

The Foundations for Responsible Mining in Cambodia – Suggested Approaches

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POLICY BRIEF



Photo: UNDP, Mime, wcs/Eleanor Briggs

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Cambodia exploratory drilling operation

1. Introduction

Cambodia is at the early stages of mineral resource development. As part of a prospective region with a vibrant exploration sector, the country has an opportunity to lay the foundations for responsible mining. An essential part of this will be mineral policy reform which will enhance the development of the exploration sector and provide a clear pathway for exploration projects to move into successful operations. It also has the potential to preferentially attract experienced companies by reducing project risks and providing greater certainty to investors, the Cambodian government, and Cambodian society as a whole.

Such responsible development for the Cambodian minerals sector will strengthen and support the Royal Government of Cambodia's commitment to Peace, Political Stability, Security and

Social Order¹. A well structured and functioning mineral policy is essential to ensure mineral resource developments contribute to the economic growth of Cambodia, while at the same time supporting social development and environmental protection.

The Ministry of Industry, Mines and Energy, and sister Ministries and agencies whose mandates impact on mineral development have an important role to play in fulfilling this national mandate. Therefore, to assist in the consideration of how Cambodia can move toward these goals this brief poses the following question: *'What are the institutional, structural and ethical considerations for the achievement of responsible mining in Cambodia.'* The brief does not assume how such overarching intentions should be implemented. Instead it focuses more on establishing a critical framework for

drafting policies and laws, and guiding administration and management to achieve responsible minerals development in Cambodia.

2. The Business Case for Responsible Mining

Attracting private sector investment in Cambodia's mineral industry has been identified as a priority by the Royal Government of Cambodia. The international minerals industry is increasingly recognising the business benefits that are associated with undertaking mineral development in a responsible manner. Legislation and policy that reflects responsible mining and good governance principles will provide a platform for successful mining projects in Cambodia and the certainty investors need when considering where to explore and develop mineral resources.

¹ Royal Government of Cambodia. National Strategic Development Plan Update 2009-2013. Under Article 368, the Royal Government is committed to '...foster the diversification and strengthen the competitiveness of the Cambodian economy by assuring a conducive climate for both public and private (domestic and foreign) investments for the development of ...Oil, Natural Gas and other Minerals'.

Experienced mining companies with the capabilities to develop projects and a track record of being respectful and responsive in their dealings with governments, communities and civil society, are attracted to jurisdictions with clear and effective governance regimes. These companies have come to appreciate the economic, social and environmental challenges that mineral development can bring. They understand that irresponsible management of economic, social and environmental issues reduces the prospects for long-term success of developments and can lead to delays, shutdowns, and even the closure of exploration, mining and processing projects.

3. What is Responsible Mining?

The responsible development of natural resources are primarily an issue of national sovereignty. Mineral wealth belongs to the citizens of the country² and the state has the responsibility to manage that resource in a way that benefits present and future society. However, although governments represent the interests of their citizens, citizens themselves should also share the responsibility to influence how resources are to be developed. It follows then that responsible exploration, extraction and processing of minerals requires the active participation of not only government but members of the general public including: the private sector, academics, media, civil society, and local community stakeholders of any mining related project. Added to this responsibility are the expectations of both state and citizen that foreign companies also conduct their businesses responsibly in a way that is compatible with national and international standards.

But what is Responsible Mining? This is a complex question and one that

may not be agreed upon easily, if at all. What can be agreed upon by most is that mining should be developed in a responsible manner. This challenge, for example, caused the formation of a multi-sector movement in Mongolia that was concerned about how mining was to be developed in that country. This multi-sector movement, consisting of government, industry, and civil society, became known as the Responsible Mining Initiative that drafted a 'Declaration on Responsible Mining' in 2007. This declaration contained a definition of responsible mining as well as an outline of 8 key principles of responsible mining³.

Responsible Mining Definition – Mongolia

Responsible mining is a comprehensive and transparent minerals activity respecting the rights of all stakeholders, especially of local people: environmentally friendly and free of human health impacts; embracing the best international practises and upholding rule of law whilst generating a sustainable stream of benefits for Mongolia.

8 Principles of Responsible Mining

Efficient	Investing in the future
Law-abiding and enforcing	Humane and ethical
Technologically advanced	Environmental and Human security
Transparent and open	Multi-stakeholder participation

These principles are guiding the Responsible Mining Initiative's first major work which is to provide a clear definition around each of these concepts and then work out how each then can be applied. One such exercise is developing criteria to assess how companies are performing against each of the principles. The Responsible Mining Initiative makes it

clear that this is a national undertaking. Mongolia is an independent and emerging resource rich country which has its own distinct political-cultural context. It does want to share its experiences and philosophy with other nations but does emphasise that countries will benefit more to go through a multi-stakeholder process for themselves to work out their own direction for responsible mining. Given that, the example of the Responsible Mining Initiative is to be an encouragement to other nations, rather than a blueprint or experience to necessarily copy.

There are similarities between the definition developed by the Responsible Mining Initiative and the way that other organisations have defined responsible mining. The Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development (IGF) is a formally recognised UN partnership. The membership consists of representatives from the mining ministries of 43 countries with an interest in the effective management of their mining and metal sector. The forum has developed a framework of best practices required for good environmental, social, and economic governance of the mining sector. The framework is based on how the mining sector can contribute to sustainability and poverty reduction. Sustainable development refers to attempts to shape the interaction between the environment and society, such that advances in wellbeing are not accompanied by deterioration of the ecological and social systems which will support life into the future⁴. According to the forum:

Forum members agree that good governance of both public and private institutions is a necessary condition for the contribution of the sector to sustainability. The key aspect of good governance for mining relates to the proper management

² The Constitution of the Kingdom of Cambodia. Promulgated: 21 September, 1993. See articles 51, 58, and 59.

³ Responsible Mining Initiative: Mongolia. www.responsiblemining.mn

⁴ World Commission on Environment and Development. Our Common Future: 1987. Oxford University Press, Oxford, UK.

*of the mining activity itself. Sustainability however needs to go beyond the mining activity. Like any other business the mine will close at some time. Sustainability is the outcome of transforming the assets generated in the course of mining into other forms of assets that persist beyond the mine closure and are tools for development beyond the mining sector. This process requires good governance in the management of all the revenue streams resulting from mining investments...*⁵

IGF members acknowledge the importance of 'good governance', that is that government is not the only actor with responsibilities for the achievement of responsible mineral resource development. Governance emphasises the interactions between government and non-government actors that have an influence on decision-making and outcomes.

Considering that this brief focuses on institutional, structural and ethical considerations for responsible minerals sector management it is helpful then

to consider what are the key areas that contribute to a system of governance that can guide responsible mining. These key areas, that in many respects encompass the work of RMI and IGF, can be classified as:

- ❖ Principles of Governance
- ❖ Legislation and Policy
- ❖ Administration and Management Systems

These three areas provide a framework by which economic, social and environmental issues in mining can be comprehensively addressed and managed. Before we look at each of these issues in the context of Cambodia, it may be useful to first review the present status of minerals development in Cambodia and the legislation, policies, administration and management systems currently in place. In addition it is worth summarising how minerals development inevitably causes economic, social and environmental change and how the above three areas of responsible mining can be applied to manage change.

4. The Minerals Sector in Cambodia

In geological terms, Cambodia is considered to offer very promising mineral resource potential. According to MIMC data, over 20 gold occurrences, 15 base metals occurrences and 26 iron ore and related occurrences have been identified⁶. Work is continuing on some 60 active concessions to further delineate the country's mineral wealth, with a particular emphasis on gold, base metals and bauxite. These new mineral exploration developments complement long-standing mining activity in the industrial minerals and gems sub-sectors.

The principal legislation governing the mining sector is the 2001 Law on Management and Exploitation of Mineral Resources. This law is supported by more than 20 related sub-decrees and Prakas. The legal authority for mineral development is vested in the Minister of Industry, Mines and Energy, although other ministries, including the Council for the Development of Cambodia, the Ministry of Economy and Finance, the Ministry of Interior, and the Ministry of Environment all have legislated mandates that affect the pace and nature of Cambodian mineral development.

Cambodia actively seeks national and foreign investment in its mining sector in order to diversify the economy and tackle poverty. A series of investment incentives for foreign investment have been put in place, and one-window services for investors are provided through the Council for the Development of Cambodia. Importantly however, Cambodians are keenly aware of their cultural and environmental heritage, and these values have been embodied in both law and policy. Examples of relevant legislation to address these issues include



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core sample.

⁵ Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development: A Mining Policy Framework. Mining and Sustainable Development – managing one to advance the other. December, 2010.

⁶ Kingdom of Cambodia: A Guide to the Mining Sector, MINDECO, 2010

the Law on Environmental Protection and Natural Resources Management (1996), and the Protected Areas Law (2008). More recently, the Prime Minister, Samdech Hun Sen, has reinforced the need to manage the minerals sector in a sustainable way that respects the need to protect Cambodia's natural environment.⁷

5. Mineral Developments Bring Change

Mining and mineral processing are intensive activities that bring significant economic, social and environmental change. Mineral developments (including exploration and processing activities) have the potential to negatively impact the environments, communities and economies overlying and surrounding mineral deposits and processing sites. Conversely, they also can bring economic, social and even environmental opportunities through the conversion of the ore body into financial resources, the development of social capacities and skills, infrastructure and business development, and the investment of those resources into environmental and social programs. Economic, social and environmental changes are dynamic and interlinked. The impacts on ecosystems, for example, can disrupt the environmental services that are provided by these ecosystems and the economies and livelihoods of people reliant on these services.

The outcomes of mining, exploration and resource processing activities are influenced by the applicable mining legislation, policy, administration and management systems. The governance regime outlines the priorities of government and the expectations for corporate policy and practice. A governance regime that is designed to prepare for and respond to the significant



UNDP PHOTO
Road construction in Cambodia.

change that mining can bring will assist to achieve desired outcomes and balance the values, interests and perspectives of different stakeholders.

Economic Change

Mining developments can be managed to provide a foundation for long-term economic growth.

Mineral developments can generate significant revenues and employment, encourage investment in infrastructure and services, build social capacities, and support local, regional and national economies. Mineral wealth can be converted into social and economic development, through the generation of royalties and taxes, and sustain local communities through employment and business development. Resource developments are also a driver for government and industry investment in roads, rail, ports, telecommunications, power and water supply infrastructure.

However, mineral developments have not always fulfilled this potential. In some cases revenues have not been

managed transparently, or effectively captured for the benefit of the broader society, and mineral developments have not contributed to diversified local and regional economies. The benefits and costs of mining activities can also be distributed unevenly. Different people may be advantaged or disadvantaged by different aspects of mineral developments. When viewed in total a project may appear to deliver a net societal benefit, however, the negative impacts and risks of an activity may be unequally experienced by one part of the society.

The high value of mineral resources can be associated with macro-level and micro-economic challenges. Mineral revenues can encourage informal economies and also corruption. A clear fiscal, royalty and taxation regime that transparently reports on the revenues received through mining can enhance the contribution of the sector to the national economy. The preferential development of local and regional businesses to supply goods and services to mineral developments can also ensure greater benefit sharing at the local and regional scale.

⁷ See for example the Prime Minister's remarks at the May 2010 international mining conference held in Phnom Penh, available at <http://www.un.org.kh/undp/international-conference-on-mining/international-conference-on-mining>

The effects of economic inflation and deflation in the vicinity of mining projects can be experienced differently by those working inside and outside of the industry. As mining activities grow, the demand for goods and services can lead to increases in prices. People working in service and agricultural industries, who commonly do not attract the same level of pay as mine workers may not be in a position to afford these increased costs.

At the macro level currency appreciation and the attraction of entrepreneurial activity and skills in the minerals sector at the expense of other economic sectors can be a challenge in mineral and petroleum dependent economies (these factors are sometimes cited as contributors to the so called 'resource curse'). The cyclical nature of commodity prices can also create challenges for governments when allocating the proceeds of resource development. Sharp declines in international commodity prices and government revenue can place pressure on government budgets accustomed to the revenue generated by mineral development. Sovereign wealth funds, or stabilisation funds, have been used by some resource economies (for example, Timor-Leste, Chile, Norway, and Russia) to invest the proceeds of resource development, smooth out commodity and economic cycles, ease currency and inflationary pressures and provide for stable economic growth through countercyclical spending.

Social Change

The development of new employment opportunities in the minerals sector brings social change in regional communities. Skilled employees with diverse and specialist skills are commonly required. While to some extent the necessary skills may be available locally, or progressively developed through vocational training programs, there is often still a need to draw on workers from other regions.

Planned and unplanned in-migration and population growth can create greater demands on social services, such as health, education, housing and commerce as well as physical and social infrastructure. If managed well population growth can be a driver for improved infrastructure and services, however, the long lead time required to improve existing services and infrastructure has created challenges in many resource regions.

In-migration and demographic change can also challenge the social cohesion and customs of communities and disrupt social order. Where single male workers make up a significant proportion of the workforce prostitution is a common feature. Work camps if not effectively integrated into local communities can be a source of local dissatisfaction. Exploration, mining and processing activities also have the potential to disrupt existing land-uses and industries, such as agriculture, tourism and fishing. At the same time, however, mining provides the opportunity to diversify and strengthen local communities if well planned.

Environmental Change

The minerals sector poses a number of unique environmental challenges. Mining involves the removal and processing of ore bodies that are commonly formed and located at geological depth. Mining can therefore significantly disturb surface environments on top of ore bodies during exploration, extraction and processing. Vegetation clearing, erosion and the diversion of water courses can have a profound local impact on ecosystems, especially in regions of high biodiversity. This is particularly true for ore bodies with a wide lateral extent such as bauxite and mineral sands.

The mining industry also requires access to water and energy resources. The allocation of water to the minerals industry can sometimes be at the expense

of other water users and environmental requirements. Noise, dust, traffic and vibration associated with blasting and transportation may reduce the quality of life of local communities or create health and safety hazards.

The management of mining and minerals processing wastes is another important environmental issue. The natural elements and compounds uncovered through exploration, mining and processing have the potential to cause negative impacts to the environment. When exposed to water and oxygen, or as a result of processing, mining ores, waste rock and process tailings may breakdown and release elements which may cause environmental harm (sometimes known as Acid and Metaliferous Drainage). The discharge of these and other wastes (e.g. process chemicals) can lead to impacts well beyond the mining lease.

The Process of Change

Finally, the way change comes about influences how change is experienced by society. When stakeholders have an opportunity to actively participate in the decision-making of mineral resource developments and ensure the project is consistent with their values and livelihoods, their experience of those developments tends to be more positive and their attitudes toward projects more supportive. Public participation may take the form of local community consultation, opportunities for civil society involvement in environmental impact assessment processes, or more active participation such as involvement in ongoing community reference panels, or participatory environmental and social monitoring initiatives. The United Nations Declaration on the Rights of Indigenous Peoples stipulates that free, prior and informed consent for mineral development activities should be sought from Indigenous peoples who maintain close connections and sovereignty over



UNDP PHOTO
International mining conference : "Staking a Claim for Cambodia." May 2010

lands. When participatory processes are absent community opposition is more common and can significantly reduce the prospects of project success. This is true even for well meaning activities, such as community development programs.

6. Managing Change: Principles of governance

The economic, social and environmental changes outlined above will be governed through the applicable mining legislation, policy, administration and management systems.

Good governance is at the core of the Royal Government of Cambodia's

Rectangular Strategy of the National Strategic Development Plan Update 2009-2013. Public Administration Reform is one of the four major reform areas within good governance. Through the implementation of the National Programme for Administrative Reform (NPAR), the Royal Government is committed to ongoing peace and political stability, to sustain development and social justice, and to reduce poverty. The NPAR process is critical for national capacity development.

Responsible mining governance requires an efficient and effective public service guided by a framework of governance principles in which policies and practices

can be developed and performed so that the minerals sector will grow and associated benefits can be realised for the well-being and prosperity of the country. However, governance reform is complicated, shaped by national context, and matured only through genuine effort, trial and error.

Governance is not achieved by a time-bound reform agenda but rather by moving forward, step-by-step, in a deliberate and progressive manner. Against a backdrop of internal and external accountability, public services that impact on mineral development will be steadily strengthened. Structural reform toward transparent,

⁸ The principles outlined here are adapted after: Lockwood, M., Davidson, J., Curtis, A., Stratford, E., and Griffith, R. (2010) *Governance Principles for Natural Resource Management. Society and Natural Resources*, 23(10), 986-1001.

Box 1: Suggested Principles for Natural Resource Governance**Legitimacy**

Legitimacy adds value to governance by building public confidence in the skills and knowledge of decision-makers, planners, and regulators by having accountable and transparent ways-of-working.

Transparency

Transparency has the added value to governance of allowing all stakeholders to understand why decisions have been made and that decisions have been made through thorough due-process and public consultation. Transparency relies on good and open paths of information and communication.

Fairness

Fairness has the added value to governance of decision-makers, planners and regulators showing no bias or prejudice toward stakeholders giving due consideration to distribution of costs and benefits of projects. This in turn builds public good-will and legitimacy of the public service.

Capability

Capability has the added value to governance in that there will be better quality and outcomes for various stakeholders. In turn, public confidence will grow in the understanding that the public service is doing its job in a professional and effective manner.

Accountability

Accountability adds value to governance by taking responsibility for decisions and actions. When decisions are followed through on and done in a dedicated way to deliver outcomes this gives confidence to decision-makers, planners and implementers as well as key external stakeholders.

Inclusiveness

Inclusiveness has the added value to governance of getting invaluable external input for planning and decision making, and in turn stakeholders feel that they have a genuine role to play in development projects.

Integration

Integration has the added value to governance of decision-makers and planners aligning priorities, plans and activities across various governing bodies to ensure better outcomes for all stakeholders. This in turn builds public confidence that the whole system is working in a way toward public good.

Adaptability

Adaptability has the added value to governance by ensuring that professional development and learning becomes part of the culture of the organisation and that various external stakeholders grow in confidence that a governing body is always willing to learn, change and grow for the purpose of delivering service.

inclusive, fair, integrated, capable and adaptable systems⁸ (see text box 1) takes considerable time and continued focus. Reform is particularly reliant on the professional capacity base and scope of experience of the staff of any organisation.

In Cambodia, some of the first steps relevant to governance in the minerals sector may be professional training and capacity development targeted toward specific identified needs within a department. To support this there may be much value in exposure visits for key department personnel to other country's mining departments, especially those that are in rapidly developing mineral resource countries.

Embedding the governance principles outlined above within legislation and policy as well as the more practical administration and management undertaken by government and the corporate sector will help provide a foundation for responsible mining. The examples below demonstrate how such principles have informed the development of legislation and policy in other jurisdictions.

Mineral developments demand a diverse array of relevant legislation and policy. These include: fiscal regimes (taxation and royalties); environmental, health and safety, and social development laws; permitting, leasing and project approvals; legislation on environmental and social impact assessments and management systems; land-use planning; industry development and

geological characterisation; employment and workforce laws; laws on indigenous land title etc. Clear lines of accountability between ministries responsible for each of the aspects of law outlined above will contribute to the efficient implementation of the law.

In many jurisdictions the responsibilities for implementing environment, health and safety, project approval and permitting legislation lie with separate departments. This reflects the varied focus, capabilities and skills required to implement the law. However, managing the change brought about from mining requires holistic and integrated approaches. As such legislation must also provide structural opportunities for interdepartmental interaction, for example through the formal involvement of multiple departments in land-use

7. Managing Change: Legislation and policy

Box 2: Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development – Mining Policy Framework

The IGF has developed a mining policy framework that draws on the experience of mining ministries from its 43 member countries. A summary of the main elements are:

Legal and Policy Environment

A legislative regime that provides clear lines of responsibility and accountability

- ❖ Ongoing generation and equal access to geological information
- ❖ Revision and periodic updating of mining codes and standards
- ❖ A permitting process that requires consultation and engagement with affected communities; social, economic and environmental impact assessments; plans for the eventual closure of the development and performance bonds; adequate consideration of indigenous, cultural and security issues in permit applications; completion of permitting in a timely, transparent, unambiguous and consistent manner

Financial Benefit Optimization

Taxes and royalty revenues derived from exploration, mine development and mining reflect the value to society of the resources mined

- ❖ Implementation of a taxation and royalty scheme that optimises returns in a manner that reflects the different issues faced by domestic and international investors and commodity price cycles; and integrate the mining sector into the rest of the economy
- ❖ Development of a mining policy that recognises the need for investors to generate an adequate rate of return on their investment and where corporate income taxes on net profits are commonly applied across large and small scale developments in the mining and non-mining sectors
- ❖ There are adequate human resources and competencies to negotiate and administer the tax system and agreements, including knowledge of the nature of agreements reached in other jurisdictions
- ❖ Fiscal instruments and policies are integrated such that mineral agreements take into consideration national policy objectives
- ❖ Open and transparent provision of data on tax, royalty and benefit flows at local, regional and national levels

Post-Mining Transition

A mining operation which is considered consistent with sustainable development is one whereby planning for closure is present during the entire operation of the mine

- ❖ Develop closure plans in consultation with stakeholders prior to permit approval that are regularly updated, underpinned by adequate financial assurance, supported by independent expert review, and characterised by progressive rehabilitation
- ❖ Demonstrate leadership to address orphaned and abandoned mines, encourage rehabilitation of those mines and their re-activation through technological, fiscal and legal means

Socio-Economic Benefit Optimization

The conversion of natural capital into human capital holds the greatest promise for sustainable outcomes from mining activities

- ❖ Integrate community, regional and national issues by including socio-economic planning and consultation with affected stakeholders into mine permitting, regular reporting and review
- ❖ Make education a national priority in a manner consistent with local and national needs; through investments in both physical infrastructure and human resources; and by ensuring that permit holders transition leadership to government and other stakeholders over time
- ❖ Address community health within baseline socio-economic assessments during project permitting; work with local communities in planning for health services; and progressively hand over leadership to government and other stakeholders over time
- ❖ Ensure high standards of occupational health and safety through appropriate laws, government monitoring, inspection and enforcement, training and risk management
- ❖ Optimise employment opportunities by requiring socio-economic plans as part of project approval that prioritise local and national employment, education and training and the involvement of a national presence in the managerial responsibility of the operation
- ❖ Create business development opportunities through local, regional and national procurement
- ❖ Address potential security issues through proactive issue resolution and dispute resolution, and the withholding of new permits in active conflict zones
- ❖ Ensure respect for human rights, indigenous peoples and cultural heritage by aligning domestic laws with international laws and norms and enforcing high standards of corporate conduct

Environmental Management

The management of the natural resource base within ecosystems is the continuous responsibility of any society seeking to become more sustainable

- ❖ Set appropriate environmental management standards for the use of surface and groundwater and the quality of effluents and offsite discharges
- ❖ Avoid and minimise adverse biodiversity effects by requiring the submission, and regular update, of environmental management plans, monitoring and public reporting
- ❖ Requiring operations to appropriately manage risks associated with mining and processing wastes throughout the lifecycle; according to international standards; and subject to independent expert review
- ❖ Requiring operations to develop an emergency preparedness and response program in consultation with stakeholders and government

Artisanal and Small Scale Mining (ASM)

ASM is a complex and diversified sector that includes poor informal individual miners seeking to eke out or supplement a subsistence livelihood, to small-scale formal commercial entities that can produce minerals in a responsible way respecting local laws

- ❖ Integrate informal artisanal activities into the legal system by developing appropriate legal frameworks that assign property rights and obligations for ASM
- ❖ Integrate informal artisanal activities into the economic system by improving savings in ASM communities; encouraging more acceptable forms of financing, revenue collection, and certification; and encouraging consultation and collaboration between ASM and industrial mining entities
- ❖ Reduce the social and environmental impacts of ASM through the provision of training; education and the dissemination of environmental, health and safety regulations; the enforcement of laws on child labour and security; and the promotion of alternative livelihoods

Source: *Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development (2010). A Mining Policy Framework: Mining and Sustainable Development – managing one to advance the other. December.*

planning or environmental impact assessment.

The principle of inclusiveness is another case in point. It is common within mining jurisdictions for legislation for environmental impact assessments to require public consultation in the preparation of assessments, as well as a process for public input after the lodgement of the assessment. In some mining jurisdictions, such as Canada, representatives may be appointed to public boards and panels to openly review assessments in order to identify and resolve issues raised by stakeholders before they lead to disputes and public dissatisfaction during project implementation.

In South Africa resource developers are required to produce a social and labour plan that outlines management initiatives in relation to employment, regional socio-economic development, links between the operation and regional and land-use planning, and career progression to overcome injustices associated with apartheid.

The principle of inclusiveness may require additional considerations for landholders and indigenous people in the vicinity of exploration and mining projects. Mining legislation in Queensland Australia, for example, requires exploration permit holders to develop upfront conduct and compensation agreements with landholders to agree on how the exploration activities will be conducted on their land. In the Philippines, the rights of indigenous peoples are formalised within legislation by a requirement for mineral developments to formally attain the free, prior and informed consent of indigenous landholders before projects proceed.



UNDP PHOTO
Students taking part in a youth campaign.

8. Managing Change: Administration and management systems

Of equal importance is the translation of law and policy into practice. The administration of the law by government departments, and the application of high operating standards by national and international private sector investors, will directly influence the pace of responsible mineral development in Cambodia.

For the public sector, the systems available to administer mineral exploration and production have advanced considerably in recent years. For example, low-cost web-based tools enable streamlined administration of permitting processes, and transparent, online management of mineral permits and leases. These are not only powerful investment tools, but also increase community and stakeholder awareness and understanding of mining developments that may affect them. Governments in a number of mineral jurisdictions now publish information on permits and leases online and in real time. In addition, new communications

networks enable provincial and national officials to more closely monitor mineral developments in remote locations at low cost, supplementing the ongoing need for site visits by regulatory authorities.

Exciting new developments also apply to corporate performance. Increasingly, exploration and mining companies recognize the particular responsibilities they carry in a developing country context, where regulatory systems may be less well developed. For example, in many jurisdictions environmental and social management systems are implemented on site to monitor and report on performance to both government departments and the public. Governments can support the implementation of such systems, but also must play an enforcement role to ensure compliance with legislation. Industry-led voluntary and international codes and standards are playing an increasingly important role in the minerals sector. These leading edge approaches complement what is required by government and also provide an indication of universally recognised standards of corporate practice⁹ (see text box 3 & 4).

9 See also Stephens (2010). *Corporate Social Responsibility in Cambodia: Issues and Challenges in Developing Cambodia's Extractive Industries*. 8p. http://www.un.org.kh/undp/images/stories/special-pages/extractive-industries/docs/undp_cambodia_csr_policy_brief.pdf

Box 3: Prospectors & Developers Association of Canada – Framework for Responsible Exploration

The Prospectors and Developers Association of Canada has developed a management framework that identifies and encourages the implementation of practices that support responsible mineral exploration. The framework requires explorers to:

1. Adopt responsible governance and management

Objective: To base the operation of exploration on sound management systems, professional excellence, the application of good practices, constructive interaction with stakeholders, and the principles of sustainable development.

2. Apply ethical business practices

Objective: To have management procedures in place that promote honesty, integrity, transparency and accountability.

3. Respect human rights

Objective: To promote the principles of the United Nations Universal Declaration of Human Rights by incorporating them into policies and operational procedures for exploration.

4. Commit to project due diligence and risk assessment

Objective: To conduct an evaluation of risks, opportunities and challenges to exploration, and prepare strategies and operational plans to address them before going into the field.

5. Engage host communities and other affected and interested parties

Objective: To interact with communities, indigenous peoples, organizations, groups and individuals on the basis of respect, inclusion and meaningful participation.

6. Contribute to community development and social wellbeing

Objective: To have measures in place which support the social and economic advancement and capacity building of communities whose lives are affected by exploration, while respecting the communities' own vision of development.

7. Protect the environment

Objective: To conduct exploration activities in ways that create minimal disturbance to the environment and people.

8. Safeguard the health and safety of workers and the local population

Objective: To be proactive in implementing good practices for health and safety performance in all exploration activities and seek continual improvement.

Source: Prospectors and Developers Association of Canada. *A Framework for Responsible Exploration: Principles and Guidance*. <http://www.pdac.ca/e3plus/index.aspx>

9. Working Together to Achieve Responsible Mining: The multi-stakeholder approach

There are ample international examples of where the three sectors of society (government, business, and civil society) have worked collaboratively, using their different skills, insights and

resources, to develop policy, promote change in public perception, advocate better-practice, and develop mutually accountable systems to the benefit of socio-economic development and environmental protection. In many countries this takes different shapes and is applied to a range of natural resource sectors (e.g. agriculture, river basin management, fisheries, forests and protected areas).

As noted above, an encouraging and interesting example is the Responsible Mining Initiative (RMI) in Mongolia. The RMI started when representatives from different sectors of society (government, business, and civil society) decided to meet at regular intervals to share their understanding of how the mining sector in Mongolia could develop in a responsible manner. There were great differences in opinion as government

Box 4: International and Industry Standards

The international minerals industry is influenced by a series of international and industry standards. These standards provide a guide to what is considered acceptable practice in the sector and are relevant when formulating national policy.

The International Council on Mining and Metals (ICMM) is the peak international body concerned with the relationship between sustainable development and the mining industry. The ICMM was established in 2001. ICMM membership currently consists of 18 mining companies and 30 mining and commodity associations, representing 750 sites in 58 countries.

In 2003 ICMM began the development of an industry code of practice for member organizations. The principles commit ICMM members to, for example, respect legally designated protected areas and not explore or mine in World Heritage properties; ensure fair remuneration and work conditions for all employees and do not use forced, compulsory or child labour; respect the culture and heritage of local communities, including indigenous peoples; provide all employees with health and safety training, and require employees of contractors to have undergone such training; and rehabilitate land disturbed or occupied by operations in accordance with appropriate post-mining land uses. The principles are supported by a series of position statements and guidance products.

Projects receiving funding from the International Finance Corporation (IFC) are required to adhere to a set of environmental and social performance standards. Funding recipients are required to undertake an environmental and social assessment to determine the potential social and environmental impacts and risks of the project (including labour, health, and safety). There are also provisions for independent review of monitoring information and the preparation of social and economic action plans and management systems to address the issues arising out of the social and environmental assessment. The IFC has also set up a Compliance Advisor/Ombudsman to handle community disputes related to IFC financed projects. The IFC standards have been adopted by banks and financial institutions who are signatories to the Equator Principles.

The *OECD Guidelines for Multinational Enterprises* are set voluntary principles and standards that are relevant to the mining industry (OECD, 2008). The guidelines set general principles and more explicit principles on employment and industrial relations, environment, combating bribery, consumer interests, science and technology, competition and taxation. The more detailed principles in the environment field, which also explicitly address health and safety issues, require companies to establish and maintain environmental management systems; provide information and engage in communication and consultation with affected communities on the activities of the enterprise that may have environmental, health and safety implications; assess environmental, health and safety impacts over the full life-cycle (including through the preparation of an EIA); and adopt contingency plans for preventing, mitigating, controlling and reporting environment or health incidents.

representatives from environment and water resources, and members of the Mongolian National Mining Association and large mining companies, engaged in dialogue with environmental NGOs and other concerned citizen groups. Although differences were great, all parties were determined to find common ground to avoid possible polarisation and conflict in Mongolian society around minerals development.

Through a process of facilitated multi-stakeholder forums, the representatives of the three sectors set about defining what responsible mining in Mongolia should

look like. The result was a declaration of responsible mining, definitions and principles (see Box 6).

RMI's mission is: 'To build a common framework of understanding of responsible mining in Mongolia among the public, government, industry, and investors; to provide open and transparent information; and to secure equal participation of the multi-stakeholders in these activities.'

Some of the successes of the RMI have included: establishing a resource centre; media releases and documentaries; training on responsible mining principles;

engaging in policy debate and legislative reform; and holding national forums. RMI is now working toward an accreditation scheme on how mining companies' performances can be assessed against the 8 responsible mining principles.

The RMI is an approach appropriate for the public context of Mongolia. However, the development of a multi-stakeholder process may differ considerably depending on how different countries choose to operate. For some countries, the government may take the lead to convene a multi-stakeholder initiative. For others, there may be more of a role

Box 5: Key Characteristics of Multi-Sector Cooperation

- ❖ voluntary collaboration between government, company and civil society
- ❖ mutually agreed objectives
- ❖ 'pooling' of resources and risk
- ❖ 'added value' to what each party could achieve alone
- ❖ consensus across society on a more efficient distribution of project benefits, responsibilities and costs

Tri-Sector Partnerships: A new way to manage social issues in the extractive industries. Briefing Note 1, www.bdp-naturalresources.org

for international donor organisations. For others, there may be a need for an international or neighbouring country arbiter who will bring sides together to start dialogue around the issue of responsible mining and sustainable development. Whatever the means, emerging resource rich countries are actively identifying the positive role that a multi-sector approach can play in developing a stable social and economic environment to encourage investment, public participation, and maximise the benefits from the minerals industry for a nations sustained development (see text box 5).

The Royal Government of Cambodia has identified the advantages of a multi-stakeholder approach to encourage cooperative development, for example through the Cambodia Development Forum. An opportunity now exists for Cambodia to consider options respectful of the Cambodian context that provide for greater stakeholder input to mining decision-making.

10. Conclusions and Recommendations

This brief is intended to assist mineral sector stakeholders to help shape

thinking, and facilitate dialogue, around how to prepare for managing the minerals industry and the types of associated change it may bring. In particular it proposes a framework for management and decision-makers by providing suggestions and examples around good-practices in governance, legislation and policy, and administration and management systems.

Instituting responsible mining governance requires the on-going participation of a variety of key stakeholders, the building up of Royal Government of Cambodia skills and capacities, the dialogue, and

Box 6: Declaration of responsible mining initiative – Mongolia

We, the supporters of responsible mining, hereby declare:

Noting the pressing need to promote responsible mining for the core interests of Mongolia's future,

Based upon the protocols of the stakeholders' meetings on responsible mining,

Recognizing the definition and common principles of responsible mining,

Conscious that the public is interested and concerned about the negative impacts on human health and the environment due to irresponsible mining practices,

Recognizing the harmful impacts of irresponsible mining on the environment, society and the economy,

Affirming our belief that responsible mining will contribute to the sustainable development of Mongolia, and the welfare of its people,

Favoring the application of advanced technology and internationally accepted mining standards in the industry,

Emphasizing that this declaration will not be the basis to raise the rights and responsibilities of the parties in any contract and agreement,

Knowing that the activities of the responsible mining initiative will comply with all international agreements, and laws and regulations of Mongolia,

And that the initiative is willing to collaborate with all those who accept the above, and agree on the purpose, definition, guidance and principles of the initiative below.

Article one. Purpose

The purpose of this declaration is to secure the equal participation of the parties, to promote the definition and common principles of responsible mining, and to encourage and develop responsible mining that is open and beneficial for the mongolian economy.

Article two. Definition of responsible mining

Responsible mining is a comprehensive and transparent minerals activity respecting the rights of all stakeholders, especially of local people; environmentally friendly and free of human health impacts; embracing the best international practices and upholding rule of law whilst generating a sustainable stream of benefits for mongolia

Article three. Principles of responsible mining

- ❖ Secure multi-stakeholder participation
- ❖ Transparent and open
- ❖ Law-abiding and enforcing
- ❖ Responsible for environment and human security
- ❖ Investing in the future
- ❖ Efficient
- ❖ Humane and ethical
- ❖ Technologically advanced

Article four. General guidance

Parties shall attach importance to collaborate and exchange information with the relevant government authorities, and shall have the right and responsibility to deliver proposals, recommendations and input to authorities that will contribute to the legal environment, policy-making, practices and decision-making that will promote responsible mining.

Article five. Cooperation principles of the parties

The parties will follow the principles below in collaborating to implement the purpose and concepts of this declaration:

- ❖ To participate equally and responsibly
- ❖ To maintain and open process
- ❖ To exercise mutual respect
- ❖ To have meetings as the main form of activity
- ❖ To reach decisions through discussion in the meetings
- ❖ To be responsible for the collective decision
- ❖ To respect the laws of mongolia and international agreements

Article six. Coming into force of the declaration

- ❖ Upon witnessing the above, the designated representatives of the supporters of the responsible mining initiative shall sign this declaration given their full rights
- ❖ This declaration will come into force upon signature by the parties supporting their responsible mining initiative. The appendix with the signatures of the parties will be an integral part of the declaration
- ❖ The original copies of the declaration will be equally effective in both the mongolian and english versions and will be kept by the committee of supporters of the responsible mining initiative

Executed at Ulaanbaatar, Mongolia, on 30 April 2007

the debate and instituting of policy, law, and related actions over a considerable period of time. Like the systematic and committed ways in which a company discovers and develops a mine, so is the process of approaching responsible minerals governance. For many mineral rich countries such an approach has taken years of experiment, adjustment, and learning. There should be no exceptional expectations for Cambodia outside of the common experience of approaching good minerals sector management.

This brief has outlined three essential areas that contribute to a process of managing change and working toward responsible minerals sector management: *Principles of governance*; *Legislation and policy*; and *Administration and management systems*. Below are some specific suggestions that may be relevant for these three key areas, in order to best enhance responsible minerals sector management in Cambodia.

Principles of governance

- ❖ Develop a guidance charter for governance that builds public and business confidence around the ways-of-working so that all parties have clear expectations of performance and delivery
- ❖ Take steps towards building effective multi-stakeholder dialogue mechanisms to benefit from the considerable skill base and experience of the private sector and civil society

Legislation and policy

- ❖ Prepare a national minerals policy that is framed by principles of responsible minerals development
- ❖ Build the policy on the lessons learned from the 2010 International Mining Conference, through

training, capacity development, and international exchanges with other developing and mineral rich countries

- ❖ Enter into partnerships with government sectors of mineral rich countries to draw from their long experience in mineral sector

Administration and management systems

- ❖ Develop a program of essential long-term capacity building to upgrade skills and knowledge to enhance minerals sector management across relevant ministries and agencies
- ❖ Initiate dialogue with the private sector on concrete ways to apply global industry standards such as e3Plus in Cambodia

Serey Vicheth Chunly PHOTO
Road to Mundulkiri province.

