



TWELFTH PLENARY MEETING OF THE POLICY DIALOGUE ON NATURAL RESOURCE-BASED DEVELOPMENT (20 June – 21 June 2019, OECD Conference Centre, Paris)

KEY OUTCOMES

Under the co-chairmanship of **Guinea, Liberia, Norway**, and the **United Kingdom**, 20 government delegations from Africa, Asia, Europe and the Caribbean, as well as representatives from 11 partner international organisations and institutions, and 32 major firms, industry associations, civil society organisations, academia, law firms and think tanks, convened at the OECD on 20-21 June 2019 for the Twelfth Plenary Meeting of the Policy Dialogue on Natural Resource-based Development. International organisations and institutions represented included the African Legal Support Facility (ALSF), the Commonwealth Secretariat, the European Commission, the Extractive Industries Transparency Initiative (EITI), the International Finance Corporation (IFC), the Inter-American Development Bank (IADB), the Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development (IGF), the Holy See, the United Nations and the World Bank.

Work Stream 1 – Shared Value Creation and Local Development

Participants recognised how shared use of transport infrastructure for mining projects, if done in the right way, is a win-win and value-creating proposition, which can generate shared benefits for governments, investors and communities. Shared use of infrastructure can create economies of scale that can significantly reduce costs for infrastructure development and use, while also acting as a catalyst for other sectors of the economy. Participants acknowledged that the shared use of transport infrastructure is not a mere extension of the mine, but involves investments that are larger than mining operations. For this reason, in order to be financially sustainable, the infrastructure projects should reflect the competitiveness of the mine, in terms of its value, volumes and costs. The inclusion of general public obligations should also reflect the existence of actual excess capacity to avoid disruptions in mining operations. The shared use of the North-West Corridor in the Boké region, Republic of Guinea was validated for inclusion in the online *Compendium of Practices*. The success of this shared railway infrastructure project was attributed to an alignment of the interests of all the stakeholders involved (the government, the concessionaire and operator of the infrastructure, and the new mining companies operating in the region), a well-designed governance structure through contractual arrangements, and the government's ownership and political will to support the shared use infrastructure agreement. In addition, the quality of the technical studies that underpinned the initial investment, supported by the World Bank, added to the robust business case for the project. Participants recognised that there is no single way to realise the shared use of transport infrastructure as each project must be considered on a case-by-case basis. Participants discussed emerging challenges, such as the impact of climate change on the risk profile and design of shared transport infrastructure projects, the appetite for risk across different categories of lenders depending on commercially as opposed to politically driven investments, and the need for future work on regulatory vs. contractual approaches, cross-border infrastructure development to explore ways to build trust amongst governments for the realisation of regional corridors.

Work Stream 3 – Getting Better Deals

Participants strongly welcomed and endorsed the finalised version of the [Guiding Principles for Durable Extractive Contracts](#), following four-year multi-stakeholder consultation process. The *Guiding Principles* reflects the outcomes of an open, intense, enriching and inclusive drafting process that has resulted in the creation of a robust, legitimate and credible document that addresses the heart of the problem of how to negotiate a fair deal. The *Guiding Principles* set out eight principles and supporting commentary that host governments and investors can use as a common reference for future negotiations of enduring, sustainable and mutually beneficial extractive contracts and they were developed in response to the mandate received from the member countries of the Governing Board of the OECD Development Centre at its Fourth High Level Meeting on 3 October 2017. The *Guiding Principles* provide guidance on how resource projects can be developed to reflect the balance of risks and rewards that underpins durable contracts, while also taking into due account community interests and concerns since the very beginning. The *Guiding Principles* also provide a blueprint for explaining the content of the contract to the public that can reduce the drivers of renegotiation, by providing adaptive and flexible provisions that, for example, can automatically adjust to prevailing market conditions. They also aim to assist host governments and investors in explaining the content of the contract to the public, thereby helping to overcome tensions between stakeholders. Participants emphasised the great value-added and the timeliness of the finalisation of the *Guiding Principles* to support the implementation of the new EITI requirement for contractual disclosure from 2020 and to reduce instances of investor-state disputes. Negotiations support providers, such as CONNEX, the African Legal Support Facility and the Commonwealth Secretariat, pledged to utilise the *Guiding Principles* in their ongoing support and programmes in developing countries, and

recognised how these principles can reduce the asymmetry of information and can build the capacity of governments in negotiating contracts. The OECD Development Centre will also leverage the existing collaboration with regional organisations to foster uptake and ownership at the country level. The OECD Development Centre will submit the *Guiding Principles* for consideration and possible endorsement by the Governing Board of the OECD Development Centre in the fall of 2019.

Work Stream 4 – Domestic Resource Mobilisation (tackling corruption in commodity trading and BEPS in mining)

Participants welcomed the recognition by the EITI that two different reporting templates for the disclosure of information on commodity trading are needed – one for SOEs and one for buyers – in order to reflect the different environments that these entities operate in. At the same time, participants noted the importance of expanding the reach beyond EITI countries – since 90% of commodity transactions take place in non-EITI countries – with the objective of creating a level playing field across all countries, including trading hubs. They also provided feedback on the full set of information recommended for disclosure by the EITI on transactional elements and the OECD on additional aspects, including conflicts of interest, the use of corporate vehicles and the use of intermediaries, highlighting areas where further work is required by the EITI Commodity Trading Working Group to address commercial confidentiality concerns and practical challenges, including for the future operationalisation of information disclosures and data usage. Participants welcomed the progress made by the OECD toward the development of guidance to support SOEs in selecting buyers of their publicly-owned commodities and acknowledged that the OECD Development Centre's discussion paper on *Key Risks in the Buyer Selection Process and Emerging Good Practices used by State-Owned Enterprises* provides a useful framing of the key corruption challenges and emerging good practices across the buyer selection process. Participants emphasised the differences in the sales processes for oil, for gas and for minerals, and the corresponding need for guidance to address the different characteristics of these different commodity sales processes.

The IGF and the OECD Centre for Tax Policy and Administration provided an update on the on-going BEPS in Mining Program. With respect to the international tax treaty work, they noted the review of 90 international tax treaties against the different segments of the mining value chain, which seeks to identify the treaty provisions that are most critical for resource-rich countries in order to protect their right to tax mineral income, determine a proper allocation of taxation rights, and consider any possible modifications to the United Nations Double Taxation Convention between Developed and Developing Countries and/or OECD Model Tax Convention on Income and on Capital. The modelling on tax incentives begun last year is also being complemented by empirical research in 11 more countries (for a total of 21) to better assess the impact of tax incentives on attracting investment and the associated costs in terms of foregone revenues. As an offshoot of the work on modelling of tax incentives, participants welcomed the "[Modelling for Sustainable Development: New Decisions for a New Age](#)", as a tool that will contribute to changing how decisions are made by enabling a more holistic modelling process from a sustainable development perspective, taking into consideration both financial and non-financial dimensions. Robust modelling can have an impact on future resource allocation and use, choices of energy projects, and major infrastructure or natural resource projects. Participants welcomed the long-term IGF/OECD deep-dive technical assistance programme that already started in Zambia and Mongolia. Beyond engagement with revenue authorities and ministries of mines, participants encouraged the IGF and the OECD to also involve in capacity building and deep-dive processes the judiciary and civil society to hold governments to account and address political economy issues.