China Chamber of Commerce of Metals and Chemicals Importers & Exporters (CCCMC)

### **Financial sector perspectives on managing social and environmental risks**

- Arjun Bhalla, Senior Operations Officer, International Finance Corporation (IFC)

3:30 pm – 5:00 pm Facilitator: Fabrice Gregoire, PEI EI Consultant

**Group exercise: Case study on managing social and environmental risks of investment proposals in the extractives sector**

**Report back from the group exercise**

**Reflections from Day 1**

6:00 pm – 8:00 pm **Welcome reception**

## **Day 2: Wednesday, 7<sup>th</sup> October**

### **Session 3: Management of Revenues from Extractive Industry**

8:30 am – 8:40 am **Knowledge sharing and communications platform on extractive industries**

- Prashanthi Subramaniam, Communications Consultant, Poverty-Environment Initiative, UNEP ROAP

Facilitator: Scott Standley, Inclusive growth and Human Development Specialist, UNDP BRH

8:40 am – 9:00 am **Macroeconomic policies in resource-dependent countries. Managing fiscal revenues from extractive industry**

- Degol Hailu, Global Lead on Extractive Industries and Senior Advisor, UNDP

9:00 am – 10:30 am **International and domestic laws and contracts related to extractive industry. Typologies and elements of contracts**

- Amir Shafaie, Senior Legal Analyst, Natural Resources Governance Institute (NRGI)
- San Myint, Deputy Director General, Directorate of Investment and Company Administration (DICA), Myanmar

10:30 am – 10:45 am **Refreshment Break**

10:45 am – 11:45 pm **Taxes and royalties and their characteristics. Objectives and distinctions of savings and stabilization funds**

- Amir Shafaie, Senior Legal Analyst, Natural Resource Governance Institute (NRGI)
- Otgonbayar Chimeddorj, Head, Macroeconomic Policy Division, Economic Policy Department, Ministry of Finance, Mongolia

11:45 pm – 1:00 pm	<b>Lunch</b>
1:00 pm – 2:30 pm	<p><b>Financial modeling tools to estimate fiscal revenues from large extractive operations and their practical application</b></p> <ul style="list-style-type: none"> <li>• Masuma Farooki, Resources Policy Consultant, SNL Metals and Mining</li> <li>• Outakeo Keodouangsinh, Deputy Director General, Investment Promotion Department, Ministry of Planning and Investment, Lao PDR</li> </ul> <p><b>Mechanisms for benefit sharing from extractive industries at the national and local level</b></p> <ul style="list-style-type: none"> <li>• Uyanga Gankhuyag, Extractive Industry Specialist, UNDP BRH</li> <li>• Anna Liza Bonagua, Director, Bureau of Local Government Development, Department of Interior and Local Government (DILG), Philippines</li> <li>• Joko Purwanto, Chair of Board, Bojonegoro Institute, Indonesia</li> </ul>
2:30 pm – 2:45 pm	<b>Refreshment Break</b>
2:45 pm – 4:30 pm	<p>Facilitator: Grace Duffy, Programme Analyst, Poverty-Environment Initiative, UNDP-UNEP</p> <p><b>Interactive Clinic: Meetings with experts</b></p>
4:30 pm – 4:45 pm	<p>Facilitator: Seonmi Choi, PEI Regional Manager, UNEP ROAP</p> <p><b>Preparatory discussion for country presentations and reflections from Day 2</b></p>

## Day 3: Thursday, 8<sup>th</sup> October

### Session 4: Jobs and Livelihoods

9:00 am – 10:15 am	<p>Facilitator: Uyanga Gankhuyag, Extractive Industry Specialist, UNDP BRH</p> <p><b>Local content development. Development of national and local suppliers to the extractive industry</b></p> <ul style="list-style-type: none"> <li>• Masuma Farooki, Resources Policy Consultant, SNL Metals and Mining</li> <li>• Aldi Muhammad Alizar, Head of Sustainability Division, Medco Energi Internasional Tbk, Indonesia</li> <li>• Abdul Situmorang, Technical Adviser for Natural Resource Governance, Cross Cutting Unit, UNDP Indonesia</li> </ul>
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10:15 am – 11:00 am Facilitator: Seonmi Choi, PEI Regional Manager, UNEP ROAP

**Artisanal mining and its economic, social and environmental implications. Regulatory approaches and experiences with formalization and legalization**

- Patience Singo, Manager, Swiss Development Cooperation project on Artisanal and Small-Scale Mining in Mongolia
- Usman Tariq, Programme Officer, UNEP ROAP

11:00 am – 11:15 am **Refreshment Break**

**Session 5: Governance of Extractive Industries**

11:15 am – 12:30 pm **Governance of extractive industries: challenges and opportunities**

- Phil Matsheza, Governance Team Leader and EI DST Leader, UNDP BRH

**Institutional framework for managing extractive industry. Intra-governmental coordination to address multi-sectoral impact of extractive industry**

- Claes Reksten, Project Director, Petrad - International Programme for Petroleum Management and Administration, Norway

12:30 pm – 1:30 pm **Lunch**

1:30 pm – 3:00 pm

Facilitator: Paavani Reddy, Anti-Corruption Consultant, UNDP BRH

**Corruption risks in extractive industries. EITI objectives, standards and adoption in the region. Role of oversight institutions and civil society. UNDP extractive industry corruption risk assessment tool**

- Alex Gordy, Country Manager, EITI International Secretariat
- Abdul Situmorang, Technical Adviser for Natural Resource Governance, Cross Cutting Unit, UNDP Indonesia (on behalf of KPK, Indonesia)
- Khim Lay, Extractive Industries Regional Programme Coordinator, Oxfam America
- Degol Hailu, Global Lead on Extractive Industries and Senior Advisor, UNDP

3:00 pm – 3:15 pm **Refreshment Break**

3:15 pm – 4:45 pm Facilitator: Livio Sarandrea, Programme Specialist, Rule of Law and Crisis Prevention, UNDP BRH

**Mechanisms for protection of human rights vis a vis extractive industries, including UN principles on business and human rights**

- Atty Jesus Torres, Legal and Investigations Office, Human Rights Commission, Philippines
- Seree Nonthasoot, Thailand Representative, ASEAN Intergovernmental Human Rights Commission
- Prabindra Shakya, Coordinator, Human Rights Campaign and Policy Advocacy Programme, Asia Indigenous Peoples Pact (AIPP)

4:45 pm – 5:30 pm Facilitator: Uyanga Gankhuyag, Extractive Industry Specialist, UNDP BRH

**Country Presentations**

5:30 pm – 5:45 pm **Reflections from Day 3**

**Closing Remarks**

- Caitlin Wiesen, Chief, Regional Policy and Programme Support for Asia and the Pacific, UNDP BRH

## Annex 2. List of Participants

Country	Name	Organisation
<b>Country Participants</b>		
Afghanistan	Mr. Javed Noorani	Civil Society and Community Engagement Specialist, Communication (Embedded), MIDAS, Ministry of Mines, Afghanistan
Afghanistan	Mr. Mohammed Salim Hamdard	Programme Officer, Sustainable Development Unit, UNDP Afghanistan
China	Mr. Sun Lihui	Director, International Liaison Department China Chamber of Commerce of Metals Minerals & Chemicals Importers & Exporters
China	Ms. Yalin Wang	Programme Manager, UNDP China
Indonesia	Mr. Joko Purwanto	Chair of Board, Bojonegoro Institute, Indonesia
Indonesia	Mr. Warwick Browne	Extractive Industry Consultant, UNDP Indonesia
Indonesia	Mr. Abdul Situmorang	Technical Adviser for Natural Resource Governance, Cross Cutting Unit, UNDP Indonesia
Indonesia	Mr. Mohammad Syamsul Tarigan	National Project Manager cum Technical Advisor of PTDDA Project, Democratic Governance and Poverty Reduction Unit, UNDP Indonesia
Lao	Mr. Sleumsack Xayyamonh	Deputy Chief of Division, Review ESIA Report from Mining Project, Department of Environment and Social Impact Assessment, Ministry of Natural Resources and Environment, Lao PDR
Lao	Mr. Outakeo Keodouangsinh	Deputy Director General, Investment Promotion Department, Ministry of Planning and Investment, Lao PDR
Lao	Ms. Chitlatda Keomuongchanh	Programme Analyst, Environment Unit, UNDP Lao PDR
Mongolia	Ms. Khulan Bayar	Specialist, Department for Coordination of Policy Implementation, Ministry of Mining, Mongolia

Mongolia	Ms. Otgonbayar Chimeddorj	Head of Macroeconomic Policy Division, Economic Policy Department, Ministry of Finance, Mongolia
Mongolia	Mr. Thomas Eriksson	Deputy Resident Representative, UNDP Mongolia
Mongolia	Ms. Doljinsuren Jambal	Team Leader, Human Development and MDGS Team, UNDP Mongolia
Myanmar	Mr. Tin Htun Win	Deputy Director, Minerals Development, Department of Mines, Myanmar
Myanmar	Mr. San Myint	Deputy Director General, Directorate of Investment and Company Administration, Ministry of National Planning and Economic Development, Myanmar
Myanmar	Ms. Samara Yawngwe	Project Coordinator, UNDP-UNEP Poverty-Environment Initiative (PEI), Environmental Governance and Disaster Resilience Programme, UNDP-UNEP Myanmar
Pakistan	Mr. Nauman Mahmood	CEO RSM Consulting Company, Pakistan
Philippines	Ms. Anna Liza Bonagua	Director, Bureau of Local Government Development, Department of the Interior and Local Government Philippines
Philippines	Mr. Jesus Torres	Attorney IV, Legal and Investigation Office, Commission on Human Rights of the Philippines
Philippines	Ms. Raquel Rosario Cunanan-Marayag	Assistant Environment Ombudsman, Environment Ombudsman Team, Office of the Ombudsman, Philippines
Philippines	Mr. Jonathan Hodder	Governance Analyst, Democratic Governance, UNDP Philippines
Philippines	Mr. Fernando Antolin	Programme Associate, Inclusive and Sustainable Development, UNDP Philippines
Solomon Islands	Mr. Ishmael Khegrasopa	Principal Economic Geologist, Mines Division, Ministry of Mines, Solomon Islands
Thailand	Mr. Pairat Klumthong	Planning and Policy Analyst, Social Data-Based and Indicator Development Office, Office of the National Economic and Social Development Board, Thailand



Thailand	Mr. Pawin Talerngsri	Project Manager, Inclusive Green Growth and Sustainable Development, UNDP Thailand
<b>Development Partners</b>		
Thailand	Ms. Christy Owen	Mekong Partnership for the Environment, Pact
Thailand	Mr. Cyrus Sie	Political Section, Embassy of Canada, Thailand
<b>Resource Persons</b>		
Australia	Mr. Fabrice Gregoire	Extractive Industry Consultant, UNDP-UNEP Poverty-Environment Initiative (PEI)
Australia	Ms. Kuntala Lahiri-Dutt	Senior Fellow, Resource Environment and Development Program, Crawford School of Public Policy, Australian National University
Australia	Mr. Peter Erskine	Senior Research Fellow, Center for Mined Land Rehabilitation, The University of Queensland, Australia
Cambodia	Mr. Khim Lay	Regional Programme Coordinator, East Asia Regional Office, Oxfam United States
Ethiopia	Mr. Degol Hailu	Global Lead and Senior Advisor, Extractive Industries, UNDP Regional Service Centre for Africa, Ethiopia
India	Ms. Bhanumathi Kalluri	Executive Director, Dhaatri Resource Centre, India
Indonesia	Mr. Aldi Muhammad Alizar	Head of Sustainability Division, Medco Energi Internasional, Indonesia
Indonesia	Mr. Arjun Bhalla	Senior Operations Officer, Natural Resources and Infrastructure Department, International Finance Corporation (IFC), World Bank Group, Indonesia
Lebanon	Mr. Amir Shafaie	Senior Legal Analyst, Natural Resource Governance Institute (NRGI), Lebanon
Mongolia	Mr. Patience Singo	Project Director, Sustainable Artisanal Mining Project, Swiss Agency for Development and Cooperation, Mongolia

Norway	Mr. Claes Reksten	Project Director, Petrad - International Programme for Petroleum Management and Administration, Norway
Thailand	Mr. Alex Gordy	Country Manager, Extractive Industries Transparency Initiative (EITI), Norway
Thailand	Mr. Prabindra Shakya	Coordinator, Human Rights Campaign and Policy Advocacy Programme, Asia Indigenous Peoples Pact (AIPP), Thailand
Thailand	Mr. Seree Nonthasoot	Thailand Representative, ASEAN Intergovernmental Human Rights Commission
UK	Ms. Annelisa Grigg	Head of Programme, Business & Biodiversity, UNEP World Conservation Monitoring Centre, UK
UK	Ms. Masuma Farooki	Senior Resource Policy Consultant, SNL Metals & Mining, UK
<b>UNDP, UNEP and UN Agencies</b>		
Thailand	Bishwa Nath Tiwari	Programme Specialist, Human Development Report, Bangkok Regional Hub, Thailand
Thailand	Ms. Caitlin Wiesen	Chief, Regional Policy and Programme Support for Asia and the Pacific, UNDP Bangkok Regional Hub, Thailand
Thailand	Mr. Doley Tshering	Technical Advisor - Ecosystems and Biodiversity, UNDP Bangkok Regional Hub, Thailand
Thailand	Mr. Francisco Santos-Jara Padron	Programme Advisor, Post-Crisis, Early Recovery and Livelihoods, UNDP Bangkok Regional Hub, Thailand
Thailand	Ms. Grace Duffy	Programme Analyst (UNV), UNDP-UNEP Poverty-Environment Initiative (PEI), UNDP Bangkok Regional Hub, Thailand
Thailand	Ms. Imae Mojado	UNEP Regional Office for Asia and the Pacific, Thailand
Thailand	Ms. Isabelle Louis	Deputy Regional Director, UNEP Regional Office for Asia Pacific, Thailand
Thailand	Ms. Janet Salem	Programme Officer, Resource Efficiency and Sustainable Consumption and Production, UNEP Regional Office for Asia and the Pacific, Thailand

Thailand	Ms. Joan Manda	Climate Change Finance Specialist, UNDP Bangkok Regional Hub, Thailand
Thailand	Mr. Jonathan Gilman	Regional Coordinator, One UN, UNEP Regional Office for Asia and the Pacific, Thailand
Thailand	Mr. Joseph D'Cruz	Asia-Pacific Regional Team Leader, Inclusive Growth & Sustainable Development, UNDP Bangkok Regional Hub, Thailand
Thailand	Mr. Kaveh Zahedi	Regional Director and Representative for Asia and the Pacific, UNEP Regional Office for Asia and the Pacific, Thailand
Thailand	Ms. Keiko Nomura	Programme Officer (UN-REDD), UNEP Regional Office for Asia Pacific, Thailand
Thailand	Ms. Koh Miyaoi	Gender Advisor, UNDP Bangkok Regional Hub, Thailand
Thailand	Ms. Krittika Kleesuwan	Programme Assistant, UNEP Regional Office for Asia Pacific, Thailand
Thailand	Ms. Liviana Zorzi	Programme Officer (UNV), Transparency, Accountability and Anti-Corruption, Bangkok Regional Hub, Thailand
Thailand	Mr. Livio Sarandrea	Programme Specialist, Rule of Law and Crisis Prevention, UNDP Bangkok Regional Hub, Thailand
Thailand	Ms. Michaela Prokop	Programme Advisor, MDGs/SDGs, UNDP Bangkok Regional Hub, Thailand
Thailand	Ms. Nan Collins	South-South and Triangular Cooperation Advisor. UNDP Bangkok Regional Hub, Thailand
Thailand	Mr. Nicholas Rosselini	Deputy Regional Director for Asia and the Pacific and Director, UNDP Bangkok Regional Hub, Thailand
Thailand	Ms. Paavani Reddy	Anti-Corruption Consultant, UNDP Bangkok Regional Hub, Thailand

Thailand	Mr. Patrick Duong	Regional Programme Advisor, Local Governance and Decentralization, UNDP Bangkok Regional Hub, Thailand
Thailand	Mr. Phil Matsheza	Regional Team Leader, Effective Governance Team, UNDP Bangkok Regional Hub, Thailand
Thailand	Ms. Pinyavi Chaiwongsrisk	Programme Associate, UNDP Bangkok Regional Hub, Thailand
Thailand	Ms. Prashanthi Subramaniam	Communications Consultant, UNDP-UNEP Poverty-Environment Initiative (PEI), UNEP Regional Office for Asia and the Pacific, Thailand
Thailand	Mr. Scott Standley	Policy Specialist, Inclusive Growth and Human Development, UNDP Bangkok Regional Hub, Thailand
Thailand	Ms. Seonmi Choi	Regional Manager, UNDP-UNEP Poverty Environment Initiative (PEI), UNEP Regional Office for Asia and the Pacific, Thailand
Thailand	Mr. Simon Finley	Regional Electoral Advisor, Bangkok Regional Hub, Thailand
Thailand	Ms. Siripan Visessmith	Programme Associate, UNDP Bangkok Regional Hub, Thailand
Thailand	Ms. Soojin Kim	Junior Professional Officer in Climate Change, FAO Regional Office for Asia and the Pacific, Bangkok, Thailand
Thailand	Ms. Sujala Pant	Governance Specialist, UNDP Bangkok Regional Hub, Thailand
Thailand	Mr. Terence Hay-Edie	Programme Advisor - Biodiversity, GEF Small Grants Programme, UNDP Bangkok Regional Hub, Thailand
Thailand	Mr. Tim Jenkins	Communications Specialist (Workshop Volunteer)
Thailand	Ms. Tomoko Furusawa	Programme Specialist, Montreal Protocol and Chemicals Unit, UNDP Thailand
Thailand	Mr. Usman Tariq	Programme Officer, UNEP Regional Office for Asia and the Pacific, Thailand

Thailand	Ms. Uyanga Gankhuyag	Program Specialist / Economist, Extractive Industries, UNDP Bangkok Regional Hub, Thailand
USA	Ms. Sofi Halling	Policy Analyst, BPPS, UNDP New York, USA
USA	Mr. Timothy Scott	Policy Advisor, Environment, Natural Capital and the Environment, Sustainable Development Cluster, BPPS, UNDP New York, USA
USA	Mr. William Bikales	Consultant, BPPS, UNDP New York, USA

### Annex 3. Country Presentations

Country participants gave feedback on key areas of learning for themselves, and identified areas where further work is needed in their countries. The outcomes of these presentation are summarised below.

Country groups were requested to report on the areas where they learned the most, as well as on the areas where they will apply the knowledge on specific initiatives. Altogether, seven country groups reported.

**Operations of extractive sector companies:** four out of seven country groups that reported said they valued learning about operations of extractive sector companies.

**Environmental, social and gender impacts:** three country groups reported they valued learning in this area, and five out of seven said they will apply the knowledge in implementing specific initiatives.

**Laws and contracts, revenue management, benefit sharing and financial modelling:** six country groups said they valued learning in this area, and all of them said they will apply the knowledge in implementing specific initiatives.

**Artisanal and small scale mining, and local content:** two country groups said they valued learning in this area, and six groups said they will apply the knowledge in implementing specific initiatives.

**Institutional framework, addressing corruption risk and human rights protection:** three country groups said they valued learning in this area, and five groups said they will apply the knowledge in implementing specific initiatives.

For more detailed information, please see the table below.

	Afghanistan		Indonesia		Lao PDR		Mongolia		Myanmar		Philippines		Solomon Islands	
	Learnin g	Future work	Learnin g	Future work	Learnin g	Future work	Learnin g	Future work	Learnin g	Future work	Learnin g	Future work	Learnin g	Future work
Mineral operations			√				√		√		√			×
Environmental impacts	√				√	×		×		×			√	
Social impacts	√	×		×		×		×		×			√	
Gender impacts		×					√				√			
Financial sector perspectives	√													
Laws and contracts	√		√						√		√			
Revenue management	√	×		×								×		
Financial modelling	√	×	√			×	√		√	×	√		√	×
Benefit sharing		×					√	×				×		

	Afghanistan		Indonesia		Lao PDR		Mongolia		Myanmar		Philippines		Solomon Islands	
	Learnin g	Future work	Learnin g	Future work	Learnin g	Future work	Learnin g	Future work	Learnin g	Future work	Learnin g	Future work	Learnin g	Future work
Local content				×	√	×				×				
Artisanal mining		×		×				×	√	×		×		
Institutional framework		×		×				×	√			×		
Corruption risks, EITI	√							×		×	√	×		
Human rights protection	√											×		

#### Annex 4. UNDP, UNEP’s Recent and Upcoming Work on Extractive Industries at the Country Level

On 9 October, an internal session was held for UNDP and UNEP participants. During this session, participants shared information on recent and upcoming activities in extractive industries for sustainable development.

##### *Afghanistan*

UNDP conducted a scoping of extractive industries and sustainable development issues in Afghanistan. Following on this, it will be develop a National Human Development Report on Extractive Industries and organise a national dialogue. The dialogue will focus on issues on a broad range of issues related to the governance of the sector and sustainable development. NHDR and the national dialogue can lead to a number of outputs, such as the establishment of a *shura* or consultative council on extractive industries, the expansion of intra-governmental coordination mechanisms, establishment of an international peer group to provide advice to Afghanistan, establishment of a formal dialogue platform among stakeholders, finalisation of the Extractive Industries Development Framework (EIDF), and improved coordination mechanism for development partners in the extractive sector. Following the NHDR and the national dialogue, the ways forward will be identified.

Given that the extractive industry is one of the main reason for insecurity, working in this sector would be beneficial for peace building and conflict resolution, as well as for livelihood opportunities for integrating Afghan refugees who are in Iran and Pakistan. CSOs must be involved, and South-South cooperation can be of great importance for Afghanistan.

##### *China*

UNDP China works on extractive industries not directly, but as part of a broader initiative to propose social responsibility of Chinese outbound overseas investment. The Chinese government wants to demonstrate that they want improvement, are aware of the challenges, and highlight where there has been good work, so it approached UNDP for collaboration. UNDP and the Chinese government conducted joint research on corporate governance, environmental and social responsibility of Chinese companies investing abroad. Given the dearth of information on this subject, much of the information included primary, first-hand data and information collection. The report consolidates 33 central policies

related to sustainable development; it surveyed 250 Chinese enterprises, of which 65% were private enterprises. The report makes recommendations for the Chinese government, enterprises and host countries (for example on the regulatory/legal system).

Based on this joint research, both UNDP and the government realised that there is a long journey to make, so the plan is to establish a knowledge network and a communication platform with ASCEA (Alliance for Sustainable Chinese Enterprises Abroad). The platform will also provide training and incubate pilot projects. Pilot work was undertaken in Myanmar to understand the local context and the key challenges of Chinese companies.

### *Indonesia*

In extractive industries, UNDP Indonesia worked in the following areas:

- Governance of extractive industries: supported development of a mining road map by the Ministry of National Development; conducted a study on Mining Governance Index;
- Anti-corruption: conducted an assessment of corruption risk in Banggai and Teluk Bintuni regencies;
- Extractives revenues management: conducted a feasibility study of sovereign wealth funds at subnational levels;

Overall, its work in extractive industries can be classified into four areas: policy making support, institutional support, ground-level implementation and capacity building.

Going forward, UNDP Indonesia plans to develop a concept for Extractive Industry Centre for Excellence in collaboration with Medco Energi, an Indonesian oil company; and address the use of mercury in artisanal and small-scale mining. It will build on earlier work by sensitising subnational governments in Banggai and Teluk Bintuni regencies to better manage extractive revenues. Finally, it will develop its country strategy on extractive industries, by bringing these areas of work together.

### *Lao PDR*

The Poverty Environment Initiative (UNDP-UNEP) in Lao PDR supported the government in developing a financial model for screening of investments and is currently helping develop a database for monitoring investment compliance via a web tool. Also, it supported development and revision of EIA/EII (Environmental Impact Assessment and simplified EIA) guidelines.

Going forward, the initiative plans to scale up work on Corporate Social Responsibility in Lao PDR; fully utilise the financial model by building capacity of staff of the Ministry of Mining; and develop capacity on EIA/ IEE for provincial and local authorities.

### *Mongolia*

In the extractive industries, UNDP Mongolia works in the following areas:

- Policy support: review of mining revenue sharing mechanism is being conducted (including through the Poverty-Environment Initiative of UNDP-UNEP); advice on diversification strategy was requested by the government;



- Responsible mining: review of Corporate Social Responsibility practices of small and medium-sized mining companies is being conducted; will collaborate with South Gobi province local government and Oyu Tolgoi LLC to support local government and communities;
- Environmental governance: programme on land degradation offsets of mining is working with three companies to help them implement offsets; new programme on environmental governance of mining is starting, which will work on human rights, coordination capacity, conflict, and CSO capacity development.

Additional opportunities for work in extractive industries include: developing capacity of local enterprises supplying to mining by linking with Original Equipment Manufacturers (OEMs) (local content development; reducing the use of mercury as part of implementation of the Minamata convention; building on initial work on corruption risks; addressing gender issues in mining. Important gaps relate to the capacity of the civil society, which needs support to be more active and engaging on the backdrop of pro-mining government; water assessments, given that Mongolia is a water-scarce country, yet water is the fuel for mining; and artisanal mining.

### *Myanmar*

On the backdrop of a difficult institutional and development context, the Poverty-Environment Initiative of UNDP-UNEP had focused so far on supporting the technical capacities that the government was interested in getting. In particular, it supported model investment treaties – awareness raising and technical capacity building, which play a role of economic cooperation agreements and which are being actively signed by Myanmar with other countries, perhaps without full awareness of their implications. In addition, the PEI supported development of a financial model to improve contract negotiation.

For future work in this area, there needs to be much greater understanding of development partners about the divide between the majority population and ethnic minorities, and factor this into their work.

### *The Philippines*

Currently, the work on extractive industries in the Philippines is carried out through the Poverty -Environment Initiative (PEI) of UNDP-UNEP. PEI works primarily at the sub-national level, in the following areas:

- Collection and distribution of revenues from natural resources to local governments: development of administrative policies for national government agencies (Department of the Interior and Local Government (DILG), the Department of Finance (DoF), Mines and Geosciences Bureau (MGB) of the Department of Environment and Natural Resources (DENR)), ensuring the LGUs are getting the right share of revenues, developing a toolkit for LGUs to track collection of revenues.
- EITI: helped develop EITI roadmap for the Philippines.
- Artisanal and small-scale mining: identified profiles of municipalities hosting small-scale mining operations, their ways of managing small-scale mining grievances regarding social, economic and environmental issues; supported DILG to host a

summit among LGUs on this issue and to disseminate regulatory guidelines on small-scale mining issued by DENR and the MGB.

- Mining rehabilitation fund: conducted case studies and baseline analyses.

Going forward, the PEI programme will continue working on the fiscal regime - improving benefits from mining revenues for local governments. In addition, given largely negative public perception of mining in the Philippines, the programme seeks to work on alternative livelihoods options.

UNDP Philippines plans to support the capacity of oversight institutions in environmental governance of mining, such as the Supreme Court, the Ombudsman, and the Human Rights Commission, which together formed an Environmental Justice Consortium. Currently, existence of various (and sometimes conflicting) legal acts results in the lack of accountability. In addition, the laws and systems are set up in such a way that the oversight institutions are only involved after violations have occurred. Therefore, based on consultations with Environmental Justice institutions, UNDP Philippines will develop policy notes for reforms in this area and engage Parliamentary bipartisan group to support changes.

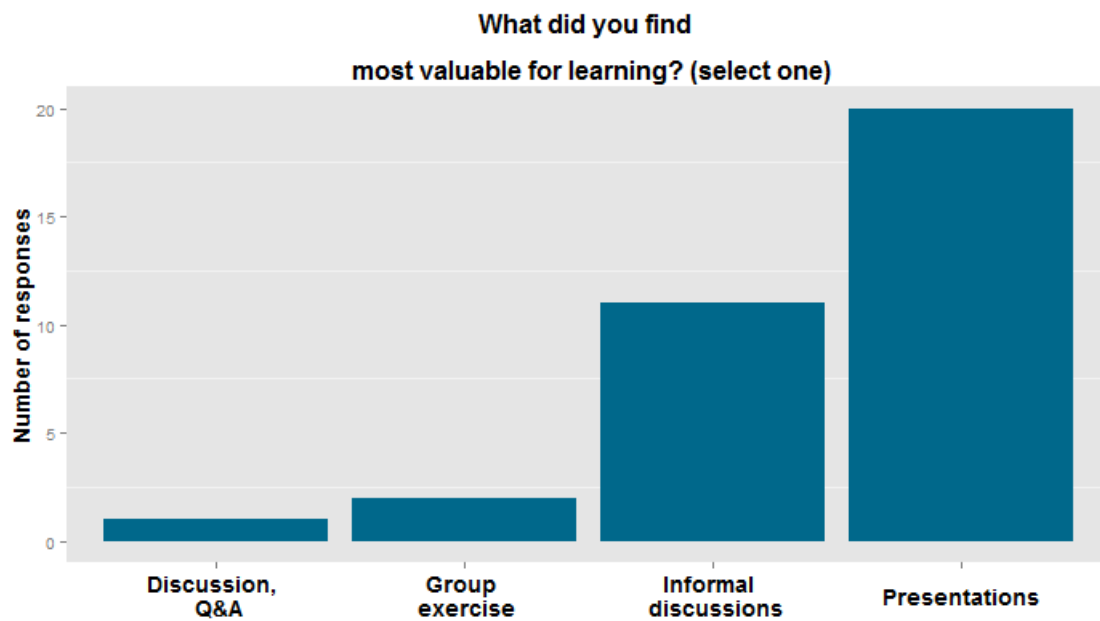
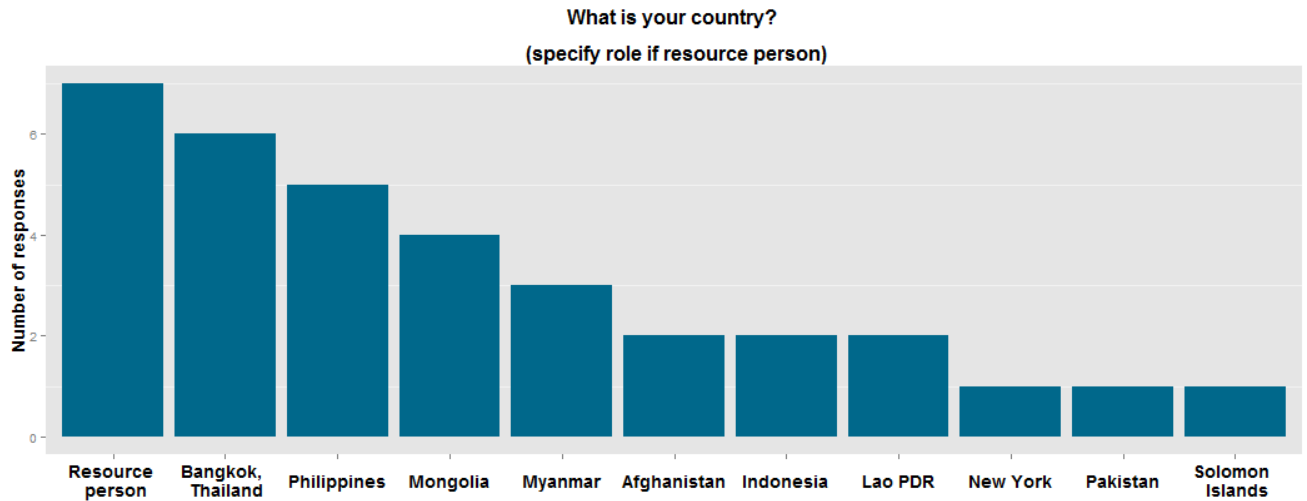
Developing financial modelling of specific mine sites which also incorporates social and environmental concerns is considered an important area of work.

#### *Regional or Global Level Activities*

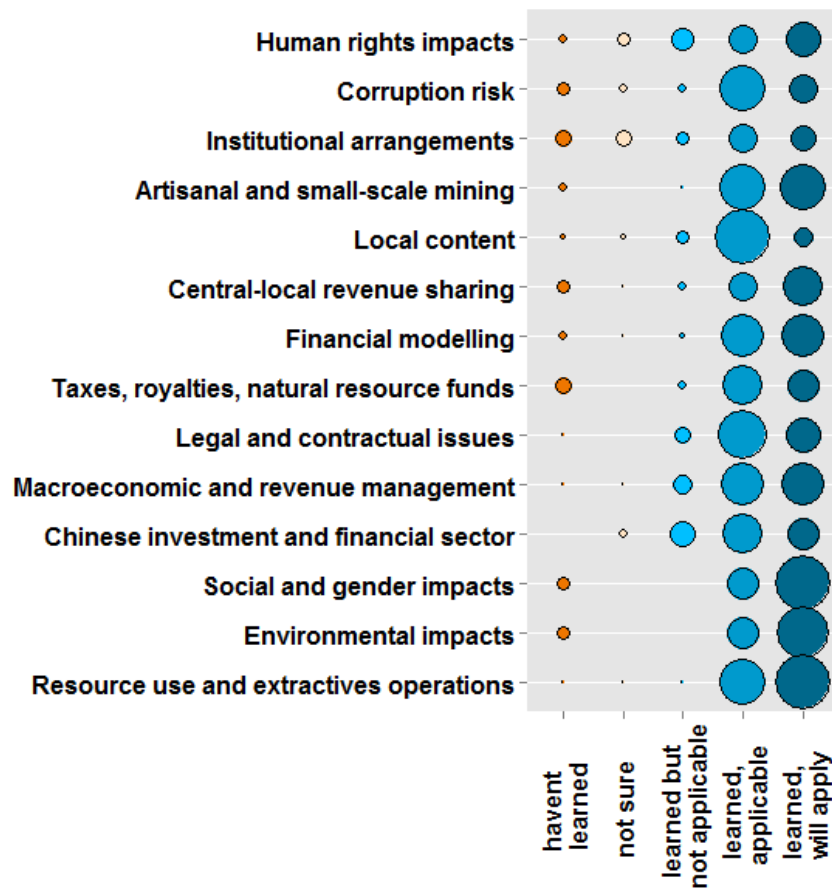
Significant need was identified for linking civil society internationally to help them learn from each other, share experiences and strengthen their voice. Such a programme of work would require full time staff to run the network, as well as opportunities for civil society to meet, training and knowledge sharing opportunities. Bangkok Regional Centre's EI DST will conduct a mapping to pursue this initiative.

## Annex 5. Workshop Evaluation

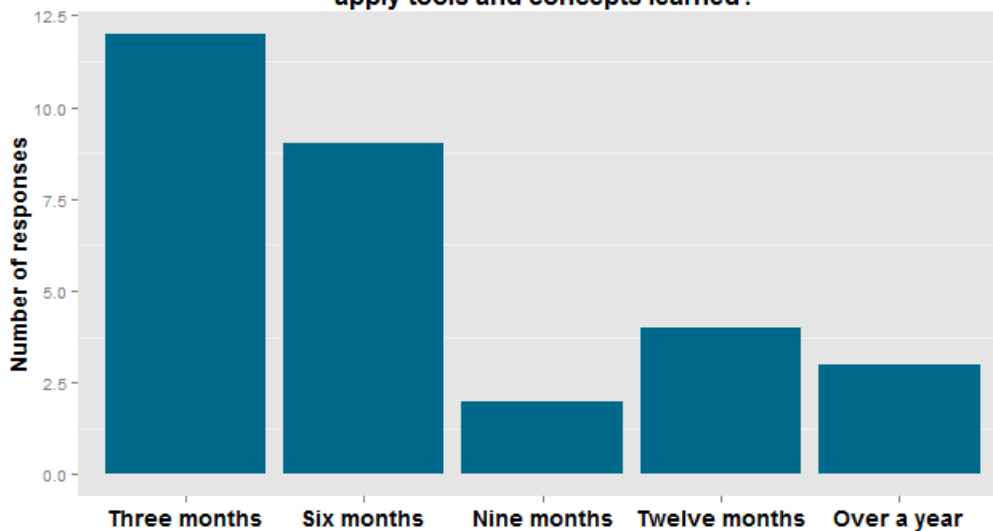
Participants were asked to evaluate their learning from the workshop using remote controls (polling stations). In total, 34 respondents replied either fully or partially. The section below describes their responses.



Please rate your learning and applicability of the learned material in your work  
for the following sessions:



Within how many months are you likely to  
apply tools and concepts learned?



**What are your primary obstacles for applying these tools and concepts?**

