



First Expert Group Workshop on
Trade and Investment in Extractive Industries
12-13 March 2015 – Geneva, Switzerland

Agenda

INVITATION ONLY

Thursday 12 March

9.00 – 9.45

Session I: Introduction. Review of the agenda and objectives of the meeting

Chair: Scott Vaughan, IISD, as Co-convenor

Welcome remarks will be given by ICTSD, the World Economic Forum, the International Institute for Sustainable Development (IISD) and the Theme Leader. Group members and observers will be invited to briefly introduce themselves.

The session will recall the discussions at the scoping meeting which identified opportunities, challenges, and tensions in the area of extraction of natural resources. The Expert Group is expected to identify relevant trade and investment policy tools to address challenges and seize opportunities and assess their adequacy. Based on the assessment – and where possible – the group will discuss options for improving existing policies and frameworks.

Discussion

9.45 – 11.15

Session II: Addressing the tensions in the triangular relationship between investor, host country and the local community

Chair: Scott Vaughan, IISD

Introduction: Tony Hodge, International Council on Mining & Metals (ICMM)

Discussants: Paolo de Sa, World Bank and Babajide Sodipo, African Union Commission

As highlighted by the scoping meeting, the tensions between the host economy, the private economic actor, and the local communities pose significant challenges in ensuring a fair and predictable framework. The World Economic Forum has produced a tool on Responsible Mining Development that promotes a shared understanding of benefits and costs of mineral development and a collaborative process for stakeholder engagement. This session will provide some suggestions on how fairer outcomes could be achieved building on practical experience from the private sector and the World Bank.

Discussion

11.15 – 11.30

Coffee break

11.30 – 12.45

Session III: A conceptual framework for improving public participation in decision-making

Chair: Sofie H. Flensburg, ICTSD

Presentation: Jorge Viñuales, University of Cambridge

Discussant: Scott Vaughan, IISD

Several guidelines and international standards for consulting the local communities exist, including the Aarhus Convention, IFC Guidelines, and Human Rights Conventions. Complementing the practical experience, experts will be invited to discuss how to take these frameworks to the next level to expand their scope and enhance their application.

This session will discuss options for improving the current situation through investment frameworks.

- 12.45 – 14.00 **Lunch**
- 14.00 – 15.00 **Session IV: Conversation with private sector representatives**
Chair: Sean Doherty, World Economic Forum
- Challenges and opportunities – perspectives from the ground.*
- Enforcement of international trade rules, a brief introduction by Professor Yang, Tsinghua Law School, Beijing China.*
- 15.00 – 17.00 **Session V: Transparency and accountability**
Chair: Rafael Benke, Theme Leader
Introduction: Thomas Cottier, WTI; Debra Valentine, Rio Tinto; and James Zhan, UNCTAD
- As highlighted by the scoping meeting, issues pertaining to governance i.e. transparency, corruption, illegal mining and domestic distribution of revenue, are critical for the extractive industries, in particular in developing countries with weak institutions, checks and balances and persistent poverty challenges. Some jurisdictions have introduced transparency requirements on the mining company, including EU, US and others but and voluntary initiatives, such as the EITI has also brought some light into sector. However, it is still a very opaque – and rather “lawless” world and more could be done to ensure transparency and accountability both on the side of the economic actors and the host government.*
- This session will discuss options for improving the current situation through investment frameworks.*
- Around 16.00 **Coffee break**
- 17.00 – 17.45 **Session VI: Global market tensions – common concerns**
Chair: Scott Vaughan, IISD
- At the Scoping Meeting, the group considered the common concerns or global market tensions and highlighted inter alia mitigation of and adaptation to climate change and the implications for trade and investment in natural resources that climate change response measures, such as Border adjustment measures (BAMs), differentiation of like products, PPMs, etc., might have. Another important common concern related to the scarcity of natural resources, often concentrated in few geographic locations and the questions around sovereign rights to extract or not the resources for the global common good. How to respect this sovereignty while ensuring the availability of and access to critical resources, in particular critical for energy security? Issues around illegal trade of minerals and oil were also mentioned. Finally, some members raised tensions related to the financial and monetary system, exchange rate issues and concerns around the price volatility in part due to speculation and hedging etc.*
- The session with private sector representatives may also have alerted the Expert Group to emerging challenges within the existing trade and investment frameworks.*
- Each expert will be invited to identify the 3-4 key challenges – from this list or beyond – where trade policy and frameworks seem inadequate. Based on the input, detailed parallel discussions will be organised on day two.*
- 17.45 – 18.00 **Wrap-up**
Chair: Rafael Benke, Theme Leader
- Chair wrap-up, discuss impressions of the day and outlines expectations for day 2, including the prioritisation of issues to be discussed in further detail by the Expert Group.*
- 19.00 **Dinner**

9.00 – 13.00

Session VII: Distribution of benefits through trade policy

Chair: Ricardo Meléndez-Ortiz, ICTSD, Convener

The Scoping Meeting also highlighted the challenges in ensuring that the extractive industries contribute to sustainable development and inclusive growth in the host countries through structural transformation, economic diversification and forward and backward linkages in the value chains. In this context, regional economic integration and cooperation was underscored.

In this session, some of the possible response measures to this challenge will be explored by the experts.

- **Local content requirements and industrial policies**

Introduction: Isabelle Ramdoo, ECDPM

Open discussion kicked off by Christine Jojarth, Stanford University

With the objective of boosting local economic development and diversification, host governments often impose local content/employment requirements on investing private actors. The Expert Group should analyse whether this is a problem for the extractive industries as views seem to diverge. In some cases, it would make more sense to lift the requirement to a regional level; in other cases, a requirement may be a significant barrier for the industry. The Expert Group will be invited to explore whether current frameworks are sufficient and adequate based on a draft think piece.

- **Export restrictions**

Introduction: Ilaria Espa, WTI

Open discussion kicked off by Jane Korinek, OECD, and Alexander Keck, WTO

There seems to be an emerging view that while export taxes and other restrictions are widely used, they may not necessarily be the most effective tool for the host government to generate resources, that there are considerable implications and uncertainty for the industry with such measures and that they have the potential to be trade distorting. Hence, there is a need to develop some more detailed multilateral disciplines on export restrictions that what is currently available in the GATT. Regional Trade Agreements can provide some inspiration for this.

- **Subsidies, including dual pricing and fossil fuel subsidies**

Introduction: Yulia Selivanova, Independent Consultant

Open discussion kicked off by Alan Yanovich, Akin Gump Strauss Hauer & Feld

In particular in the context of energy, subsidies, including dual pricing, are used to provide benefits to the local community. Experts will be invited to consider the implications of this practice and possible policy responses.

- **Regional economic integration**

Introduction: Marie-Claire Cordonier Segger, Centre for International Sustainable Development Law (CISDL)

Open discussion kicked off by Harsha Singh, ICTSD

It seems that regional economic integration, including through regional industrial policies may offer possible responses to some of the challenges. Experts will be invited to explore examples of current practices with a view to consider their wider use.

Around 11.00

Coffee break

13.00 – 14.00

Lunch

14.00 – 15.30 **Session VIII: Break-out groups advancing the discussion on 3-4 most important common concerns**
Resource persons TBC

Following the session on day one on global concerns, experts will be invited to dig deeper into the identified hotspots and identify options for addressing these through trade and investment frameworks.

15.30 – 15.45 **Coffee break**

15.45 – 17.30 **Session IX: Policy options**

Chair: Scott Vaughan, IISD, Co-Convener

Introduction: Rafael Benke, Theme Leader

The goal of the E15 Initiative is to propose policy options to the international community. Based on the discussions at the meeting, the report back from the break-out groups and an introduction by the Theme Leader, the experts will be invited to express views and priorities for further work, including Think Pieces.

17.30 **Meeting adjourns**