

NINTH PLENARY MEETING OF THE POLICY DIALOGUE ON NATURAL RESOURCE-BASED DEVELOPMENT

Building collective knowledge for actionable policies

PRELIMINARY ANNOTATED AGENDA

31st January – 1st February 2018 - OECD, Paris (OECD Conference Centre)

ABOUT THE POLICY DIALOGUE

The Policy Dialogue on Natural Resource-based Development is a multi-year intergovernmental process of knowledge sharing and peer learning among OECD and Partner natural resource producing countries on how to harness natural resources for structural transformation and more inclusive and broad-based development. Compared to other fora, the added value of the Policy Dialogue on Natural Resource-based Development lies in its unique structure designed to facilitate the generation, systematisation and access to tacit and newly developed collective knowledge through collaborative OECD and non-OECD evidence-based policy analysis.

The Policy Dialogue focuses on four Work Streams: (i) Shared Value Creation and Local Development; (ii) Revenue Spending and Natural Resource Funds; (iii) Getting Better Deals and (iv) Domestic Resource Mobilisation (tackling BEPS and corruption).

The Policy Dialogue is a cross-directorate OECD initiative, led by the Development Centre and involving relevant Directorates that can contribute or lead in specific policy domains, namely, the Centre for Tax Policy and Administration (CTPA), Development Cooperation (DCD), Environment (ENV), Financial and Enterprise Affairs (DAF), Global Relations Secretariat (GRS), Legal Directorate (LEG), Public Governance and Territorial Development (GOV), and Trade and Agriculture (TAD).

For more information visit the website: <http://www.oecd.org/dev/natural-resources.htm>

OBJECTIVES, STRUCTURE, FORMAT OF THE EVENT AND PARTICIPANT EXPECTED CONTRIBUTION

This two-day meeting will bring together representatives of governments, extractive industries, civil society and think tanks and will provide opportunities to advance the work under the different Streams of Work, according to the [roadmap](#) agreed upon at the Eighth Meeting of the Policy Dialogue on 15 – 16 June 2017. The first day (**31 January**), which will have multiparty participation (governments, industry, civil society and think tanks), will be devoted to the preliminary work undertaken within the Thematic Dialogue on Commodity Trading Transparency and progress made on tackling BEPS challenges in mining under the Work Stream 4 (Domestic Resource Mobilisation: tackling Base Erosion and Profit Shifting (BEPS) and corruption). The first day will also provide the opportunity to continue the thematic dialogues on spending mechanisms under the Work Stream 2 (Natural Resource Revenue Management and Spending).

The second day (**1 February**), also with multiparty participation, will begin with two sessions to advance work under Work Stream 1 (Shared Value Creation and Local Development), with a thematic focus on local procurement and reporting; and clean technology and innovation. The day will be closed by two sessions on Work Stream 3 - Getting Better Deals to discuss aspects of the *Guiding Principles for Durable Extractive Contracts*.

The objectives of the meeting are as follows:

Work Stream 1 - Shared value creation and local development

Compendium of Practices for Shared Value Creation

- At the Eighth Plenary Meeting, a further tranche of three examples was discussed and validated by meeting participants for inclusion in the on-line [Compendium of Practices](#), which supports and builds on the Framework for [Collaborative Strategies for In-Country Shared Value Creation: Framework for Extractive Projects](#).
- The Ninth Plenary Meeting will provide the opportunity to discuss a third tranche of examples to be added to the *Compendium*. The session will focus on **Step 2** (Build an empirical basis to inform decision making through an inclusive participatory process); **Step 3.1.A** (Encourage a flexible approach to local workforce and supplier development); and **Step 5** (Establish effective and transparent monitoring and evaluation systems and regularly review the collaborative strategy). Although the examples deal with different situations and are context-specific, they are all rooted in identifying shared common ground, the existence of a business case, and the pursuit of win-win solutions for governments, industry and local communities, demonstrating how public-private collaboration can work in practice. The session will provide the opportunity to learn from concrete country experiences in generating shared value related to the extractives sector with a particular focus on local procurement and reporting.

Low-Emission Transition: Opportunities for the Extractive Sector

- At the Eighth Plenary Meeting, participants discussed the importance of technology and innovation for the extractive sector, with a focus on renewable energy, as part of the work conducted on compiling the Compendium of Practices under Work Stream 1.
- To continue and deepen this discussion, the Ninth Plenary Meeting will feature a session on further opportunities for the extractive sector to contribute and benefit from the global low-emission transition. The plenary meeting will bring together key stakeholders: the extractives industry, governments, and clean technology companies. The session will discuss various avenues for future analytical work by the OECD Development Centre in support of the Policy Dialogue.

Work Stream 2 – Natural Resource Revenue Management and Spending

- Following the endorsement of the *Comparative Analysis on the Performance of Stabilisation Funds and Investment Options* at the Fifth Plenary Meeting, participants agreed to undertake further analysis to investigate how to use natural resource revenues to support the implementation of the 2030 Agenda for Sustainable Development. At the Eighth Plenary Meeting, participants considered the advantages and disadvantages of earmarking practices. The discussion considered that the evidence of the effectiveness of earmarking is mixed, and in some cases (such as Venezuela), negative, as it can constrain budgetary flexibility, lead to inefficiency, and over- or under-investment in certain public services. Additionally, it also encourages procyclicality of public expenditure.
- The Ninth Plenary Meeting will build on this discussion by considering cash transfers as a mechanism for the direct distribution of natural resource revenues, particularly with the view to achieving productive and equitable development outcomes.

Work Stream 3 – Getting better deals

- The Negotiation Support Forum (NSF) was launched two years ago at the Fifth Plenary Meeting. The NSF aims to help governments reinforce their long-term capacity for contract negotiation and to improve the quality of advice by service providers. During the Eighth Plenary Meeting, participants discussed the expanded set of *Guiding Principles for Durable Extractive Contracts*. The *Guiding Principles* can be used as a common reference for future negotiations of enduring, sustainable and mutually beneficial extractive contracts and can lessen the need for renegotiation of contract terms over time.
- The Ninth Plenary Meeting will provide the opportunity for participants to discuss selected issues covered by the *Guiding Principles* which have been amended following further discussion by the Friends of the Negotiation Support Forum.

Work Stream 4 – Domestic Resource Mobilisation (tackling BEPS and corruption)

- At the Eighth Plenary Meeting, the OECD in collaboration with the Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development (IGF) made progress in an initiative addressing high-priority tax base erosion issues facing many developing countries in raising revenue from their mining sectors. The Ninth Plenary will provide the opportunity to present the work undertaken for some of the priority issues that were selected: excessive interest deductions; the design and use of tax incentives for mining investment and improving mineral testing processes and organisation, as well as updating participants on mineral product pricing for products with opaque markets; and the use of stabilisation clauses in investment treaties.
- Participants also launched at the Eighth Plenary Meeting a new thematic dialogue on Commodity Trading Transparency and agreed on the scope and initial objectives for the project. During the Ninth Plenary, the first full session of this thematic dialogue, participants will work to develop a common definition of the scope of “first-trade” related payments, to identify relevant stakeholders, and analyse the current state of government and company disclosures. Participants will also consider the work plan for the Thematic Dialogue on Commodity Trading Transparency.

The meetings of the Policy Dialogue **depart from** the traditional conference format distinguishing between speakers and audience. **Every participant** plays a role as both a **knowledge holder and a knowledge recipient** while the **OECD Development Centre** acts as a **neutral knowledge broker**, by contributing to framing the issues and facilitating the generation, systematisation and access to tacit or newly developed collective knowledge.

Participants are not only expected to share relevant experience, policies and case-studies but also to clearly articulate their knowledge needs and indicate which countries they would like to learn from to build or further refine their knowledge base. **In this interactive setting, there are no prepared speeches, official statements or long presentations. Proposed guiding questions** aim at helping participants prepare their contributions and identify relevant issues and questions they would like to see addressed during the meeting.

Reference documents are distributed ahead of the meeting in order to help participants prepare their contributions, support the discussion and move the process forward. Participant contributions are expected to be short, narrative in style and reactive to other interventions.

The event will be closed-door and held under Chatham House Rule of non-attribution of sources in order for participating countries and stakeholders in the multi-stakeholder consultation to engage in frank and thought-provoking discussions. It is expected that this method of work will be conducive to the establishment of a trustworthy environment where participating countries engage in frank and open exchanges that could pave the way for the collective development of new knowledge as well as innovative and mutually beneficial policy solutions and outcomes.

DAY 1 – Multi-Stakeholder Plenary Meeting

31 January (Room CC2, OECD Conference Centre)

8:00 - 9:00 Registration & Breakfast

9:00 – 13:00 **Thematic Dialogue: Commodity Trading Transparency**

Chair: United-Kingdom

Andrew Preston, Head of Joint Anti-Corruption Unit (JACU), Department for International Development (DFID), UK Government

Participants in the last meeting agreed to pursue a new Thematic Dialogue on Commodity Trading Transparency as a follow-up to the UK Anti-Corruption Summit held in London in 2016.

In the first full session of this thematic dialogue, participants will work to develop a common definition of the scope of “first-trade” related payments, to map relevant initiatives and stakeholders, including the current state of government and company disclosures, and to create a shared understanding of the risks and benefits of the disclosure of “first-trade” related payments.

9:15 - 10:45 **Session 1: The importance of commodities sales’ revenues in resource-rich countries: what do governments disclose?**

This session will help participants to understand the size of revenue flows related to the trade of oil and gas and also metals and minerals, by governments or related public entities. Through contributions by different stakeholders, the session will also take stock and share experience on efforts undertaken by some producing countries to enhance accountability of the government share of production being traded, following on from the new EITI standard.

Objectives:

- To reach some clarity and common understanding around the key concepts of commodities trading and discuss the importance of the trade of government’s share of production in various countries
- To understand the current dynamic of voluntary disclosures of trade-related payments by governments in the context of the national EITI chapters

Kick-off interventions by:

- *Jonas Moberg, Head of Secretariat, Extractive Industries Transparency Initiative (EITI)*
- *A representative from National Oil Companies*
- *Nicholas Garrett, CEO, RCS Global (tbc)*

Guiding Questions:

- How important are the commodity sales proceeds in comparison with the extractive sector revenues? How important are they to the governance of the extractive sector?

- Beyond the oil sector, how important are the sales of minerals by government or any related public entity in resource-rich countries?
- What is the EITI requirement for disclosure of commodity sales proceeds by public entities in resource-rich countries?
- How to define first-trade related payments?
- Why and how more and more countries are engaged in the disclosure of commodity sales proceeds by public entities?

For reference:

- OECD (2016), [Corruption in the Extractive Value Chain. Typology of Risks, Mitigation Measures and Incentives](#), OECD publishing, Paris.
- Extractive Industries Transparency Initiative (June 2017), [Reporting on first trades in oil](#), Guidance note 26 (Oslo: EITI)
- Berne Declaration, Natural Resource Governance Institute (NRGI), Swissaid (2014), [Big Spenders. Swiss trading companies, African oil and the risks of opacity.](#)

10:45 - 11:00

Coffee break

11:00 - 12:15

Session 2: Disclosure of commodities' sales payments: what are traders doing?

The session will help clarify the different initiatives for disclosure by companies.

Objectives:

- To identify the different types of trading companies
- To share experiences about existing corporate policies and the voluntary disclosures of trade-related payments by companies in the context of the national EITI chapters

Kick-off interventions by:

- *Joseph Williams, Senior Advocacy Officer, NRGI*
- *Andrew Gowers, Head of Corporate Affairs, Trafigura*
- *Olivier Longchamp, Responsible for tax and international finance, Public Eye*

Guiding Questions:

- Which types of companies are engaged in the first-trade of governments' share of oil, gas and minerals production?
- Which data are available to understand the share of market by the different types of trading companies and the share of market by different trade hubs?
- Which trading companies are disclosing trade-related payments? What is their rationale?
- What type of mechanisms and vehicles are used to channel corrupt payments in commodity trading transactions?
- Which other policy tools than transparency of trade-related payments might help contributing to the transparency of commodity trading and to the prevention of rent diversion?

For reference:

- Trafigura (2017), [Trafigura 2017 responsibility report](#), Amsterdam: Trafigura Beheer B.V and Trafigura (2014), [Payments to governments policy. Operating and growing our business in a responsible and sustainable way](#), Amsterdam: Trafigura Beheer B.V.
- Trafigura (2016), [Commodities desmythified. A guide to trading and the global supply chain](#), Amsterdam: Trafigura Beheer B.V.
- Longchamp O., Perrot N. (2017), [Trading in corruption: evidence and mitigation measures for corruption in the trading of oil and minerals](#), U4 Issue 2017:6, Bergen: Chr. Michelsen Institute

12:15-13:00 Session 3: Discussion on the action plan of the Thematic Dialogue on Commodity Trading Transparency

The session will provide an opportunity to discuss next steps of the Thematic Dialogue, based on an issue paper by the OECD Development Centre mapping existing initiatives and knowledge gaps.

Objectives:

- To gather participants' inputs on the possible outcomes and deliverables of the Thematic Dialogue on Commodity Trading Transparency;

Kick-off interventions by:

- *Lahra Liberti, Head of Natural Resources for Development Unit, OECD Development Centre, and Maylis Labusquière, Policy Analyst, Natural Resources for Development Unit, OECD Development Centre*

Guiding Questions:

- What are the expected outcomes and possible concrete deliverables of the Thematic Dialogue?

For reference:

- Background issue paper on Commodity Trading Transparency prepared by the OECD Development Centre (*for discussion*)

13:00 – 14:15 Buffet lunch (Château, Room G. Marshall)

14:15 - 15:45 **Co-Chairs: Chile and Kazakhstan**

Mr. Juan Andrés Roeschmann, Head, Department of Studies, Budget Office, Ministry of Finance, Republic of Chile, and Mr Askar Japparkulov, Deputy Director of Macroeconomic Analysis and Forecasting, Ministry of National Economy, Republic of Kazakhstan

Session 4: Natural Resource Revenue Management and Spending: Thematic Focus on Direct Distribution Cash Transfers

Objectives:

- Improved understanding of the advantages and disadvantages of cash transfers as a mechanism for the direct distribution of natural resource revenues
- Brief discussion of next steps for Work Stream 2

This session will feature the fourth of a series of thematic discussions on natural resource revenue distribution and spending mechanisms, focusing on direct distribution cash transfers. Direct distribution cash transfers offer governments a way to distribute natural resource revenues directly to citizens, offering a potential alternative to more conventional budgetary methods. The session will offer the opportunity to compare and contrast different country experiences, focusing in particular on experiences in Mongolia and the State of Alaska as the two main examples to date of direct distribution cash transfers, with a view to improving understanding around advantages and disadvantages of cash transfers and also to assess their effectiveness in contributing to the achievement of the SDGs.

Kick-off interventions by:

- *Dr. Adam Dixon, Associate Professor, Maastricht University*
- *Dr. Baldorj Baatartsogt, Head of Mineral Resources and Petroleum Authority of Mongolia*
- *Dr. Malan Rietveld, Director, Kalytix Partners and Fellow, CCSI, Columbia University*
- *Mr. Anit N. Mukherjee, Policy Fellow, Center for Global Development*

Guiding Questions:

- What lessons can be drawn from relevant country experiences: Which cash transfer models have proved successful, which proved unsuccessful, and why?
- To what extent is the success of the State of Alaska model replicable in developing country contexts?
- Which contexts would provide a good fit for a direct distribution cash transfer mechanism?
- Where cash transfers are used, what additional oversight mechanisms should be considered?
- How can cash transfer mechanisms support or align with the objectives of extra-budgetary funds such as stabilisation and savings funds, including in encouraging a greater public stake in good revenue management?
- Is there a role for direct distribution cash transfers in facilitating the reform of energy subsidy programs?

For reference:

- Background paper on Direct Distribution Cash Transfer Mechanisms: comparative analysis and lessons learned by the OECD Development Centre (for discussion)

16:15 - 17:45 **Session 5: Mobilising Resource Revenues from the Mining Sector: Tackling Leakages and Building on the OECD/G20 Actions on Base Erosion and Profit Shifting**

The Sustainable Development Goals have focused efforts to mobilise domestic resources for development, including through taxation and management of revenue from natural resources. The extent to which natural resources contribute to development depends crucially on the ability of governments to collect revenues. Governments understand how to identify and mitigate against practices in extractive industries that may result in revenue leakages.

Building on actions such as the OECD/G20-led Actions on Base Erosion and Profit Shifting, this session will provide the opportunity to review progress under the joint OECD-IGF project on addressing BEPS risks in mining. In particular, this session will provide the opportunity to present work to date for some of the priority issues that were selected:

- excessive interest deductions;
- the design and use of tax incentives for mining investment; and
- improving mineral testing processes and organisation.

Objectives:

- To update participants on the work done to date on BEPS in mining; and
- To test interim results with experts at the Policy Dialogue.

Kick-off interventions by:

- *Dan Devlin, Senior Tax Adviser – Extractive Industries, OECD Centre for Tax Policy and Administration*
- *Howard Mann, Associate & Senior International Law Advisor, Inter-Governmental Forum on Mining (IGF)*
- *Alexandra Readhead, Senior Adviser to the Inter-Governmental Forum on Mining (IGF)*

Guiding Questions:

- How do countries organize their mineral testing facilities to ensure they have confidence in tests performed?
- What are the relative strengths of adopting regional testing approaches, compared to national-level facilities?
- What are the relative strengths of government-run facilities, compared to using private testing firms?

17:45 - 18:00 **Closing remarks**

Federico Bonaglia, Deputy Director, OECD Development Centre

DAY 2 – Multi-Stakeholder Plenary Meeting

1 February (Room CC2, OECD Conference Centre)

8:00 - 9:00 Registration & Breakfast

9:00-9:15 **Welcoming remarks**

Mr Mario Pezzini, Director, OECD Development Centre

Keynote address

H.E. Eng. Abdirashid Ahmed Mohammed, Minister of Petroleum and Mining, Federal Republic of Somalia

9:15-14:45 **Work Stream 1: Shared value creation and local development**

9:15-10:45 **Co-Chairs: Liberia and Norway**

Hon. Sam Russ, Deputy Minister for Operations, Ministry of Lands, Mines and Energy, Republic of Liberia and Prof. Petter Nore, Norwegian Agency for Development Cooperation, Kingdom of Norway

Session 6 – Compendium of Practices on the Framework on Collaborative Strategies for In-Country Shared Value Creation: thematic focus on local procurement and reporting

Objectives:

- Discuss and validate a new set of practices for inclusion in the on-line *Compendium of Practices* complementing the *Framework on Collaborative Strategies for In-Country Shared Value Creation: Extractive Projects*

Sharing concrete practices: for discussion and validation

Governments, industry, think tanks and expert participants will focus on selected actionable recommendations with a focus on **Step 2** (Build an empirical basis to inform decision making through an inclusive participatory process); **Step 3.1.A** (Encourage a flexible approach to local workforce and supplier development); and **Step 5** (Establish effective and transparent monitoring and evaluation systems and regularly review the collaborative strategy). The examples deal with concrete cases that encourage flexible collaborative approaches and are informed by long-term strategies. Stakeholders will share insights around enabling factors and challenges that were faced in each example, as well as lessons learned. The four examples that will be discussed are grouped around each of the three Steps covered, in order to facilitate discussion and encourage comparative observations.

Step 2. Build an empirical basis to inform decision making through an inclusive participatory process

Example: Industrial Baseline Survey (IBS), Uganda

Kick-off Interventions:

- *Mr. Abdul M Kibuuka, National Content Manager, Tullow Uganda Operations Pty Ltd*
- *Mr. Robert Kasande, Permanent Secretary, Ministry of Energy and Mineral Development, Government of Uganda (TBC)*

Step 3.1.A. Encourage a flexible approach to local workforce and supplier development

Example: In-Country Value Development Blueprint Strategy, Oman

Kick-off Intervention:

- *Mr. Mohammed Al-Ghareebi, In-Country Value Development Manager, Petroleum Development Oman (TBC)*

Example: World Class Suppliers Development Programme, Chile

Kick-off Intervention:

- *Ms. Jane Korinek, Trade Policy Analyst, Trade and Agricultural Directorate, OECD*

Step 5. Establish effective and transparent monitoring and evaluation systems and regularly review the collaborative strategy

Example: Mining Local Procurement Reporting Mechanism (LPRM), Engineers Without Borders Canada

Kick-off Intervention:

- *Mr. Mandakhbat Sereenov, Legal Counsel, Ministry of Foreign Affairs, Government of Mongolia*
- *Mr. Jeff Geipel, Managing Director, Mining Shared Value, Engineers Without Borders Canada*

Guiding Questions:

- What is the role of industrial baseline surveys in informing long term and collaborative solutions to creating sustainable in-country economic linkages?
- What are the particular advantages and challenges associated with local level reporting, including mine-site level reporting?
- How can more granular data facilitate effective and transparent monitoring and evaluation systems, including through improved government data collection?

For reference:

Templates for inclusion in the Compendium of Practices (for discussion)

11:15-12:45 | **Session 7: Low-Emission Transition: Opportunities for the Extractive Sector**

The extractive sector has an important role in the attainment of the 2030 Agenda for Sustainable Development and the objectives of the Paris Agreement. At the Eighth Plenary Meeting in June 2017, participants discussed the importance of technology and innovation for the extractive sector, with a focus on the use of renewable energy for shared value creation, energy efficiency and access.

To continue and deepen this discussion, the Session will focus on the broader context of the low-emission transition, and further avenues that exist for the extractive sector to contribute to, and benefit from, the global shift towards a climate-compatible, environmentally friendly and resource-efficient economic model. These opportunities are manifold including, amongst others, automation of operations for improved energy efficiency, deployment of carbon capture and storage, the supply of minerals for clean technologies, diversification of energy and mining companies' portfolios, and adaptation to physical impacts of climate change.

Objectives:

- Enhance the understanding of practical and replicable approaches to harnessing the opportunities arising from the low-emission transition, with the potential for development and inclusion in the Compendium of Practices.
- Discuss the themes for possible future analytical work by the OECD Development Centre, where the Policy Dialogue has the potential to add the highest value.

Moderator: *H.E. Professor Mame Thierno Dieng, Minister of Environment and Sustainable Development, Republic of Senegal*

Kick-off interventions by:

- *Mr Jim Herbertson, Technical Director, Climate Change, IPIECA*
- *Mr Luke Fletcher, Senior Analyst, Carbon Disclosure Project*
- *Mr Nava Touré, Conseiller Principal, Ministre des Mines et de la Géologie, Republic of Guinea*
- *Mr Rob Atkinson, Head of Productivity and Technical Support, Rio Tinto Growth & Innovation*
- *Mr John Okoro, Business Development Manager, Mining and Metals Lead, Vergnet*

Guiding questions:

- What are the key opportunities for the extractive sector to contribute to, and benefit, from the global shift to low-carbon energy and resource efficiency?
- To which extent are individual best practice examples in reducing environmental and carbon footprint case specific, and what are the key success factors to ensure their replicability at a global scale?
- What are the main barriers to innovation and clean technology absorption by the extractive industry? What is the role of key stakeholders – government, companies, academia, civil society – in addressing these barriers?

12:45– 14:15 Buffet Lunch (Château, Room G. Marshall)

14:15 - 15:45 Co-Chairs: Germany and Guinea

Mr Günter Nooke, Personal Representative of the German Chancellor for Africa, Federal Ministry for Economic Cooperation and Development (BMZ), Germany,

Mr Nava Toure, Conseiller Principal, Ministre des Mines et de la Géologie, Republic of Guinea

Structuring extractive contracts for the long term: Guiding Principles for Durable Extractive Contracts

Participants in the last meeting discussed the expanded set of *Guiding Principles for Durable Extractive Contracts*. The *Guiding Principles* can be used as a common reference for future negotiations of enduring, sustainable and mutually beneficial extractive contracts and can lessen the need for renegotiation of contract terms over time.

Following further discussion among the Friends of the NSF working group, a revised draft of the *Guiding Principles* has been developed for public consultation.

Session 8: Guiding Principle VII

This session will focus on Guiding Principles VII – unpacking both the text of the principle but also the legal and fiscal concepts that underpins the principle. Consequently, participants will discuss how durable contracts can be structured to recognise that regulatory regimes evolve over time.

Objectives:

- Discuss the revised draft of *Guiding Principle VII*.
- Gain a mutual understanding of the key concepts underpinning *Guiding Principle VII*.

Moderator: *Boris Dolgonos, Partner, Jones Day*

Kick-off interventions by:

- *Ms. Perrine Toledano, Head: Extractive Industries, Columbia Centre on Sustainable Investment*
- *Professor. Fabien Nkot, Senior Advisor, Office of the Prime Minister, Republic of Cameroon*
- *Mr. David Bertoch, Counsel, ExxonMobil*
- *Mr. Mahad Haji, Special Adviser to the Minister of Petroleum and Mining, Federal Republic of Somalia*

Guiding questions:

- Which legal changes to the regulatory framework (for example: health and safety, environmental, human rights) should investors expect to happen over time and not to be compensated for?
- What should occur if a project suffers a substantive adverse impact by one

of these changes in the law (health and safety, environmental, human rights)?

- How can durable extractive contracts respond to fiscal changes in the regulatory framework that alter the economic equilibrium of the agreement?

For reference:

Draft Guiding Principles for Durable Extractive Contracts

15:55 - 16:15

Coffee Break

16:15 - 17:45

Session 9: Guiding Principle VIII

This session will focus on Guiding Principles VIII – unpacking both the text of the principle but also the fiscal concepts that underpin the principle. Consequently, participants will discuss how durable contracts are underpinned by a fiscal regime that provides for responsive fiscal terms that adjust automatically to prevailing market conditions, and how these terms can be implemented in extractive contracts.

Objectives:

- Discuss the revised draft of *Guiding Principle VIII*.
- Gain a mutual understanding of the key concepts underpinning *Guiding Principle VIII*.
- Gain an understanding of how responsive fiscal terms can be implemented in extractive contracts.

Moderator: *Dr. Carole Nakhle, Chief Executive Officer, Crystal Energy*

Kick-off interventions by:

- *Professor Eytan Sheshinski, Sir Isaac Wolfson Professor of Public Finance, Hebrew University of Jerusalem*
- *Professor Alexander Kemp, Professor of Petroleum Economics and Director of Aberdeen Centre for Research in Energy Economics and Finance*
- *Mr Jim Robertson, Senior Fellow, International Tax & Investment Center*

Guiding questions:

- What are the key characteristics of a responsive fiscal regime?
- How can responsive fiscal terms that adjust automatically to prevailing market conditions be incorporated into a legislative fiscal regime? Are there examples that illustrate where this has been successful?
- In jurisdictions where some fiscal elements have to be negotiated, how can responsive fiscal terms that adjust automatically to prevailing market conditions be incorporated into extractive contracts? Are there examples that illustrate where this has been successful?
- Is there a link between responsive fiscal terms and fiscal stabilisation clauses? To what extent can responsive fiscal terms reduce some of the risk that drives requests for the inclusion of fiscal stabilisation clauses?

For reference:

Draft Guiding Principles for Durable Extractive Contracts

17:45 - 18:00

Concluding remarks

*Mr. Günter Nooke, Personal Representative of the German Chancellor for Africa,
Federal Ministry for Economic Cooperation and Development (BMZ)*